MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Joint Budget Committee Members
FROM	JBC Staff
DATE	FEBRUARY 4, 2020
SUBJECT	Potential Legislation

This packet includes several bill drafts and memos on bill concepts for the Committee's consideration. Each individual bill or memo 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.

BILL DRAFTS FOR THE COMMITTEE'S CONSIDERATION

BILL CONCEPTS FOR THE COMMITTEE'S CONSIDERATION

REQUESTED PLACEHOLDERS AND BUDGET BALANCING BILLS

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
1.31.20

DRAFT

LLS NO. 20-0849.01 Brita Darling x2241 **COMMITTEE BILL**

Joint Budget Committee

BILL TOPIC: "Community First Choice Medicaid State Option"

A BILL FOR AN ACT

101 **CONCERNING THE IMPLEMENTATION OF THE COMMUNITY FIRST**
102 **CHOICE STATE OPTION IN COLORADO'S MEDICAL ASSISTANCE**
103 **PROGRAM.**

Bill Summary

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

Joint Budget Committee. The bill directs the department of health care policy and financing (department) to collaborate with the community first choice development and implementation council established within the department on the development of the state's community first choice option under the medical assistance program

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

(medicaid). The federal community first choice option allows the state to provide attendant services to persons who receive long-term care services and supports through an amendment to our state medicaid plan and not solely through a medicaid waiver program.

No later than a date specified in the bill or as soon as practicable after the completion of other actions specified in the bill, the department shall submit a request for a state plan amendment to the centers for medicare and medicaid services seeking federal authorization and financial participation to implement the community first choice option as part of the state's medicaid program.

At a minimum, the bill directs the department to request a state plan amendment consistent with federal law for implementation of the community first choice option. The request must include, but need not be limited to, coverage of personal care services, homemaker services, in-home support services, and consumer-directed services and supports.

The department shall notify the joint budget committee of the progress regarding federal approval of the state plan amendment.

If federal approval is received, the medical services board, with input from the community first choice development and implementation council, shall promulgate rules for implementation of the community first choice option within the time frame specified in the bill.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 17 to article
3 6 of title 25.5 as follows:

4 PART 17

5 COMMUNITY FIRST CHOICE

6 **25.5-6-1701. Legislative declaration.** (1) THE GENERAL
7 ASSEMBLY FINDS AND DECLARES THAT:

8 (a) (I) ALL COLORADANS HAVE THE RIGHT TO LIVE, WORK, PLAY,
9 AND LEARN IN COMMUNITIES OF THEIR CHOICE AS FULLY PARTICIPATING,
10 CONTRIBUTING, AND VALUED MEMBERS OF OUR SOCIETY;

11 (II) ALL COLORADANS HAVE THE RIGHT TO A LIFE BASED ON
12 INCLUSION, NOT SEGREGATION, AND COLORADO'S LONG-TERM SERVICES
13 AND SUPPORTS SYSTEM SHOULD RESPOND TO THE NEEDS OF PEOPLE,

1 REGARDLESS OF AGE OR ABILITY;
2 (III) COLORADANS WHO RECEIVE LONG-TERM SERVICES AND
3 SUPPORTS SHOULD HAVE THE RIGHT TO CHOOSE TO DIRECT THOSE
4 SERVICES AND SUPPORTS THEMSELVES;
5 (IV) COLORADO'S LONG-TERM SERVICES AND SUPPORTS SYSTEM
6 SHOULD BE FUNDAMENTALLY PERSON-CENTERED AND BUILT ON A
7 FOUNDATION OF CONSUMER CHOICE, CULTURAL COMPETENCY, DIGNITY,
8 RESPECT, AND FREEDOM;
9 (V) COLORADO'S LONG-TERM SERVICES AND SUPPORTS SYSTEM
10 SHOULD BE DESIGNED TO OFFER THE RIGHT SERVICES, AT THE RIGHT TIME,
11 IN THE RIGHT AMOUNT, FOR THE RIGHT LENGTH OF TIME, AND IN A PLACE
12 OF THE INDIVIDUAL'S CHOOSING; AND
13 (VI) COLORADANS WHO RECEIVE LONG-TERM SERVICES AND
14 SUPPORTS, THE ENTITIES THAT OFFER AND ADMINISTER THOSE SERVICES,
15 THE ENTITIES THAT PROVIDE THOSE SERVICES, AND ALL OTHER PARTIES
16 INVOLVED WITH COLORADO'S LONG-TERM SERVICES AND SUPPORTS
17 SYSTEM SHARE A RESPONSIBILITY TO USE PUBLIC DOLLARS WISELY; AND
18 (b) (I) THE COMMUNITY FIRST CHOICE OPTION, ESTABLISHED IN
19 SECTION 1915(k) OF THE FEDERAL SOCIAL SECURITY ACT, AS AMENDED,
20 ALLOWS STATES THE OPTION TO PROVIDE HOME- AND COMMUNITY-BASED
21 ATTENDANT SERVICES AND SUPPORTS UNDER THE STATE'S PLAN AND NOT
22 SOLELY THROUGH A SPECIFIC WAIVER;
23 (II) BY CHOOSING THIS OPTION, COLORADO WILL RECEIVE A SIX
24 PERCENTAGE POINT INCREASE IN FEDERAL MATCHING PAYMENTS FOR
25 MEDICAL ASSISTANCE EXPENDITURES RELATING TO THIS OPTION; AND
26 (III) IMPLEMENTING THE COMMUNITY FIRST CHOICE OPTION WILL
27 HELP COLORADO MEET THE GOALS OUTLINED IN THE FINAL REPORT OF THE

1 COMMUNITY LIVING ADVISORY GROUP DATED SEPTEMBER 30, 2014, AND
2 CONTINUE THE STATE'S EFFORTS TO SIMPLIFY COLORADO'S LONG-TERM
3 SERVICES AND SUPPORTS SYSTEM, COMPLY WITH THE UNITED STATES
4 SUPREME COURT'S 1999 DECISION IN *OLMSTEAD V. L.C.*, 527 U.S. 581, AND
5 GIVE SENIORS AND PERSONS WITH DISABILITIES MORE CHOICES TO LIVE IN
6 A COMMUNITY OF THEIR CHOOSING INSTEAD OF AN INSTITUTION.
7 (2) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT
8 IMPLEMENTATION OF THE COMMUNITY FIRST CHOICE OPTION AS PART OF
9 THE STATE'S MEDICAL ASSISTANCE PROGRAM WILL ENSURE BETTER ACCESS
10 TO THE LONG-TERM SERVICES AND SUPPORTS NEEDED FOR COLORADANS
11 WITH DISABILITIES AND SENIORS TO LIVE IN THE COMMUNITY.
12 **25.5-6-1702. Community first choice option - collaboration**
13 **with community first choice development and implementation**
14 **council - federal authorization - notification - rules - reporting.**
15 (1) THE STATE DEPARTMENT SHALL COLLABORATE WITH THE COMMUNITY
16 FIRST CHOICE DEVELOPMENT AND IMPLEMENTATION COUNCIL
17 ESTABLISHED WITHIN THE STATE DEPARTMENT TO DEVELOP THE STATE'S
18 COMMUNITY FIRST CHOICE OPTION.
19 (2) NO LATER THAN SEPTEMBER 1, 2022, OR AS SOON AS
20 PRACTICABLE AFTER THE DATE OF IMPLEMENTATION OF CONFLICT-FREE
21 CASE MANAGEMENT, THE ADOPTION OF FINAL HOME- AND
22 COMMUNITY-BASED SERVICES SETTINGS RULES, AND THE DATE OF
23 IMPLEMENTATION OF A LONG-TERM CARE ASSESSMENT TOOL, THE STATE
24 DEPARTMENT SHALL SUBMIT A REQUEST FOR A STATE PLAN AMENDMENT
25 TO THE CENTERS FOR MEDICARE AND MEDICAID SERVICES SEEKING
26 FEDERAL AUTHORIZATION AND FINANCIAL PARTICIPATION TO IMPLEMENT
27 THE COMMUNITY FIRST CHOICE OPTION AS PART OF THE STATE'S MEDICAL

1 ASSISTANCE PROGRAM.
2 (3) AT A MINIMUM, THE STATE DEPARTMENT'S REQUEST FOR A
3 STATE PLAN AMENDMENT TO IMPLEMENT THE COMMUNITY FIRST CHOICE
4 OPTION MUST INCLUDE, BUT NEED NOT BE LIMITED TO:
5 (a) THE FOLLOWING SERVICES, CONSISTENT WITH FEDERAL LAW
6 AND AS DEFINED IN RULES PROMULGATED BY THE STATE BOARD PURSUANT
7 TO SUBSECTION (6) OF THIS SECTION TO IMPLEMENT THE COMMUNITY FIRST
8 CHOICE OPTION:
9 (I) PERSONAL CARE SERVICES;
10 (II) HOMEMAKER SERVICES;
11 (III) HEALTH MAINTENANCE ACTIVITIES, INCLUDING CERTIFIED
12 NURSE AIDE SERVICES; AND
13 (IV) PERSONAL EMERGENCY RESPONSE SYSTEMS AND OTHER
14 EMERGENCY BACKUP SERVICES; AND
15 (b) THE DELIVERY OF COVERED SERVICES, IF APPLICABLE,
16 THROUGH:
17 (I) IN-HOME SUPPORT SERVICES;
18 (II) CONSUMER-DIRECTED SERVICES AND SUPPORTS; AND
19 (III) LICENSED HOME CARE SERVICES.
20 (4) IN IMPLEMENTING THE COMMUNITY FIRST CHOICE OPTION, THE
21 STATE DEPARTMENT SHALL ENSURE CONTINUITY OF SUPPORT FOR ELIGIBLE
22 INDIVIDUALS RECEIVING SERVICES AS OF JANUARY 1, 2023, AND WHO
23 HAVE MAINTAINED ELIGIBILITY IN THE MEDICAL ASSISTANCE PROGRAM
24 SINCE THAT DATE.
25 (5) IF THE CENTERS FOR MEDICARE AND MEDICAID SERVICES HAS
26 NOT NOTIFIED THE STATE DEPARTMENT BY APRIL 1, 2023, THAT THE STATE
27 PLAN AMENDMENT SUBMITTED PURSUANT TO SUBSECTION (2) OF THIS

1 SECTION HAS BEEN EITHER APPROVED OR DENIED, THE STATE DEPARTMENT
2 SHALL NOTIFY THE JOINT BUDGET COMMITTEE. IF THE CENTERS FOR
3 MEDICARE AND MEDICAID SERVICES HAS NOT APPROVED OR DENIED THE
4 STATE PLAN AMENDMENT BY JULY 1, 2023, THE JOINT BUDGET COMMITTEE
5 SHALL ESTABLISH A NOTIFICATION AND REVIEW PROCESS TO MONITOR
6 FEDERAL PROGRESS RELATING TO THE COMMUNITY FIRST CHOICE OPTION.
7 (6) IF THE CENTERS FOR MEDICARE AND MEDICAID SERVICES
8 APPROVES THE STATE PLAN AMENDMENT TO IMPLEMENT THE COMMUNITY
9 FIRST CHOICE OPTION, THE STATE BOARD, WITH INPUT FROM THE
10 COMMUNITY FIRST CHOICE DEVELOPMENT AND IMPLEMENTATION
11 COUNCIL, SHALL PROMULGATE RULES TO IMPLEMENT THE COMMUNITY
12 FIRST CHOICE OPTION SERVICES AND SUPPORTS CONSISTENT WITH THE
13 APPROVED STATE PLAN AMENDMENT.
14 (7) DURING THE BUDGET PROCESS FOR THE 2022-23 AND 2023-24
15 STATE FISCAL YEARS, THE STATE DEPARTMENT SHALL REPORT TO THE
16 JOINT BUDGET COMMITTEE CONCERNING THE DEVELOPMENT AND
17 SUBMISSION OF THE STATE PLAN AMENDMENT AND THE PROMULGATION OF
18 RULES RELATING TO THE IMPLEMENTATION OF THE COMMUNITY FIRST
19 CHOICE OPTION. IN ADDITION, THE STATE DEPARTMENT'S REPORT MUST
20 INCLUDE A DESCRIPTION OF STATUTORY CHANGES THAT MAY BE REQUIRED
21 TO IMPLEMENT THE COMMUNITY FIRST CHOICE OPTION.
22 **SECTION 2. Act subject to petition - effective date.** This act
23 takes effect at 12:01 a.m. on the day following the expiration of the
24 ninety-day period after final adjournment of the general assembly (August
25 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a
26 referendum petition is filed pursuant to section 1 (3) of article V of the
27 state constitution against this act or an item, section, or part of this act

1 within such period, then the act, item, section, or part will not take effect
2 unless approved by the people at the general election to be held in
3 November 2020 and, in such case, will take effect on the date of the
4 official declaration of the vote thereon by the governor.

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Joint Budget Committee
FROM	Amanda Bickel, JBC Staff (x4960)
DATE	February 4, 2020
SUBJECT	Bill Draft: Align State Financial Aid Statutes with Current Practice - OLLS 20-0399

SUMMARY: Staff recommends that the JBC vote to sponsor the attached bill draft, *Align State Financial Aid Statutes with Current Practice (OLLS 20-0399)*, as a JBC bill. The bill draft is designed to address archaic and conflicting language in current statute without changing the current management of state financial aid programs. The Department of Higher Education, institutional financial aid directors, and JBC staff collaborated on the bill draft, which was prepared for the Statutory Revision Committee (SRC). Since the SRC has declined to carry the bill on the grounds that it may be too substantive to fit within the SRC's purview, staff recommends that the JBC carry the bill instead. Based on feedback on the bill draft so far, staff does not expect the bill to be controversial. If the Committee agrees to carry the bill, staff requests Committee permission to strike the words "and department guidelines" on page 9, line 8, and make other minor technical changes prior to the bill's introduction.

HISTORY OF THE BILL: At the Committee's September 20, 2019, meeting, JBC staff recommended that the General Assembly take steps to modernize the higher education financial aid statutes, which no longer reflect current practice. Although the Department of Higher Education had indicated it was not interested in statutory change, legislative staff remained concerned about the archaic statutes. If law and practice diverge, it is harder to resolve disputes about what should be happening. Furthermore, if the General Assembly wants to change practice through new legislation, it can be difficult to know what language to change in order to achieve the desired result.

During the JBC's September meeting, staff noted a bill could potentially be carried by either the Joint Budget Committee or the Statutory Revision Committee (SRC). After some discussion, the JBC decided to forward a recommendation to the SRC (on which both Senators Moreno and Zenzinger serve) asking the Committee to consider a bill on this topic.

The SRC subsequently requested a bill draft, which was developed in close collaboration with the Department of Higher Education and JBC staff. On January 16, 2020, the SRC discussed the bill draft. When some members raised concerns that the bill might be too substantive for the SRC, Sen. Zenzinger moved that the SRC decline to carry the bill and instead refer it back to the JBC. This passed without objection.

STATUTORY PROBLEMS ADDRESSED BY THE BILL: there are two key issues addressed by the bill:

- The statutes describe a process by which the Colorado Commission on Higher Education decides which financial aid programs it will fund and then informs the Joint Budget Committee about these plans and updates to the plan. Under modern practice, the Joint Budget Committee appropriates funds to specific line items, e.g., "Need Based Aid", and the Commission allocates funds among higher education institutions for that purpose.

- Current statute also includes conflicting provisions about to what extent higher education governing boards, versus the Colorado Commission on Higher Education, have authority to establish financial aid policies. The statutes appear to provide this authority to both. In current practice, the Commission adopts policies which impose certain limitation on the use of state financial aid, such as limiting financial aid to resident students, and the Department establishes student budget guidelines that are used to determine which students qualify on the basis of need. Institutions then receive block allocations of financial aid funds and apply their own policies to prioritize the distribution of these funds among students who meet the basic qualifications for financial aid. Thus, there is a functional "division of power" in current practice, but this is not clear from statute.

OLLS 20-0399 addresses these issues by reorganizing existing language, adding new text, and deleting obsolete statutory provisions so that the process for appropriating financial aid by the General Assembly and the authority of various entities to make decisions related to financial aid are more clear.

The bill draft is attached. The September 20, 2019 memo provides additional detail about current financial aid statutes, practice, and funding allocations. The memo is available at this link: http://leg.colorado.gov/sites/default/files/hedfinaid-09-20-19.pdf

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MEMORANDUM[1]

TO: Statutory Revision Committee

FROM: Julie Pelegrin, Office of Legislative Legal Services

DATE: October 1, 2019

SUBJECT: Concerning changes to align state financial aid statutes with current practice

Summary

The statutes concerning student financial aid – section 23-3.3-101, et seq., C.R.S., – were originally enacted in 1979, and although they have been amended over the years, they do not reflect the current practice of appropriating money for student financial aid programs by line item and are ambiguous as to the duties and authority that the Colorado Commission on Higher Education (Commission) and the Department of Higher Education (CDHE) currently exercise in allocating student financial aid money to institutions of higher education.

Parts 1, 2, 3, 4, and 5 of article 3.3 and article 3.5 of title 23, C.R.S., may be amended or repealed to provide an accurate description of the existing powers, duties, and practices regarding the student financial aid program and to remove obsolete statutes. Amending and repealing some of these statutes would result in streamlining and reducing the statutes.

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[1] This legal memorandum was prepared by the Office of Legislative Legal Services (OLLS) in the course of its statutory duty to provide staff assistance to the Statutory Revision Committee (SRC). It does not represent an official legal position of the OLLS, SRC, General Assembly, or the state of Colorado, and is not binding on the members of the SRC. This memorandum is intended for use in the legislative process and as information to assist the SRC in the performance of its legislative duties.

The Joint Budget Committee staff brought this issue to the attention of the Joint Budget Committee, which requested the OLLS to prepare a bill draft for the Statutory Revision Committee's consideration. In reviewing the requested changes, the OLLS believes the changes may require significant policy decisions by the General Assembly, which may place this bill beyond the Statutory Revision Committee's charge to "modify or eliminate antiquated, redundant, or contradictory rules of law and to bring the law of this state into harmony with modern conditions …".[2]

It is the understanding of the OLLS staff that the Joint Budget Committee staff and staff from the CDHE have discussed these proposed changes and that the CDHE and the Commission do not support amending or repealing any portion of article 3.3 of title 23, C.R.S., or repealing article 3.5 of title 23, C.R.S.

Analysis

Under current law, part 1 of article 3.3 of title 23, C.R.S., generally authorizes the Commission to establish a program of financial assistance. Further, the statute requires the Commission to:

- Adopt guidelines for determining which institutions are eligible to participate in the program and annually allocate money to each institution;
- Provide information in its annual budget request for the proposed distribution of money among financial aid programs created in the remaining parts of article 3.3; and
- After the final appropriations, provide to the Joint Budget Committee a proposal for allocating the appropriations among the programs in the coming year.

Parts 3, 4, and 5 of article 3.3 of title 23, C.R.S., consistent with the language in part 1, direct the Commission, out of any money remaining after allocating money to financial aid for dependents of deceased or disabled prisoners of war, National Guard members, law enforcement officers, or firefighters, to allocate money first to the student loan matching program and next to work-study programs and scholarship and grant programs based on need and merit. The statutes do not define need-based or merit-based grants or programs.

In actual practice, the Joint Budget Committee appropriates money for financial aid to dependents of deceased or disabled prisoners of war, National Guard members, law

[2] § 2-3-902 (1)(d), C.R.S.

enforcement officers, or firefighters and for work-study, need-based, and merit-based financial aid programs by separate line items in the annual long bill. The Commission does not provide a proposal for allocations following the appropriation, and it does not itself decide how much of the total student financial aid appropriation is allocated to work-study programs or need-based or merit-based grants or programs.

In addition, the Commission has adopted policies:

- Limiting financial aid funding to only students who are Colorado residents;
- Limiting the eligibility of students for financial aid based on other factors;
- Setting goals for the various financial aid programs;
- Establishing procedures for determining residency and student need; and
- Establishing minimum administrative requirements for implementing the financial aid programs at institutions of higher education.

While section 23-3.3-102 (1), C.R.S., grants the Commission broad authority "to establish a program of financial assistance," it is arguably ambiguous as to whether the Commission's authority extends to adopting all of these policies. In addition, section 23-3.3-102 (3), C.R.S., directs each state institution and each private institution that participates in the financial aid programs to administer their programs according to policies and procedures established by their respective governing boards. The statute authorizes both the Commission and the institutional governing boards to establish policies and procedures for financial aid programs, but does not allocate the authority to address specific issues between the Commission and the institutions' governing boards.

Article 3.5 of title 23, C.R.S., concerning the Colorado student incentive grant program, was enacted two years before article 3.3 of title 23, C.R.S., and it appears to be completely redundant to article 3.3. Further, article 3.5 has not been funded in several years, because all of the student financial aid funding is appropriated pursuant to article 3.3 of title 23, C.R.S.

Statutory Charge[3]

The financial aid program statutes do not reflect actual practice in appropriating and allocating money for these programs, and they are ambiguous with regard to the

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[3] The Statutory Revision Committee is charged with "[making] an ongoing examination of the statutes of the state and current judicial decisions for the purpose of discovering defects and anachronisms in the law and recommending needed reforms" and recommending "legislation annually to effect such changes

allocation of authority to adopt policies and procedures concerning these programs. Clarifying the statutory appropriations process and distribution of regulatory authority to reflect what has been the practice of the Joint Budget Committee, the Commission, and the institutional governing boards for several years could be described as removing anachronisms from the law and correcting defects in the law, thereby falling within the Committee's charge. However, amending the statutes to clarify and assign responsibilities and duties with regard to financial aid programs would likely raise many policy considerations and decisions, which suggests a bill making these changes may not fit within the Committee's charge.

Proposed Bill

If approved by the Statutory Revision Committee, a bill to address the issues discussed in this memo would:

- Amend section 23-3.3-101, C.R.S., to add and clarify definitions;
- Repeal and reenact section 23-3.3-102, C.R.S., to specify the appropriations process for student financial aid programs and describe the regulatory authority of the Commission and institutional governing boards regarding student financial aid programs;
- Repeal parts 3 through 5 of article 3.3 and article 3.5 of title 23, C.R.S.; and
- Make necessary conforming amendments.

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in the law as it deems necessary in order to modify or eliminate antiquated, redundant, or contradictory rules of law and to bring the law of this state into harmony with modern conditions." § 2-3-902 (1), C.R.S. In addition, the Committee "shall propose legislation only to streamline, reduce, or repeal provisions of the Colorado Revised Statutes." § 2-3-902 (3), C.R.S.

ADDENDUM A

Part 1 of article 3.3 of Title 23, C.R.S.

23-3.3-101. Definitions. As used in this article 3.3, unless the context otherwise requires:

(1) "Commission" means the Colorado commission on higher education.

(1.5) "Cost of attendance at a nonpublic institution of higher education" means:

(a) Allowances specified by the commission for room and board and miscellaneous expenses, which shall be the same for nonpublic institutions of higher education as for a representative group of comparable state institutions, as determined by the commission; and

(b) An allowance for tuition and fees equal to the lesser of:

(I) The actual tuition and fees charged by the nonpublic institution of higher education; or

(II) One hundred percent of the combination of actual in-state tuition and fees charged by a representative group of comparable state institutions plus the general fund moneys allocated to support such comparable state institutions.

(2) "In-state student" means a student at an institution of higher education who meets the criteria established by article 7 of this title for classification as an in-state student at a state institution of higher education, but "in-state student" does not include a member of the armed forces of the United States or his dependents who are eligible to obtain in-state tuition status upon moving to Colorado on a permanent change-of-station basis until such individual meets the one-year domicile requirement of section 23-7-102 (5).

(3) "Institution" means an educational institution operating in this state that meets all of the following:

(a) Admits as regular students persons having a certification of graduation from a school providing secondary education or comparable qualifications and persons for enrollment in courses which they reasonably may be expected to complete successfully;

(b) Is accredited by a nationally recognized accrediting agency or association and, in the case of private occupational schools, holds a regular certificate in accordance with the provisions of article 64 of this title 23;

(c) (I) Provides an educational program for which it awards a bachelor's degree;

(II) Provides not less than a two-year program which is acceptable for full credit towards such a degree; or

(III) Provides not less than a six-month program of training to prepare students for gainful employment in a recognized occupation;

(d) Is not a branch program of an institution of higher education whose principal campus and facilities are located outside this state.

(3.5) "Nonpublic institution of higher education" shall have the same meaning as provided in section 23-3.7-102 (3).

(3.7) "Professional degree in theology" means a certificate signifying a person's graduation from a degree program that is:

(a) Devotional in nature or designed to induce religious faith; and

(b) Offered by an institution as preparation for a career in the clergy.

(4) "State institution" means an institution supported in whole or in part by general fund moneys.

(5) "Undergraduate" refers to any program leading toward a bachelor's degree or associate degree or any nondegree program providing training for employment in a recognized occupation.

23-3.3-102. Assistance program authorized - procedure - audits. (1) The general assembly hereby authorizes the commission to establish a program of financial assistance, to be operated during any school sessions, including summer sessions for students attending institutions.

(2) The commission shall determine, by guideline, the institutions eligible for participation in the program and shall annually determine the amount allocated to each institution.

(3) Each state institution shall administer a financial assistance program according to policies and procedures established by the governing board of the institution. Each private institution of higher education, as defined in section 23-18-102 (9), that participates in the program of financial assistance established pursuant to this section shall administer a financial assistance program according to policies and procedures established by the governing board of the institution. Each participating nonpublic institution that is not a private institution of higher education shall administer a financial assistance program according to policies and procedures established by the commission. Each institution shall fund its assistance program using state moneys allocated to the institution and institutional moneys.

(3.5) Notwithstanding any provision of this article to the contrary, each participating institution shall adopt policies and procedures to allow a person who meets the following criteria to qualify for financial assistance through the financial assistance programs established pursuant to this article:

(a) The person qualifies as an in-state student; and

(b) The person is enrolled at an institution that participates in the programs of financial assistance established pursuant to this article; and

(c) The person is enrolled in an approved program of preparation, as defined in section 22-60.5-102 (8), C.R.S., for principals.

(4) Program disbursements shall be handled by the institution subject to audit and review.

(5) Upon commencement of participation in the program, no participating institution shall decrease the amount of its own funds spent for student aid below the amount so spent prior to participation in the program.

(6) In determining the amount allocated to each institution that is not a state institution or a nonpublic institution of higher education, the commission shall consider only that portion of financial need which would have existed were the institution's tuition no greater than the highest in-state tuition rate charged by a comparable state institution. In determining the amount allocated to each nonpublic institution of higher education, the commission shall base its determination upon the cost of attendance at a nonpublic institution of higher education.

(7) Each annual budget request submitted by the commission shall provide information on the proposed distribution of moneys among the programs developed under this article. Subsequent to final appropriation, the commission shall provide to the

joint budget committee an allocation proposal specifically identifying the distributions among programs for the coming year. Expenditures in any program shall not exceed the allocation for that program by more than ten percent of such allocation, and the total appropriation for all student aid programs shall not be exceeded. The commission may require such reports from institutions as are necessary to fulfill the reporting requirements of this subsection (7) and to perform other administrative tasks.

(8) The state auditor or his or her designee shall audit, in accordance with state statute and federal guidelines, the program at any participating institution every other year to review residency determinations, needs analyses, awards, payment procedures, and such other practices as may be necessary to ensure that the program is being properly administered, but the audit shall be limited to the administration of the program at the participating institution. The state auditor may accept an audit of the program from an institution that is not a state institution from such institution's independent auditor. The cost of conducting audits of the program at an institution that is not a state institution shall be borne by such institution.

(9) Repealed.

Part 3 of Article 3.3 of Title 23, C.R.S.

23-3.3-301. Student loan matching program - funding. Out of any moneys provided for the financial assistance program authorized by section 23-3.3-102 and remaining after meeting the requirements of part 2 of this article, the commission shall provide the matching funds required for federal allocations to institutions for student loan programs.

Part 4 of Article 3.3 of Title 23, C.R.S.

23-3.3-401. Work-study program established - requirements. (1) The commission shall use a portion of any moneys remaining after meeting the requirements of parts 2 and 3 of this article to provide a work-study program of employment of qualifying students in good standing with the institution in which they are enrolled in positions that are directly under the control of the institution in which the student is enrolled or in positions with nonprofit organizations, governmental agencies, or for-profit organizations with which the institution may execute student employment contracts.

(2) Any in-state student who is enrolled or accepted for enrollment at an institution as an undergraduate may qualify for participation in the work-study program established pursuant to this section.

(3) Funds appropriated to the commission may also be used by the commission in conjunction with and to supplement funds for current job opportunities or to supplement or match funds made available through any other public or private program for financial assistance. A sum not to exceed thirty percent of the funds allocated by the commission for the work-study program may be used to provide funding on a basis other than financial need. A sum of not less than seventy percent of such money shall be used for students demonstrating financial need.

Part 5 of Article 3.3 of Title 23, C.R.S.

23-3.3-501. Scholarship and grant program - funding. The commission shall use a portion of any moneys remaining after meeting the requirements of parts 2 and 3 of this article to provide other programs of financial assistance based upon financial need, merit, talent, or other criteria established by the commission for students enrolled at institutions.

Article 3.5 of Title 23, C.R.S.

23-3.5-101. Legislative declaration. The general assembly hereby declares that it is the policy of this state, within appropriations available for such purpose, to provide assistance to Colorado in-state students attending institutions of higher education, by utilizing federal and other moneys available for such purpose.

23-3.5-102. Definitions. As used in this article 3.5, unless the context otherwise requires:

(1) "Commission" means the Colorado commission on higher education.

(2) "In-state student" means an undergraduate student at an institution of higher education who meets the criteria established by article 7 of this title for classification as an in-state student at a state institution of higher education, but "in-state student" does not include a member of the armed forces of the United States or his dependents who are eligible to obtain in-state tuition status upon moving to Colorado on a permanent change-of-station basis until such individual meets the one-year domicile requirement of section 23-7-102 (5).

(3) (a) "Institution of higher education" means an educational institution operating in this state that:

(I) Admits as regular students only persons having a certification of graduation from a school providing secondary education or the recognized equivalent of such a certificate;

(II) Is accredited by a nationally recognized accrediting agency or association and, in the case of private occupational schools, holds a regular certificate from the private occupational school division in accordance with the provisions of article 64 of this title 23, or is regulated or approved pursuant to any other statute;

(III) (A) Provides an educational program for which it awards a bachelor's degree; or

(B) Provides not less than a two-year program which is acceptable for full credit towards such a degree; or

(C) Provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation; or

(D) Is a private occupational school providing not less than a six-month program of training to prepare students for gainful employment in a recognized occupation;

(IV) Was in operation in this state as of January 1, 1999, or has been in operation in this state for a minimum of ten academic years.

(b) The term "institution of higher education" does not include a branch program of an institution of higher education whose principal campus and facilities are located outside this state, unless the institution operating the branch program has received a certificate of approval from the private occupational school division in accordance with the provisions of article 64 of this title 23.

(4) "Nonpublic institution" means an educational institution which receives no support from general fund moneys in support of its operating costs.

(5) "Professional degree in theology" means a certificate signifying a person's graduation from a degree program that is:

(a) Devotional in nature or designed to induce religious faith; and

(b) Offered by an institution as preparation for a career in the clergy.

23-3.5-103. Grant program authorized - administration. (1) The general assembly hereby authorizes the commission to establish a grant program for in-state students having financial need, to be administered in accordance with federal law and regulations and guidelines established by the commission.

(2) The commission shall determine, by guideline, the institutions of higher education eligible for participation in the grant program, and each eligible institution of higher education shall recommend in-state students to the commission for receipt of a grant.

(3) Grant program disbursements shall be handled by the institution of higher education, subject to audit and review as provided in section 23-3.5-104.

(4) Upon commencement of participation in the grant program, no participating institution of higher education shall decrease the amount of its own funds spent for student aid below the amount so spent prior to participation in the grant program.

(5) In determining the amount of a grant, the commission shall consider only that portion of an in-state student's financial need which would have existed were the nonpublic institution's tuition no greater than the highest in-state tuition rate charged by a comparable state institution of higher education.

23-3.5-103.5. Assistance to professional theology students prohibited. (1) The guidelines established by the commission pursuant to section 23-3.5-103 (1) shall include:

(a) A prohibition against the awarding of any financial assistance pursuant to this article to a student who is pursuing a professional degree in theology; except that the prohibition described in this section shall not apply to financial assistance that is awarded to a student from a federal program, including but not limited to Title IV of the federal "Higher Education Act of 1965", 20 U.S.C. sec. 1070, as amended; and

(b) A requirement that an institution or nonpublic institution of higher education that seeks to award financial assistance to a student pursuant to this article certify that the student is not pursuing a professional degree in theology.

23-3.5-104. Audit and review. The state auditor or his designee shall audit, in accordance with federal and commission guidelines, the grant program at any participating institution of higher education every other year to review residency determinations, needs analyses, awards, payment procedures, and such other practices as may be necessary to ensure that the grant program is being properly administered, but such audit shall be limited to the administration of the grant program at the participating institution of higher education. The state auditor may accept an audit of the program from an institution not supported in whole or in part by the general fund from the institution's independent auditor. The cost of conducting audits of the program at an institution not supported in whole or in part by the general fund shall be borne by the institution.

23-3.5-105. Determination of eligibility. (Repealed)

23-3.5-106. Determination of invalidity. A final judicial determination that this article is invalid as applied to any individual institution of higher education or student shall not operate to terminate any grant provided pursuant to this article to any other institution of higher education or student.

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
1.9.20

DRAFT

LLS NO. 20-0399.01 Julie Pelegrin x2700 **COMMITTEE BILL**

Statutory Revision Committee

BILL TOPIC: "Align Student Financial Aid With Practice"

A BILL FOR AN ACT

101 **CONCERNING CHANGES TO ALIGN FINANCIAL AID STATUTES WITH**
102 **PRACTICE IN ALLOCATING FINANCIAL AID.**

Bill Summary

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

Statutory Revision Committee. Existing statutes set priorities for the Colorado commission on higher education (commission) to follow in allocating money to various forms of student financial aid, including aid to dependents of certain military and public safety personnel, need-based financial aid, work study programs, and merit-based financial aid. Under the bill, the general assembly will appropriate specific amounts by separate line item for the various forms of student financial aid. Each

institution of higher education must ensure that it uses the amounts it receives in accordance with the purposes of the various line item appropriations. Under existing law, funding for financial aid for dependents of certain military personnel and public safety personnel have priority over other forms of financial aid, and the bill maintains that priority.

The bill clarifies the commission's and the department of higher education's responsibilities and powers in establishing the state financial aid program and the powers and responsibilities of the various institutions in establishing and administering the institutional financial aid programs.

The bill allows the commission to transfer money between financial aid line items and between a financial aid line item and the appropriation for the Colorado opportunity fund stipend for students enrolled in participating private institutions of higher education, but a transfer cannot increase the spending authority for a line item by more than 10%. The commission must submit an annual report concerning the state student financial assistance program to the joint budget committee and the education committees of the general assembly.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 23-3.3-101

3 as follows:

4 **23-3.3-101. Definitions.** As used in this article 3.3, unless the

5 context otherwise requires:

6 (1) "Commission" means the Colorado commission on higher

7 education ESTABLISHED IN SECTION 23-1-102.

8 (1.5) ~~"Cost of attendance at a nonpublic institution of higher~~

9 ~~education" means:~~

10 ~~(a) Allowances specified by the commission for room and board~~

11 ~~and miscellaneous expenses, which shall be the same for nonpublic~~

12 ~~institutions of higher education as for a representative group of~~

13 ~~comparable state institutions, as determined by the commission; and~~

14 ~~(b) An allowance for tuition and fees equal to the lesser of:~~

15 ~~(I) The actual tuition and fees charged by the nonpublic institution~~

~~of higher education; or~~

~~(II) One hundred percent of the combination of actual in-state tuition and fees charged by a representative group of comparable state institutions plus the general fund moneys allocated to support such comparable state institutions.~~

(2) "In-state student" means a student ~~at~~ ENROLLED IN an institution ~~of higher education~~ who meets the criteria established by article 7 of this ~~title~~ TITLE 23 for classification as an in-state student, ~~at a state institution of higher education,~~ but "in-state student" does not include a member of the armed forces of the United States or ~~his~~ THE MEMBER'S dependents who are eligible to obtain in-state tuition status upon moving to Colorado on a permanent change-of-station basis until ~~such individual~~ THE MEMBER OR THE DEPENDENT meets the one-year domicile requirement of section 23-7-102 (5).

(3) "Institution" means an educational institution operating in this state that meets all of the following:

(a) Admits as regular students persons having a certification of graduation from a school ~~providing~~ THAT PROVIDES secondary education or comparable qualifications and persons for enrollment in courses ~~which~~ THAT they reasonably may be expected to complete successfully;

(b) Is accredited by a nationally recognized accrediting agency or association and, in the case of private occupational schools, holds a regular certificate in accordance with the provisions of article 64 of this title 23;

(c) (I) Provides an educational program for which it awards a bachelor's degree;

(II) Provides not less than a two-year program ~~which~~ THAT is

1 acceptable for full credit ~~towards~~ TOWARD such a degree; or
2 (III) Provides not less than a six-month program of training to
3 prepare students for gainful employment in a recognized occupation;
4 (d) Is not a branch program of an institution of higher education
5 whose principal campus and facilities are located outside this state; AND
6 (e) HAS OPERATED WITHIN THE STATE FOR AT LEAST TEN
7 ACADEMIC YEARS.
8 (4) "MERIT-BASED ASSISTANCE" MEANS FINANCIAL AID THAT AN
9 INSTITUTION AWARDS TO A STUDENT BASED ON THE STUDENT'S ACADEMIC,
10 ARTISTIC, ATHLETIC, OR OTHER SPECIAL ACCOMPLISHMENTS.
11 (5) "NEED-BASED ASSISTANCE" MEANS FINANCIAL AID THAT AN
12 INSTITUTION AWARDS TO A STUDENT TO OFFSET THE STUDENT'S
13 DEMONSTRATED FINANCIAL NEED. FOR THE PURPOSES OF DETERMINING
14 STATE AND FEDERAL NEED-BASED FINANCIAL ASSISTANCE, AN
15 INSTITUTION SHALL CALCULATE NEED AS THE COST OF ATTENDANCE, LESS
16 THE EXPECTED FAMILY CONTRIBUTION.
17 ~~(3.5)~~ (6) "Nonpublic institution of higher education" ~~shall have~~
18 HAS the same meaning as provided in section 23-3.7-102 (3).
19 (7) "PRIVATE INSTITUTION" HAS THE SAME MEANING AS THE TERM
20 "PRIVATE INSTITUTION OF HIGHER EDUCATION" DEFINED IN SECTION
21 23-18-102 (9).
22 ~~(3.7)~~ (8) "Professional degree in theology" means a certificate
23 signifying a person's graduation from a degree program that is:
24 (a) Devotional in nature or designed to induce religious faith; and
25 (b) Offered by an institution as preparation for a career in the
26 clergy.
27 ~~(4)~~ (9) ~~"State institution"~~ "PUBLIC INSTITUTION" means an

1 institution ~~supported in whole or in part by general fund moneys~~ THAT
2 ENTERS INTO A FEE-FOR-SERVICE CONTRACT WITH THE DEPARTMENT OF
3 HIGHER EDUCATION PURSUANT TO SECTION 23-18-303, A LOCAL DISTRICT
4 COLLEGE THAT OPERATES PURSUANT TO ARTICLE 71 OF THIS TITLE 23, OR
5 AN AREA TECHNICAL COLLEGE AS DEFINED IN SECTION 23-60-103 (1).
6 (10) "STATE PROGRAM" MEANS THE STATE PROGRAM OF STUDENT
7 FINANCIAL ASSISTANCE ESTABLISHED BY THE COMMISSION PURSUANT TO
8 SECTION 23-3.3-102 (2).
9 ~~(5)~~ (11) "Undergraduate" ~~refers to any program leading~~ MEANS A
10 PROGRAM THAT LEADS toward a bachelor's degree, ~~or~~ AN associate degree,
11 or ~~any nondegree program providing~~ A CERTIFICATE OR A PROGRAM THAT
12 PROVIDES training for employment in a recognized occupation AND THAT
13 DOES NOT REQUIRE A PERSON TO HOLD A BACHELOR'S DEGREE OR HIGHER
14 AS A CONDITION OF ADMISSION.
15 (12) "WORK STUDY" MEANS A PROGRAM FOR EMPLOYMENT OF A
16 QUALIFYING STUDENT IN GOOD STANDING WITH THE INSTITUTION IN WHICH
17 THE STUDENT IS ENROLLED IN A POSITION THAT IS DIRECTLY UNDER THE
18 CONTROL OF THE INSTITUTION IN WHICH THE STUDENT IS ENROLLED OR IN
19 A POSITION WITH A NONPROFIT ORGANIZATION, GOVERNMENTAL AGENCY,
20 OR FOR-PROFIT ORGANIZATION WITH WHICH THE INSTITUTION MAY
21 EXECUTE A STUDENT EMPLOYMENT CONTRACT. AN IN-STATE STUDENT
22 WHO IS ENROLLED OR ACCEPTED FOR ENROLLMENT AT AN INSTITUTION AS
23 AN UNDERGRADUATE MAY QUALIFY FOR PARTICIPATION IN A WORK STUDY
24 PROGRAM.
25 **SECTION 2.** In Colorado Revised Statutes, **repeal and reenact,**
26 **with amendments,** 23-3.3-102 as follows:
27 **23-3.3-102. Assistance program authorized - procedure -**

1 **audits - report.** (1) THE GENERAL ASSEMBLY SHALL ANNUALLY
2 APPROPRIATE MONEY THAT THE COMMISSION SHALL ALLOCATE TO
3 INSTITUTIONS FOR STUDENT FINANCIAL ASSISTANCE PROGRAMS. IT IS THE
4 INTENT OF THE GENERAL ASSEMBLY TO ANNUALLY APPROPRIATE AN
5 AMOUNT FOR FINANCIAL ASSISTANCE FOR STUDENTS WHO QUALIFY UNDER
6 PART 2 OF THIS ARTICLE 3.3. IN ADDITION, THE GENERAL ASSEMBLY MAY
7 ANNUALLY APPROPRIATE, AS SEPARATE LINE ITEMS, MONEY FOR STUDENT
8 FINANCIAL ASSISTANCE IN THE FORM OF NEED-BASED ASSISTANCE, WORK
9 STUDY ASSISTANCE, AND MERIT-BASED ASSISTANCE.
10 (2) (a) THE COMMISSION SHALL ESTABLISH A STATE PROGRAM OF
11 STUDENT FINANCIAL ASSISTANCE TO ALLOCATE TO INSTITUTIONS THE
12 AMOUNTS THE GENERAL ASSEMBLY APPROPRIATES PURSUANT TO
13 SUBSECTION (1) OF THIS SECTION. IN ESTABLISHING THE STATE PROGRAM,
14 THE COMMISSION SHALL SPECIFY THE STATEWIDE GOALS FOR THE STATE
15 PROGRAM AND ADOPT POLICIES, AND THE DEPARTMENT OF HIGHER
16 EDUCATION SHALL ADOPT GUIDELINES AS NECESSARY, TO IDENTIFY THE
17 INSTITUTIONS THAT ARE ELIGIBLE TO PARTICIPATE IN THE STATE
18 PROGRAM, AND TO ALLOCATE THE MONEY APPROPRIATED FOR THE STATE
19 PROGRAM. THE COMMISSION SHALL DESIGN THE STATE PROGRAM TO
20 DISTRIBUTE AMOUNTS FOR STUDENT FINANCIAL ASSISTANCE THROUGHOUT
21 THE FISCAL YEAR.
22 (b) THE COMMISSION SHALL ADOPT POLICIES, AND THE
23 DEPARTMENT OF HIGHER EDUCATION SHALL ADOPT GUIDELINES AS
24 NECESSARY, TO ANNUALLY ESTABLISH THE STUDENT BUDGET IN
25 ACCORDANCE WITH TITLE IV OF THE FEDERAL "HIGHER EDUCATION ACT
26 OF 1965", 20 U.S.C. SEC. 1070, ET SEQ., FOR PURPOSES OF DETERMINING
27 THE LEVEL OF STUDENT NEED.

1 (c) THE COMMISSION MAY ADOPT ADDITIONAL POLICIES, AND THE
2 DEPARTMENT OF HIGHER EDUCATION MAY ADOPT ANY NECESSARY
3 GUIDELINES, TO:
4 (I) LIMIT STUDENT ELIGIBILITY FOR AID BASED ON ONE OR MORE
5 OF THE FOLLOWING FACTORS:
6 (A) WHETHER THE STUDENT IS SEEKING A DEGREE OR A
7 CERTIFICATE;
8 (B) WHETHER THE STUDENT IS AN UNDERGRADUATE STUDENT OR
9 A GRADUATE STUDENT;
10 (C) IF THE STUDENT IS A GRADUATE STUDENT, WHETHER THE
11 DEGREE PROGRAM IN WHICH THE STUDENT IS ENROLLED MEETS A STATE
12 EMPLOYMENT NEED; AND
13 (D) WHETHER THE STUDENT IS IN GOOD ACADEMIC STANDING AND
14 DEMONSTRATING SATISFACTORY ACADEMIC PROGRESS;
15 (II) ESTABLISH PROCEDURES FOR DETERMINING STUDENT
16 RESIDENCY AND STUDENT NEED, CONSISTENT WITH STATUTORY
17 REQUIREMENTS;
18 (III) FACILITATE COMPLIANCE WITH OTHER STATE AND FEDERAL
19 REQUIREMENTS; AND
20 (IV) ESTABLISH MINIMUM ADMINISTRATIVE REQUIREMENTS TO
21 ENSURE THAT EACH INSTITUTION'S FINANCIAL ASSISTANCE PROGRAM
22 COMPLIES WITH STATE AND FEDERAL LAW, COMMISSION POLICIES, AND
23 DEPARTMENT OF HIGHER EDUCATION GUIDELINES AND THAT EACH
24 PARTICIPATING INSTITUTION HAS ADOPTED POLICIES AND PRACTICES
25 NECESSARY TO ENSURE PROPER PROGRAM ADMINISTRATION.
26 (3) (a) TO RECEIVE MONEY FOR STUDENT FINANCIAL ASSISTANCE
27 PURSUANT TO SUBSECTION (2) OF THIS SECTION, AN INSTITUTION MUST

1 ESTABLISH A FINANCIAL ASSISTANCE PROGRAM FOR STUDENTS ENROLLED
2 IN THE INSTITUTION. IN ESTABLISHING AND IMPLEMENTING A FINANCIAL
3 ASSISTANCE PROGRAM, AN INSTITUTION SHALL CREATE POLICIES AND
4 PROGRAMS THAT ALIGN WITH THE COMMISSION'S FINANCIAL AID POLICIES.
5 AT A MINIMUM, THE FINANCIAL ASSISTANCE PROGRAM MUST INCLUDE
6 DISTRIBUTION OF STUDENT FINANCIAL ASSISTANCE IN THE FORMS
7 DESCRIBED IN THIS PART 1 AND IN PART 2 OF THIS ARTICLE 3.3; EXCEPT
8 THAT, IN A FISCAL YEAR IN WHICH THE GENERAL ASSEMBLY DOES NOT
9 APPROPRIATE MONEY FOR A PARTICULAR FORM OF FINANCIAL ASSISTANCE,
10 THE INSTITUTION'S FINANCIAL ASSISTANCE PROGRAM IS NOT REQUIRED TO
11 DISTRIBUTE MONEY FOR THAT FORM OF FINANCIAL ASSISTANCE.
12 (b) EACH INSTITUTION SHALL DISTRIBUTE THROUGH ITS FINANCIAL
13 ASSISTANCE PROGRAM THE STATE MONEY THAT THE COMMISSION
14 ALLOCATES TO THE INSTITUTION PURSUANT TO THIS SECTION. THE
15 INSTITUTION'S FINANCIAL ASSISTANCE PROGRAM IS SUBJECT TO AUDIT AS
16 PROVIDED IN SUBSECTION (10) OF THIS SECTION. A PARTICIPATING
17 INSTITUTION SHALL NOT DECREASE THE AMOUNT OF INSTITUTIONAL FUNDS
18 DISTRIBUTED THROUGH ITS STUDENT FINANCIAL ASSISTANCE PROGRAM
19 BELOW THE AMOUNT DISTRIBUTED BEFORE THE INSTITUTION BEGAN
20 PARTICIPATING IN THE STATE PROGRAM OF STUDENT FINANCIAL
21 ASSISTANCE. AN INSTITUTION MAY DESIGNATE A PORTION OF THE STATE
22 MONEY IT RECEIVES FOR USE AS MATCHING FUNDS REQUIRED FOR FEDERAL
23 ALLOCATIONS TO INSTITUTIONS FOR STUDENT LOAN PROGRAMS.
24 (4) (a) EACH PUBLIC INSTITUTION AND EACH PRIVATE INSTITUTION
25 SHALL ADMINISTER ITS STUDENT FINANCIAL ASSISTANCE PROGRAM
26 ACCORDING TO POLICIES AND PROCEDURES ESTABLISHED BY THE
27 GOVERNING BOARD OF THE PUBLIC INSTITUTION OR PRIVATE INSTITUTION.

1 AT A MINIMUM, THE POLICIES AND PROCEDURES MUST:
2 (I) ENSURE THAT THE EXPENDITURES OF STATE MONEY ALLOCATED
3 TO THE PUBLIC INSTITUTION OR PRIVATE INSTITUTION PURSUANT TO THIS
4 SECTION ARE CONSISTENT WITH THE PURPOSE DESCRIBED IN EACH LINE
5 ITEM APPROPRIATION IN THE ANNUAL GENERAL APPROPRIATIONS BILL; AND
6 (II) COMPLY WITH THE FINANCIAL AID PROGRAM DEFINITIONS AND
7 DESCRIPTIONS SPECIFIED IN THIS ARTICLE 3.3 AND THE COMMISSION
8 POLICIES AND DEPARTMENT GUIDELINES.
9 (b) EACH PARTICIPATING NONPUBLIC INSTITUTION OF HIGHER
10 EDUCATION THAT IS NOT A PRIVATE INSTITUTION SHALL ADMINISTER ITS
11 STUDENT FINANCIAL ASSISTANCE PROGRAM IN ACCORDANCE WITH THE
12 COMMISSION POLICIES.
13 (5) TO BE ELIGIBLE FOR THE FORMS OF STUDENT FINANCIAL
14 ASSISTANCE DESCRIBED IN THIS PART 1 AND IN PART 2 OF THIS ARTICLE 3.3
15 THROUGH A STUDENT FINANCIAL ASSISTANCE PROGRAM, A STUDENT MUST
16 BE CLASSIFIED AS AN IN-STATE STUDENT.
17 (6) IN DETERMINING THE AMOUNT ALLOCATED TO EACH
18 NONPUBLIC INSTITUTION OF HIGHER EDUCATION, INCLUDING EACH
19 PRIVATE INSTITUTION, THE COMMISSION SHALL CONSIDER ONLY THAT
20 PORTION OF STUDENT FINANCIAL NEED THAT WOULD EXIST IF THE
21 INSTITUTION'S TUITION WAS NO GREATER THAN THE HIGHEST IN-STATE
22 TUITION RATE CHARGED BY A COMPARABLE PUBLIC INSTITUTION.
23 (7) IN THE ANNUAL BUDGET REQUEST, THE COMMISSION SHALL
24 SPECIFY THE AMOUNTS REQUESTED FOR EACH FORM OF STUDENT
25 FINANCIAL ASSISTANCE INCLUDED IN THE STATE FINANCIAL ASSISTANCE
26 PROGRAM. THE COMMISSION MAY TRANSFER MONEY BETWEEN THE LINE
27 ITEM APPROPRIATIONS FOR THE VARIOUS FORMS OF STUDENT FINANCIAL

1 ASSISTANCE AND FROM ONE OR MORE OF THE FINANCIAL ASSISTANCE LINE
2 ITEM APPROPRIATIONS TO THE COLLEGE OPPORTUNITY FUND STIPEND
3 PROGRAM FOR UNDERGRADUATE STUDENTS WHO ATTEND PARTICIPATING
4 PRIVATE INSTITUTIONS OF HIGHER EDUCATION AND RECEIVE STIPENDS
5 PURSUANT TO SECTION 23-18-202 (2)(e); EXCEPT THAT A TRANSFER MUST
6 NOT INCREASE THE SPENDING AUTHORITY FOR A LINE ITEM BY MORE THAN
7 TEN PERCENT.
8 (8) THE COMMISSION MAY USE AMOUNTS APPROPRIATED FOR THE
9 VARIOUS FORMS OF FINANCIAL ASSISTANCE, AND AN INSTITUTION MAY USE
10 AMOUNTS ALLOCATED FOR THE VARIOUS FORMS OF FINANCIAL
11 ASSISTANCE, TO SUPPLEMENT AMOUNTS FOR CURRENT JOB OPPORTUNITIES
12 OR TO SUPPLEMENT OR MATCH MONEY MADE AVAILABLE THROUGH ANY
13 OTHER PUBLIC OR PRIVATE PROGRAM FOR FINANCIAL ASSISTANCE. IN
14 PROVIDING SUPPLEMENTARY OR MATCHING MONEY FOR PUBLIC OR
15 PRIVATE PROGRAMS FOR FINANCIAL ASSISTANCE, THE COMMISSION AND
16 THE INSTITUTIONS SHALL ENSURE THAT THE PURPOSES OF THE PUBLIC OR
17 PRIVATE PROGRAMS ARE CONSISTENT WITH THE PURPOSES FOR WHICH THE
18 MONEY WAS ORIGINALLY APPROPRIATED.
19 (9) THE COMMISSION SHALL USE AT LEAST SEVENTY PERCENT OF
20 THE AMOUNT APPROPRIATED IN THE WORK STUDY LINE ITEM, AND EACH
21 INSTITUTION SHALL USE AT LEAST SEVENTY PERCENT OF THE AMOUNT
22 RECEIVED FOR WORK STUDY, AS AID TO STUDENTS WHO DEMONSTRATE
23 FINANCIAL NEED. THE COMMISSION MAY USE UP TO THIRTY PERCENT OF
24 THE AMOUNT APPROPRIATED IN THE WORK STUDY LINE ITEM, AND EACH
25 INSTITUTION MAY USE UP TO THIRTY PERCENT OF THE AMOUNT RECEIVED
26 FOR WORK STUDY, TO PROVIDE ASSISTANCE TO STUDENTS ON A BASIS
27 OTHER THAN FINANCIAL NEED.

1 (10) THE STATE AUDITOR OR HIS OR HER DESIGNEE SHALL AUDIT,
2 IN ACCORDANCE WITH STATE STATUTE AND FEDERAL GUIDELINES AND IN
3 ACCORDANCE WITH COMMISSION POLICIES, WHERE APPLICABLE, THE
4 STUDENT FINANCIAL ASSISTANCE PROGRAM AT A PARTICIPATING
5 INSTITUTION EVERY OTHER YEAR TO REVIEW RESIDENCY
6 DETERMINATIONS, NEEDS ANALYSES, AWARDS, PAYMENT PROCEDURES,
7 AND SUCH OTHER PRACTICES AS MAY BE NECESSARY TO ENSURE THAT THE
8 INSTITUTION IS PROPERLY ADMINISTERING THE PROGRAM, BUT THE AUDIT
9 MUST BE LIMITED TO THE ADMINISTRATION OF THE PROGRAM AT THE
10 INSTITUTION. THE STATE AUDITOR MAY ACCEPT AN AUDIT OF THE
11 STUDENT FINANCIAL ASSISTANCE PROGRAM FROM AN INSTITUTION THAT
12 IS NOT A PUBLIC INSTITUTION, WHICH AUDIT WAS PREPARED BY THE
13 INSTITUTION'S INDEPENDENT AUDITOR. AN INSTITUTION THAT IS NOT A
14 PUBLIC INSTITUTION SHALL PAY THE COST OF AUDITING THE STUDENT
15 FINANCIAL ASSISTANCE PROGRAM AT THE INSTITUTION.
16 (11) ON OR BEFORE DECEMBER 1, 2020, AND ON OR BEFORE
17 DECEMBER 1 EACH YEAR THEREAFTER, THE COMMISSION SHALL SUBMIT
18 A REPORT CONCERNING IMPLEMENTATION OF THE STATE PROGRAM AND
19 THE INSTITUTIONS' STUDENT FINANCIAL ASSISTANCE PROGRAMS. THE
20 COMMISSION SHALL SUBMIT THE REPORT TO THE JOINT BUDGET
21 COMMITTEE AND TO THE EDUCATION COMMITTEES OF THE HOUSE OF
22 REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR COMMITTEES.
23 THE REPORT MUST INCLUDE DATA CONCERNING THE EFFICIENCY AND
24 EFFECTIVENESS OF STATE FINANCIAL AID IN EXPANDING ACCESS TO HIGHER
25 EDUCATION FOR COLORADO RESIDENTS AND SUCH RELATED INFORMATION
26 AS THE COMMISSION MAY DEEM APPROPRIATE OR THE JOINT BUDGET
27 COMMITTEE MAY REQUEST. THE COMMISSION MAY REQUIRE FROM

INSTITUTIONS SUCH REPORTS AS ARE NECESSARY TO FULFILL THE REPORTING REQUIREMENTS OF THIS SUBSECTION (11) AND TO PERFORM OTHER ADMINISTRATIVE TASKS. NOTWITHSTANDING THE REQUIREMENT IN SECTION 24-1-136 (11)(a)(I), THE REQUIREMENT TO SUBMIT THE REPORT DESCRIBED IN THIS SUBSECTION (11) CONTINUES INDEFINITELY.

SECTION 3. In Colorado Revised Statutes, **repeal and reenact, with amendments,** 23-3.3-202 as follows:

23-3.3-202. Program funding. IT IS THE INTENT OF THE GENERAL ASSEMBLY TO ANNUALLY APPROPRIATE, AS A SEPARATE LINE ITEM, AN AMOUNT FOR FINANCIAL ASSISTANCE FOR STUDENTS WHO QUALIFY UNDER THE PROVISIONS OF THIS PART 2. IN A FISCAL YEAR IN WHICH THE AMOUNT APPROPRIATED FOR PURPOSES OF THIS PART 2 IS LESS THAN THE AMOUNT REQUIRED TO FULLY FUND THIS PART 2, THE COMMISSION SHALL TRANSFER MONEY, TO THE EXTENT AUTHORIZED BY SECTION 23-3.3-102 (7), TO FULLY FUND THIS PART 2.

SECTION 4. In Colorado Revised Statutes, 23-3.3-204, **amend** (2) as follows:

23-3.3-204. Dependents of prisoners of war and military personnel missing in action. (2) Any dependent of a prisoner of war or a person missing in action, upon being accepted for enrollment into any institution, shall be permitted to pursue studies leading toward a bachelor's degree or a certificate of completion, free of tuition, for so long as said dependent achieves and maintains standards as set by the institution for its students generally, but said benefits shall not be extended beyond twelve academic quarters or eight academic semesters, as the case may be. Such dependents pursuing studies at an institution that is not a ~~state~~ PUBLIC institution shall be eligible for assistance not to

exceed the average cost of undergraduate instruction calculated for a full-time equivalent student at a comparable ~~state~~ PUBLIC institution for the previous year. The institution or the commission shall provide tuition assistance to such qualified students from appropriated student financial assistance funds.

SECTION 5. In Colorado Revised Statutes, 23-3.3-205, **amend** (1)(a) as follows:

23-3.3-205. Dependents of deceased or permanently disabled National Guardsman, law enforcement officer, or firefighter. (1) (a) Any dependent of a person who died or was permanently disabled while on state active duty, federalized active duty, or authorized training duty as a Colorado National Guardsman or any dependent of any person who has been permanently disabled or killed while acting to preserve the public peace, health, and safety in the capacity of police officer, sheriff, or other law enforcement officer or firefighter, upon being accepted for enrollment into any ~~state~~ PUBLIC institution, shall be permitted to pursue studies leading toward his or her first bachelor's degree or certificate of completion, free of tuition and free of room and board charges of the institution, for so long as said dependent achieves and maintains a cumulative grade point average of 2.5 or above based upon a 4.0 scale, but said benefits shall not be extended beyond six years from the date of enrollment. Such dependents pursuing studies at a nonpublic institution of higher education within the state of Colorado shall be eligible for assistance not to exceed the average cost of undergraduate instruction calculated for a full-time equivalent student at a comparable ~~state~~ PUBLIC institution for the previous year, and the average cost of room and board calculated for a full-time equivalent student at all ~~state~~ PUBLIC institutions

for the previous year. Such dependents pursuing studies at an out-of-state institution of higher education shall be eligible for assistance not to exceed the average cost of undergraduate instruction calculated for a full-time equivalent student at a comparable ~~state~~ PUBLIC institution for the previous year. The commission shall provide tuition and, if appropriate, room and board assistance to such qualified students from appropriated student financial assistance funds.

SECTION 6. In Colorado Revised Statutes, **repeal** parts 3, 4, and 5 of article 3.3 of title 23 and article 3.5 of title 23.

SECTION 7. In Colorado Revised Statutes, 23-3.1-202, **amend** (19) as follows:

23-3.1-202. Definitions. As used in this part 2, unless the context otherwise requires:

(19) "State institution" ~~shall have the same meaning as provided in section 23-3.3-101 (4)~~ MEANS AN INSTITUTION SUPPORTED IN WHOLE OR IN PART BY GENERAL FUND MONEY.

SECTION 8. In Colorado Revised Statutes, 23-3.1-226, **amend** (1)(a) and (1)(b) as follows:

23-3.1-226. Policies for promotion and disclosure of program information. (1) The authority shall design a policy related to the promotion of the prepaid expense program and a policy related to the disclosure of program-related information to purchasers or qualified beneficiaries in a manner consistent with this part 2 and consistent with the requirements of section 529 of the internal revenue code in order to require that:

(a) Appropriate promotional material and program-related information disclose the average tuition increase in state institutions of

1 higher education in Colorado, as defined in ~~section 23-3.3-101 (4)~~
2 SECTION 23-3.1-202 (19), over the previous five years;
3 (b) Annual statements to purchasers or qualified beneficiaries
4 disclose the number of tuition units paid for, the payments made for such
5 tuition units, and the current value of such tuition units, as well as the
6 average tuition increases in state institutions of higher education in
7 Colorado, as defined in ~~section 23-3.3-101 (4)~~ SECTION 23-3.1-202 (19),
8 over the five previous years;
9 **SECTION 9.** In Colorado Revised Statutes, 23-3.3-104, **amend**
10 (1) introductory portion as follows:
11 **23-3.3-104. Assistance to professional theology students**
12 **prohibited.** (1) The policies and procedures established by the
13 commission pursuant to ~~section 23-3.3-102 (3) shall~~ SECTION 23-3.3-102
14 (4)(b) MUST include:

15 <{***Does the committee prefer a safety clause or act-subject-to-petition***
16 ***clause?***}>

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Members of the Joint Budget Committee
FROM	Robin J. Smart, JBC Staff (303-866-4955)
DATE	February 4, 2020
SUBJECT	Potential Legislation – Rural interpreting services project

BACKGROUND SUMMARY

During the FY 2018-19 budget process, the Joint Budget Committee (Committee) approved funding from the Telephone Users with Disabilities Fund (TUDF) for a two-year pilot to:

- Place eight interpreters in rural areas across the State to provide American Sign Language/English interpreting services;
- Provide grants for initial and advanced interpreter training to increase the number of qualified interpreters in rural communities; and
- To conduct outreach to those who need services and those who may be able to provide such services; and create an exemption from the 16.5 percent limit on the TUDF for three years.

The required quarterly reports from the Colorado Commission for the Deaf, Hard of Hearing, and DeafBlind provided information on project expenditures, TUDF balance, locations of interpreting services, number of individuals served, category of services, county location of individuals requesting services, and amount of time between requests for interpreting services and the provision of those services. Data highlights include:

- A 462 percent increase in the number of requests between the first quarter (61 requests) and the sixth quarter (343 requests) of project implementation; and
- A total of 1,020 interpreting services requests in sixth quarters, 12 percent of which were unfilled due to the lack of interpreters.

Without action to the contrary, the Rural Interpreting Services Project will end June 30, 2020.

Additional information can be found in the JBC Staff Briefing document at the following link:

http://leg.colorado.gov/sites/default/files/fy2020-21_humbrf1b.pdf

RECOMMENDATION

During the JBC Staff briefing on December 12, 2019, Staff recommended that the Committee consider formalizing and expanding the Rural Interpreting Services Project by sponsoring legislation to create the program in statute and continue funding it through the Telephone Users with Disabilities Fund. JBC staff recommends that the proposed legislation be drafted and the structure of the program be designed with the input of the Commission for the Deaf, Hard of Hearing, and DeafBlind and other relevant stakeholders, including those who benefit from the interpreting services, the outreach, and the training. JBC Staff requests permission to engage the stakeholders in the bill drafting process.

MEMORANDUM

TO	Joint Budget Committee
FROM	Steve Allen, JBC Staff (303-866-4961)
DATE	February 4, 2020
SUBJECT	Potential Legislation – Allow Mental Health Diversion Pilot Program to operate in 1 more JD

Senate Bill 18-249 (*Mental Health Criminal Justice Diversion Grant Program,* sponsored by Sens. Gardner and Lambert, Reps. Lee and Young) created a pilot Mental Health Criminal Justice Diversion Grant Program to divert individuals with mental health conditions who have been charged with low-level criminal offenses out of the criminal justice system into community treatment programs. If the participant is successful (i.e. completes treatment and has no further criminal charges), the charges are dismissed or not pursued further.

Statute directs the program to operate pilot programs in four unspecified judicial districts. The selected districts are the 6th [Archuleta, La Plata, San Juan], the 8th [Jackson, Larimer], the 16th [Bent, Crowley, Otero], and the 20th [Boulder]. During briefing, staff reported that these pilots have too few participants for a valid assessment of effectiveness by the time the pilot's final report is due in November 2021. Based on this report, the General Assembly must decide during the 2022 session whether the program should be continued beyond its automatic repeal on June 30, 2022. To increase program enrollment, the pilots should expand to at least one more jurisdiction, which requires statutory change. No additional appropriations are required. Several Front Range judicial districts have expressed willingness to participate.

Staff recommends that the Committee carry a bill that amends S.B. 18-249 to allow the pilot program to be conducted in five or more judicial districts rather than the four that are currently authorized. The bill would not change appropriations.

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Joint Budget Committee
FROM	Amanda Bickel, JBC Staff
DATE	February 4, 2020
SUBJECT	Bill Draft for Higher Education Funding Formula

Staff recommends that the JBC request a bill draft on the topic of modifications to the higher education funding model.

- During the FY 2020-21 budget briefing for the Department of Higher Education, staff proposed statutory changes to provide a legal framework for changes to the higher education funding model. The staff briefing issue is attached. **The specifics of the staff proposal begin on page 37 of the attached briefing issue.**

- During the briefing, Senator Zenzinger moved to place a bill on this topic on the JBC's potential bill list, and the other members concurred. The next step would be to send the bill to drafting.

- The current model was developed pursuant to H.B. 14-1319 and has been critiqued for being insufficiently transparent as well as for its results, which have favored those governing boards that have been growing (notably the University of Colroado system).

- Senate Bill 19-095 required the Department of Higher Education to propose changes to the current model by November 1, but staff and other interested parties have expressed concerns about the proposal that was submitted. During its budget hearing, the Department indicated that it was working to develop a new proposal that would be provided to the Committee no later than March 1 for use in FY 2020-21.

- Staff believes a March 1 timeframe for presenting a new model is untenable. For the results of a new model to be included in the Long Bill, a bill would need to be drafted, adopted, and signed before Long Bill introduction in the 4th week of March. While this is theoretically possibly, staff is dubious that any legislation--let alone well-vetted legislation on topic likely to be contentious--can be completed on this schedule. Alternatively, the Long Bill could include one set of funding allocations that could be superseded through appropriations in separate legislation that passes after the Long Bill; however, this also seems less than ideal, particularly if any governing board loses funding through a re-allocation that occurs after the Long Bill.

- In light of these issues, staff has recommended that the Long Bill itself be constructed in alignment with current statute. In staff's experience, a range of different funding outcomes can be produced through the current model, so staff does not believe that legislation providing for a new model must be adopted prior to the Long Bill.

- Staff does, however, believe that the H.B. 14-1319 statutes should be modified and that the funding model should be updated. Staff simply believes that such legislation should provide the foundation for the November 1, 2020 budget request for FY 2021-22, rather than requiring adoption prior to the FY 2020-21 Long Bill.

- Staff believes that current legislation is too restrictive and would like to see existing statutes revised to: (1) remove some of the most prescriptive statutory elements; and (2) allow for a "hybrid" approach in which a relatively simple formula process produces allocations--but final funding amounts may also be modified by other provisions, through a decision item-type process, to address issues such as additional base funding for particular types of institutions, declining enrollment, and minimum base funding needs.

- Staff believes statute should provide a structure within which a model can be developed and operate. While the General Assembly should ensure that statute accommodates a new model that is envisioned (and that many are working on right now), the statute does not need to dictate specifics of the model to the extent it is dictated within current law.

- Ideally, staff hopes that a JBC bill will become the vehicle for any updates to the H.B. 14-1319 model. Staff recognizes that there are multiple parties working on possible new funding models and believes these efforts are critical to informing related legislation. However, **since the Joint Budget Committee is typically the Committee most involved in the higher education funding allocation process, staff hopes the Committee will be willing to play a central role in formulating, reviewing and approving legislation related to a new formula.**

- While the process for developing a new model is still fluid, staff recommends that the Committee request a bill draft now so that Legislative Legal Services can begin the drafting process. **Staff further requests permission to work with the Department, the Governor's Office, and the governing boards on the draft.**

ISSUE: UPDATING THE HIGHER EDUCATION FUNDING MODEL

This issue discusses the Department's response to S.B. 19-095, which required a five year review of the higher education funding formula adopted under H.B. 14-1319.

SUMMARY

- The H.B. 14-1319 higher education funding model was adopted to enable legislators to explain the basis for higher education funding and direct funding based on policy goals, rather than relying on negotiations among the higher education institutions to determine funding allocations.

- The H.B. 14-1319 model as currently operated is commonly critiqued on the following bases: (1) it is too complex, not sufficiently transparent, and difficult to adjust; (2) it fails to adequately support small institutions; and (3) it has directed too much money to research institutions (which have been growing) and not enough to access institutions like community colleges, Metro, and Mesa, which have lost or faced stagnant enrollment.

- In light of these critiques and at the request of the Department, the General Assembly adopted S.B. 19-095, which required a five year review of the higher education funding formula be submitted November 1, 2019 containing changes to the funding formula and any recommendations for legislative changes. The JBC also submitted a Request for Information outlining issues of particular interest.

- The Department submitted its proposed model under S.B. 19-095 November 12, 2019. The Department developed the model as a "base-plus" tool and then modified it to include 10 percent of the base at the behest of OSPB. The model includes components for the distribution of Pell (low-income) and underrepresented minority students, completions (degrees and transfers), and graduation rates. The Department indicates that the intent is that all funding will ultimately flow through the model.

RECOMMENDATION

- Staff recommends that the Committee **not** adopt the model proposed by the Department pursuant to S.B. 19-095. Neither the methodology nor the result seems an improvement over the current model established in H.B. 14-1319.

- The Committee should consider sponsoring legislation to eliminate some of the most prescriptive elements of H.B. 14-1319 and enable the Department and stakeholders to develop a potentially simpler model that includes a clear component of "base" funding for institutions, while retaining the COF stipend, funding for low-income, first generation, and underrepresented minority students, and funding for outcomes/degrees.

- To reduce uncertainty for the governing boards and complexity during the legislative session, staff recommends that the Committee express an intent to: (1) use the H.B. 14-1319 tool for the purpose of setting the FY 2020-21 budget and include adjustments that ensure that no governing

board receives an increase of less than 1.3 percent (if total funding increases 2.5 percent) for a large board and 2.0 percent for a small board.

DISCUSSION

A Brief History of Colorado Higher Education Funding Methodologies

Colorado, like other states, needs a mechanism for dividing funds among its higher education governing boards.

Colorado has gone through numerous higher education funding models over the decades. At one time, funding for higher education was determined through more detailed line item decisions similar to the approach used for the rest of the state budget. By the early 1990s, funding had been consolidated into single line items by governing board and the state used a mandated cost model, in which various cost and revenue components were analyzed by governing board. By the mid-1990s, this had changed to an inflation-based model, in which governing boards received increases based on CPI plus enrollment, with additional adjustments addressed through decision items or separate legislation (including a performance-based funding component added in the early 2000s).

From the mid-2000s through the adoption of H.B. 14-1319, funding for Colorado higher education institutions was governed by S.B. 04-189, which dictated the use of student stipends to be provided to resident undergraduates (money follows the student) and fee-for-service contracts with each governing board to address other state needs. However, for practical purposes, funding for each governing board was determined using a "base plus" allocation model. Incremental changes were shaped each year through agreements negotiated among the higher education institutions and approved through legislative action.

By 2014, from the General Assembly's perspective, it was no longer transparent why any particular governing board received a particular amount of funding, and the funding authorized seemed to have little relationship to the stipends and fee-for-service contracts authorized in statute. Thus, during the 2014 legislative session, the Speaker initiated a bill, with bipartisan sponsorship, to change the model for funding higher education. The General Assembly adopted H.B. 14-1319 (Outcomes-based Funding for Higher Education) to refine the existing funding model to more explicitly address the fee-for-service components of the model and to add components based on student retention and degree attainment.

House Bill 14-1319 - Outcomes-Based Funding for Higher Education

The intent of the bill, as reflected in the legislative declaration, included pushing the State toward achieving specific policy goals including increasing the number of high quality postsecondary credentials, providing a mechanism for the General Assembly to direct funding based on policy goals, increasing transparency, and providing greater predictability in higher education funding.

The statute laid out a large number of specific elements to be included in a new funding model. It then required the Department to convene stakeholder groups during the 2014 interim to develop the new model for use in the FY 2015-16 budget request. An initial version of the model was used in FY 2015-16. In FY 2016-17, the Department submitted a modified version, which was altered further by the Joint Budget Committee.

As dictated by the statute, the model allocates all funding for the governing boards based on three major categories:

- Student stipends (undergraduate enrollment),
- Outcomes (graduations, transfers, retention), and
- Role and mission (flat funding by type of institution).

Funding for "specialty education" programs such as the medical school, veterinary school, forest service, and agricultural extension programs, as well as with local district colleges and area technical colleges are funded outside this structure.

An appendix to this issue provides a more detailed description of the current model and its components. However, for purposes of this discussion it is simply worth noting that the statutes dictating the model at 23-18-301 et. seq. are extremely detailed and prescriptive: 52.5 percent of funds (excluding specialty education) must be for student stipends; specialty education programs must increase at the state average; and there must be specific amounts allocated for a wide range of things from students in graduate classes to students in remedial education.

Over the years, staff briefings have highlighted various strengths and weaknesses of the model.

<u>Strengths:</u>

- It provides funding based on actual data: enrollment, degrees awarded, student retention, low-income Pell student enrollment and completion, and STEM completion. These elements are the focus of Colorado's Higher Education Master Plan and drive about 80 percent of the funding excluding "specialty education" programs.
- The results appear reasonable and provide fairly stable/smooth funding adjustments.
- It IS a model, and one that the General Assembly may choose to adjust based on policy considerations. Previously, the institutions annually negotiated how any new funds or reductions would be allocated. Now, the General Assembly has a tool for allocating or adjusting funding among the institutions based on policy considerations.

<u>Weaknesses:</u>

- Under the post-recession enrollment environment, large research institutions have been growing, while other institutions have not. The community colleges and access institutions such as Metropolitan State University feel that they should benefit more from the model. The model also has difficulty supporting smaller institutions that are size-constrained by their locations and other factors.
- While it is possible to adjust the model, it is not easy. Adding (or subtracting) funds in some parts of the model may have unexpected consequences affecting funding for other parts of the model.
- While the model is supposed to provide incentives for outcomes, it's not clear whether it can do this, due to the limited amount of funding available, the model's complexity, and because any institution's funding is affected by the performance of other institutions.

STATUTORILY-REQUIRED REVIEW OF THE HIGHER EDUCATION FUNDING MODEL

Senate Bill 19-095 (Todd and Holbert/Hansen and McKean) requires a five year review of the higher education funding formula be submitted November 1, 2019 containing changes to the funding formula and any recommendations for legislative changes. The Department is instructed to convene one or more meetings with interested parties, engage directly with the institutions, and strive for consensus among the institutions on any proposed changes.

The Joint Budget Committee also identified, in its Request for Information #1, some specific areas it hoped the Department would address in its review of the model. The request asked the Department to examine a range of issues including:

- Further rationalizing the "mission" and "specialty education" portions of the model ;
- Making the model more transparent and easier to use and understand;
- Aligning the model with the Higher Education Master Plan; and
- Exploring how the model can better address the needs of small institutions.

The text of the request is included in the Request for Information section of this packet (RFI #1)

DEPARTMENT PROPOSAL

Although S.B. 19-095 required the Department to submit a proposal by November 1, 2019, it did not do so. A letter to the General Assembly on November 1, 2019, simply outlined certain core principles sought by Department, the Commission, and stakeholders.

The Department finally submitted a proposal on November 12, 2019 and was able to send staff a copy of its new proposal in Excel format. The proposal provided is similar to the model described by staff during the Committee's September 2019 meeting. Adopting the proposal would require statutory change and would likely involve rewriting all or most of Section 23-18-303, C.R.S., and related sections.

The model as submitted includes four components. As submitted, the Department proposes that 10 percent of base funding, in addition to an incremental increase of 2.5 percent, will pass through the model. The intention reflected in the submission is that the amount of base funding allocated over time will ultimately reach 100 percent of funding through the new formula.

DEPARTMENT FUNDING ALLOCATION MODEL		
MEASURE	PERCENTAGE OF ALLOCATION INCLUDED IN THE MODEL	DESCRIPTION
Operational Support	40%	Each governing board's base funding from the prior year is inflated by an equal percentage, then by various multipliers so Adams, Mesa, Metro, Western, FLC, and UNC receive much larger base increases.
Completions	20%	Resident student degrees awarded, with extra weight for each STEM (science & tech) degree, student who is Pell-eligible (low income), and student who is an underrepresented minority. Excludes degrees for non-resident students and retention data used in the past. Distributes funds similar to prior year distribution, even with these changes.
Equity-focused Enrollment	30%	Share of under-represented minority students and Pell-eligible (low income) students served by each governing board, weighted to emphasize the share of students at each governing board who fall in this category. For example, ASU has 1.6 percent of all Pell student enrollments but

DEPARTMENT FUNDING ALLOCATION MODEL		
MEASURE	PERCENTAGE OF ALLOCATION INCLUDED IN THE MODEL	DESCRIPTION
		52 percent of its student population is Pell, so it receives 2.7 percent of the allocation under this component.
Graduation Rates and Improvements	10%	New addition to respond to Governor's Office. Based on a comparison with peers in graduation rates and trends in comparison to peers.
TOTAL	100%	Department proposes that this allocation apply only to incremental increases. It is in discussion with the Governor's Office regarding whether a portion of the base is also included

The Department also proposes that the Colorado School of Mines be removed from the model and be turned into a "Specialty Education Program" that receives automatic increases at the state average.

While staff remains interested in seeing an improved model, staff does not believe the model prepared by the Department is an improvement. *While staff believes the Committee may wish to consider changes to the existing H.B. 14-1319 statute and the current model**, staff does not believe the Department's proposal should be adopted as submitted.***

- The model was developed by the Department as a "base plus" model. As described by staff in September, all of the governing boards' existing appropriations were proposed to become their base funding. The new allocations were proposed to be incremental changes to the base. These incremental changes were anticipated to be very modest for FY 2019-20 (2.5 percent)

- **Early in the summer, staff expressed concerns to the Department about the base-plus approach**. Staff presented these concerns to the JBC in September, when there seemed to be little change to the proposal.

- **Governing boards like stability, and they were supportive of moving to a base-plus approach, so the Department proceeded to promote its base-plus model into the fall.**

- Like JBC staff, **the Governor's Office was also unhappy with a base-plus approach** that affected very little of the total higher education budget.

- The solution reflected in the November 12, 2019 submission was to make some small additional changes to the model AND push ten percent of base funding through the base-plus model originally developed.

- **The end result of this process simply does not make sense.**

WHY A FUNDING MODEL?

Ultimately, **the General Assembly needs a mechanism for allocating funds among governing boards**. From staff's perspective, the key purposes of a funding model at the level being used by the state are:

- To enable the General Assembly and the Governor to direct funds to higher education priorities and sectors consistent with the State's priorities
- To enable the General Assembly and the Governor to explain why different institutions and sectors receive different amounts
- To highlight what the State believes is important. While staff, legislators, commission members, and executive branch managers are also always interested in incentivizing certain behaviors by the institutions, the state's ability to do this seems limited by the share of funding from the State versus other revenue sources, the variability of state support available, and the uncertainty that any funding the State provides to a governing board will translate to the funds the governing board provides an individual institution. However, this does not eliminate the value of aligning funding with what the State believes is important.

The **governing boards** also seek predictability in funding. They operate large institutions with significant fixed costs and, internally, budget with a base-plus approach.

CONCERNS ABOUT THE MODEL SUBMITTED

CCHE "CORE PRINCIPLES"

The "Core Principles" outlined in the letter from the Department regarding the new model are sound and are similar to the issues outlined in the RFI from the Joint Budget Committee.

- **Simplicity and transparency** - the formula must be understandable so that policymakers, institutions, and the public can clearly understand what outcomes and activities drive funding changes;
- **Master Plan Alignment** - the formula must be clearly tied to the Master Plan;
- **Outcomes-based** - the formula must provide incentives for institutions to improve their performance over time and lead to stronger outcomes for Colorado students
- **Volume mitigation** - smaller institutions should have the same ability to succeed in the formula based on outcomes as a larger institution

CCHE also noted the need for stability for the institutions.

The model submitted does not achieve all of these goals.

OVERARCHING PROBLEMS

- **THE MODEL IS NOT PARTICULARLY "SIMPLE".** The Department's current proposal includes four separate funding elements, many of which are comprised of several smaller elements. For example, "equity focused enrollment" includes both a Pell-element and an underrepresented minority element. The Department's model is in many respects as complex as the current model, which includes six elements. If all funding passes through the model, it will likely become more complex. The more complex a model, the less useful it is as a communication tool for legislators, the public, or the institutions themselves.

- **THE NEW MODEL DOES NOT CONSISTENTLY "HELP" SMALL OR ACCESS INSTITUTIONS**. Staff thought that the greatest concern about H.B. 14-1319 was that it sent more money to institutions at the University of Colorado that are growing, while not adequately supporting small institutions, and, perhaps, other institutions facing declining enrollment. But *if one purpose of the new model was to help small institutions receive more funding, the new proposal seems in two-of-three cases to treat them less well.*

Meanwhile, the community college system does substantially less well, while CU and CSU do better. Was that the goal?

	Adams	Mesa	Metro	Western	CSU Sys	Ft. Lewis	CU	Mines	UNC	CCs
FY 2019-20 Funding	17,280,257	32,184,959	63,669,142	15,035,379	170,828,219	14,136,437	241,373,927	25,371,265	47,004,464	189,865,735
HB 14-1319	17,723,969	33,091,653	67,364,216	15,362,036	172,580,541	14,944,761	245,479,006	25,660,511	48,422,312	196,539,523
Nov 1 submission	443,712	906,695	3,695,074	326,657	1,752,321	808,324	4,105,080	289,246	1,417,847	6,673,788
	2.6%	2.8%	5.8%	2.2%	1.0%	5.7%	1.7%	1.1%	3.0%	3.5%
New proposal	17,852,945	33,467,953	67,488,730	15,192,216	173,315,290	14,360,310	246,238,497	26,005,546	48,219,307	195,027,735
Nov 13 submission	572,688	1,282,994	3,819,588	156,837	2,487,071	223,873	4,864,570	634,282	1,214,843	5,162,000
	3.3%	4.0%	6.0%	1.0%	1.5%	1.6%	2.0%	2.5%	2.6%	2.7%

- **THE MODEL DOES NOT SEEM WELL DESIGNED TO ADJUST TO DIFFERENT FUNDING LEVELS OR DIFFERENT LEGISLATIVE PRIORITIES**. The most important function of the State's funding model is to assist legislators in allocating funds.

  - If the General Assembly decided to provide more money, would it really want to allocate the funds following this new model? With a 10.0 percent ($85.0 million) increase for the governing boards, Metro would receive an increase of 15.6 percent ($9.9 million), and Western would receive less than 7.7 percent ($1.2 million). CSU would receive 8.3 percent, and the community colleges would receive 10.4 percent. These results are not necessarily the wrong direction for funding--but the rationale is far from transparent.

  - The model is apparently designed so that any funding cut simply cuts all entities equally across the board. This is not necessarily the wrong approach--but it's not necessarily the right one either.

  - Does this model reflect the Governor's funding priorities in terms of where the Governor's Office wishes to direct more funds? If the General Assembly does not agree with those priorities, how would it adjust the model to point in a different direction?

SPECIFIC ISSUES AND CONCERNS

BASE FUNDING.

- The key selling point of the Executive Branch's model, from an institutional perspective, was that it provided predictable base funding tied to the prior year appropriation. This was also the most significant "simplifying" element. However, the Executive Branch proposal indicates that the intent is ultimately to put all funding through the model. If this is the case, why not stick with the current model, which does this?

- So far the Executive Branch has not been able assert any rational basis for why institutions should receive any particular amount in their base, other than to point to the amount appropriated the prior year. The Department has engaged a consulting firm to compare Colorado institutions with peers in other states which may provide some additional insights into the adequacy or reasonableness of institutional operating costs and the level of state funding for one Colorado institution versus another. However, it's not likely that this will provide a silver bullet: among other issues, who constitutes a "peer" will be subject to endless debate. Regardless, **staff understands the results will not be released in time for the FY 2020-21 budget process.**

"OPERATIONAL SUPPORT". The Department's current model includes a component designed to shift funding based on type of institution. Specifically, it places 40 percent of any funding flowing

through the model (currently 10 percent of the base plus the increase) into a category called "operational support". This component appears designed to address both inflation and differential support by type of institution. It allocates funding based on multipliers such as 1.75 percent for a "remote town" or 1.3 percent for a "large city", with no related multipliers for the three systems: CSU, CU, and the community college system. While staff certainly agrees that base operational support and inflationary adjustments are needed, no clear justification is provided for these ratios. One of the most common complaints about the H.B. 14-1319 model is that there is insufficient rationale for "role and mission" funding amounts. **This proposal both fails to explain base funding and provides insufficient rationale for adjusting particular institutions**.

COLORADO OPPORTUNITY FUND STIPEND/ENROLLMENT. The significant change in the model is that it eliminates any funding based on the College Opportunity Fund (undergraduate enrollment). The stipend is a flat amount per undergraduate resident student that students must apply to receive to offset their tuition. This has, until now, been 52.5 percent of funding allocated (apart from specialty education programs) and, since H.B. 14-1319, has been based on actual stipends used at institutions in the prior actual fiscal year. As staff understands it, the Department does not propose to actually eliminate the stipend. Instead, *the Department is apparently planning to continue the stipend as an administrative overlay, adding complexity but no content*.

Staff believes that resident undergraduate enrollment should remain a significant part of any funding model. Softening the specific requirement that stipends be 52.5 percent of total state appropriations would make the mechanics of the funding model easier, so staff would support modifying the percentage as a statutory requirement. However:

- In staff's experience, **the stipend is the only portion of state funding for higher education that has a purpose that is transparent to both students and legislators**. While staff believes institutions have value, staff believes *the primary purpose of state support for higher education is to educate students*. The stipend communicates this in the most direct manner possible.

- An important innovation of H.B. 14-1319 was to tie COF stipend allocations to the real number of stipends used in the prior actual year. The COF stipend plays a role in helping to maintain institutions' status as enterprises, since it is considered a grant to students, rather than a grant to institutions. **Tying the stipend to real numbers of students receiving the stipend strengthens the argument that higher education institutions are, indeed TABOR enterprises and the funding provided is to benefit students.**[2]

ADDING THE COLORADO SCHOOL OF MINES AS A "SPECIALTY EDUCATION PROGRAM". The Department's draft adds the Colorado School of Mines as a "specialty education program", *i.e.*, a program that will simply receive an increase at the state average. Since every state institution is special

[2] From an institutional perspective, the stipend is administratively complex, since students are required to apply for it. The State could consider replacing the stipend with an allocation per undergraduate resident enrolled, and could make all state funding for institutions "fee for service contracts". This is legally feasible and would not change the Office of the State Auditors' assessment of whether institutions are "enterprises". It is unclear whether or not such a change would create greater risk of legal action.

in some way, it's not clear why Mines should receive this separate treatment if others do not. **In general, staff believes that *less* of higher education funding--not more--should be statutorily required to increase or decrease at an "average" rate.** The State's higher education Master Plan indicates that it wants more Colorado residents, particularly low-income and disadvantaged residents, to achieve high quality, high value credentials. Shouldn't the Colorado School of Mines be part of that effort and have at least some of its funding related to its success in recruiting, retaining and graduating Colorado residents who might not otherwise pursue an "elite" education?

PEER COMPARISONS/TIME TO GRADUATION. At the request of the Governor's Office, the Department added time-to-graduation metrics into the funding model. **Staff appreciates the interest on the part of the Governor's staff in incorporating some measure of "efficiency" into the higher education funding model. However, staff does not believe this measure is ready for use.** Peer comparisons are subject to gaming, and many of the peers included at this stage are based in part on peers selected by the institutions in federal databases. The following table demonstrates the challenge. The Department's model scores institutions based on their actual graduation rate, where their rate falls between their peer minimum and maximum, and how their rate has changed compared to their peer minimum and maximum. *According to the peers selected, Mesa is the top performer among all its peers, yielding a much higher score than any other institution receives--despite the fact that its "100 percent of time" (4-year) graduation rates are an abysmal 17.1 percent.*

SCORING FOR 100 PERCENT OF TIME GRADUATION RATES			
	COLORADO MESA	METRO STATE U.	COMMUNITY COLLEGE SYSTEM
Average graduation rate in 100 percent time	17.1%	6.6%	15.9%
Combined score for graduation rate in 100 percent time based on peer comparisons (out of 100 points)	75.1	43.9	38.2

Staff also notes that adding this type of metric complicates--rather than simplifies--the model. The State may ultimately decide that it wants to include some type of "efficient performance" metric in the funding formula, but **staff suggests that the Department wait until its peer comparison process is completed before it seriously considers this.**

"FIRST GENERATION" STUDENTS. The Committee has been asking the Department to incorporate a metric for "first generation" students for multiple years. While repeatedly promising that it is working on the issue (and staff believes it is), the Department still has not incorporated this in the model. There is strong evidence that being a "first generation" student creates significant barriers to student participation and completion of post-secondary education. If the State wishes to focus on equity, shouldn't this be one element of its approach?

SOME STRENGTHS OF THE PROPOSAL

Simplification of Outcome Metrics. The proposal eliminates funding related to outcomes for nonresident students. The current funding model includes some funding for degrees earned by these students at a discounted rate of 30 percent. Staff would have eliminated this funding long ago if not for statutory constraints. This has little impact on total funding but increases the complexity of the model. The Department also proposes to eliminate metrics related to retention, with the goal of

simplicity. This component has likewise been a small component, so this change will have little funding impact.

Greater Emphasis on Equity Gaps. The proposal includes a process for allocating funds to institutions based both on the number of students in particular groups (low-income Pell, under-represented minorities) **and** the share of such students at an institution. This seems reasonable, given the weight given in the Higher Education Master Plan to closing attainment gaps and the additional expense that may be associated with serving particular student groups. Staff notes that the Department has *also* now added Under Represented Minority metrics back into the H.B. 14-1319 model that would be used under current law.

Eliminating Some Funding Model Elements that Add Complexity or have Little Rationale. The proposal eliminates funding based on weighted credit hours. Given that the distribution of weighted credit hours is very similar to the distribution for completions, staff supports eliminating this component. Staff would have eliminated it long ago if not for statutory constraints. The proposal also eliminates a "productivity" tool which had the primary effect of providing equal distributions by governing board.

WHERE TO FROM HERE?

In staff's opinion, the Department's proposal "throws the baby out with the bath water" and creates a weaker model than the one that now exists.

- **Staff believes that procedurally it may be easiest to use the current H.B. 14-1319 for FY 2020-21.** However, staff believes the Committee may wish to consider some "tweaks" to the model submitted. Specifically:
    - In part because the Department has now added underrepresented minorities into the model, and added funding for Mesa and Metro, it has driven some significant realignment toward the community colleges, Mesa, and Metro and away from other institutions. The CSU system appears to be hard-hit by this, which is compounded by declining COF stipend figures at both CSU-Pueblo and the Fort Collins campus. The Department has attempted to address this by adding "tuition stability" amounts into base funding for other institutions, but the basis for these amounts is not clear to staff. It may be most straight forward to establish a desired adjustment "floor", which might vary by size of institution so that the policy basis is clear, e.g., 2.0 percent for the smallest institutions and 1.3 percent for larger ones if the average increase is 2.5 percent.
    - Staff believes the increase for Fort Lewis College is too large, particularly in light of the increase it will again receive from the Native American Tuition Waiver.
    - The model version submitted entirely eliminates completion funding for nonresidents and funding for retention. Although staff supports these changes, they do not comport with current law. Staff would therefore add in at least a token amount to these categories unless the Committee wishes to move forward with a bill to change the funding model <u>prior</u> to the Long Bill.

- **The Committee should consider sponsoring legislation in the 2020 session to modify the existing H.B. 14-1319 statute to make it less prescriptive and address some of the complexity.** If the Committee is willing to use the current H.B. 14-1319 model for FY 2020-21,

this bill does not need to pass prior to the Long Bill. *The purpose of the proposed changes would be to enable some simplification of the model, by eliminating certain model requirements, including those that certain components represent fixed percentages or increase at specified rates. This will facilitate some (though not all) the changes sought by the Department, and provide the Department and the General Assembly with greater flexibility in the funding process.*

Some specific statutory changes the Committee might consider to Part 3 of Article 18 of Title 23:

- **Eliminate statutory requirements that "specialty education" programs increase or decrease at the same average rate as all funding for higher education (portions of 23-18-304)**. Likewise, eliminate this requirement for funding for local district colleges and area technical colleges. *In most years, staff assumes that the Executive Branch will propose this type of alignment--particularly in years when adjustments are essentially inflationary. However, this kind of statutory straight-jacket seems extreme.* There may be years when the General Assembly wants to put more money into the community college system than the medical school or when it wants to provide a special increase for the Forest Service at CSU for wildfire mitigation. It should be able to do so without a statutory adjustment.

- **Loosen the statutory requirement that the College Opportunity Fund stipend constitutes 52.5 percent of "total state appropriation"** (a figure that is calculated excluding specialty education programs and the other items that currently increase at an average rate) unless the General Assembly declares a fiscal emergency **(portions of Section 23-18-305)**. *Continue to require that the stipend be part of the model and that it be calculated based on actual COF enrollment***.** Consider a stipend floor of 35-40 percent of support overall for the state-operated governing boards of funds appropriated through the General Appropriations Act (funding is presently 43.0 percent of support for the state-operated boards).

- **Eliminate the statutory requirement that funding for Pell students be "at least equal to ten percent of the amount of the COF stipend" and replace this was a simpler requirement** that funding must include an amount for each governing board to offset the additional costs incurred in supporting students who are underserved, including low-income, **first-generation**, and underrepresented minority students. This funding must be allocated among institutions based on the numbers of students served in these categories and based on consistent definition and data collection methods. *This will allow the Department to use the model component it wishes to add related to underrepresented students and will require it to add a component for first-generation students. Staff is not convinced that the Department's more elaborate calculations for Pell and URM represent a real improvement, but they are functional.*

- **Eliminate much of the other detail related to "role and mission funding" (portions of 23-18-303 (3)).** Specify that state funding shall include base funding amounts for governing boards to recognize the unique role of each governing board and its constituent institutions. *Eliminate requirements that the State provide "an amount" per graduate student or "an amount" to offset costs for providing basic skills classes. This will enable the Department to eliminate the "weighted credit hour" component of the model.*

- **Modify the requirements for performance funding.** Continue to require performance funding to include amounts for completions but specify that this is for each **resident** completion. (Section 23-18-303(4)(a)). Specify that performance funding **may** include an amount

for **retention**. *This will enable the Department to eliminate retention funding, as it wishes to do in order to simplify the model.*

- Leaving some other existing portions of statute intact will enable the Department to work with the institutions, OSPB, and potentially outside facilitators or consultants to either propose further model changes (e.g., base adjustments or efficiency metrics, based on the ongoing peer-comparison analysis). Existing statutory provisions already allow for the addition of other performance metrics.

THOUGHT EXPERIMENT: HOW WOULD A SIMPLER MODEL WORK?

In order to explore how a truly simpler model might work, staff used the actual data from the funding model for FY 2016-17 to FY 2020-21 and the total funds allocated through the model (including the specialty education programs) in each year and imagined the following:

- Student stipends will represent 40 percent of the total
- Pell-student stipends will represent 5 percent of the total (staff did not use Underrepresented Minorities or First Generation due to lack of data for the prior years)
- Resident completions will represent 20 percent of the total
- "Base" Funding will represent 35 percent of the total and will be allocated among the institutions based on each governing board's share of the following portions of H.B. 14-1319 funding: Role and Mission + "Institutional Productivity" + Specialty Education as allocated in the FY 2020-21 version of the model. For the smallest institutions, this represents over 60 percent of their funding. For CU and CSU 44.2 percent and 53.2 percent respectively, for the community colleges, 10.3 percent.

In this structure, **staff does <u>not</u> assume that base funding will eventually disappear** and be gradually replaced by performance/completion funding, as is the case in the existing H.B. 14-1319 model. Instead, staff assumes that base funding will simply be inflated annually by the overall increase (or decrease) in state funding, unless the General Assembly makes a deliberate decision to adjust this base funding.

- In this way, all institutions would have a portion of funding that would usually increase or decrease at the same rate as the annual appropriation for all of the governing boards (like current "specialty education programs"), though this would represent more funding for some institutions than others.
- If the Department concluded that Mesa and Metro or small rural institutions were underfunded, (or conversely, that some institution was over-funded in comparison to others), it could submit an analysis and request an adjustment to base funding, unrestricted by statutory proportions or guard rails.

This would at least enable the Governor and the General Assembly to make straight-forward decisions in the following areas: (1) increase or decrease "base" funding across the board, for individual boards, or for types of boards based on factors ranging from promoting institutional efficiency to ensuring institutional survival; (2) devote more or less funding to completions (benefitting

research institutions and institutions that are better at this); or (3) devote more or less funding to student stipends and/or underrepresented groups (benefitting access institutions that serve more of these students).

The General Assembly would need to discourage narrow "decision items", as institutions always have some activity to sell that is appealing, *but it would be up to the Department, the Governor, and the General Assembly to say "no" and establish clear expectations for the types of adjustments that would be appropriate.*

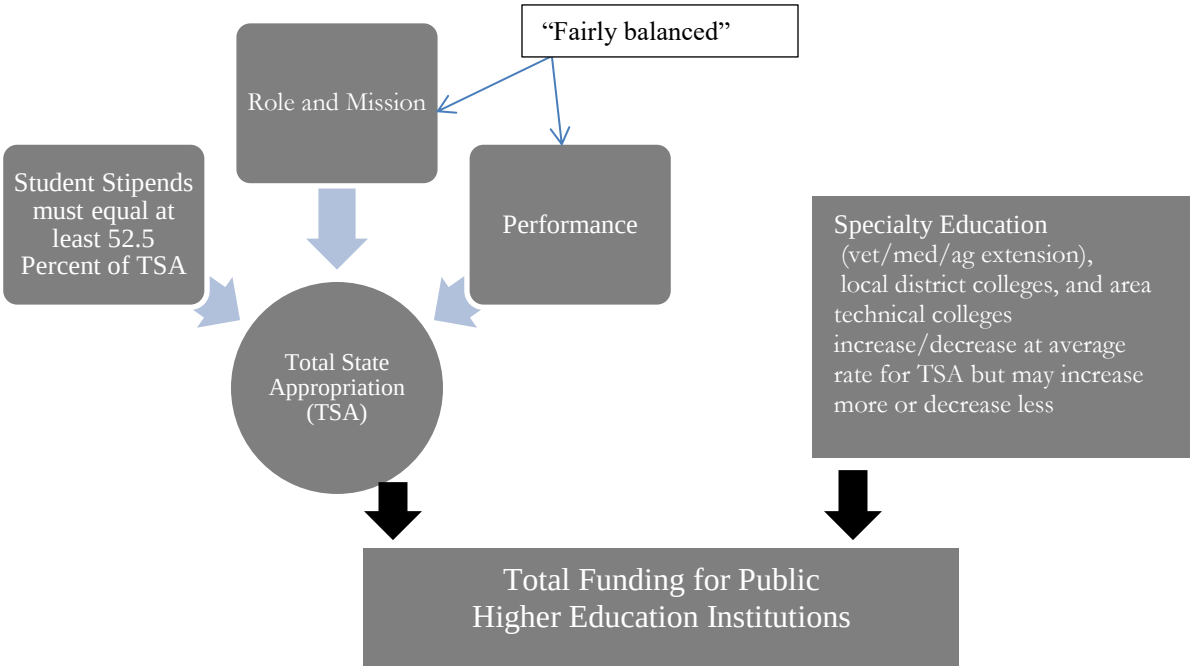
The results of the staff "thought experiment" are attached. If the State had used this model starting in 2017, the funding for each governing board would not be wildly different from the request under the current H.B. 14-1319 model, there would have been opportunity for thoughtful, less contorted adjustments, and model operations would have been simpler and more transparent.

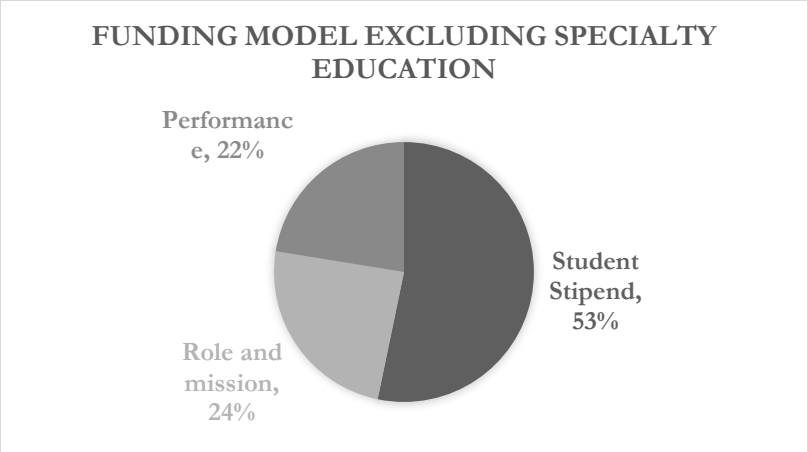
Staff encourages the Committee to discuss with the Department and the governing boards how they would feel about such a simplified version of the model.

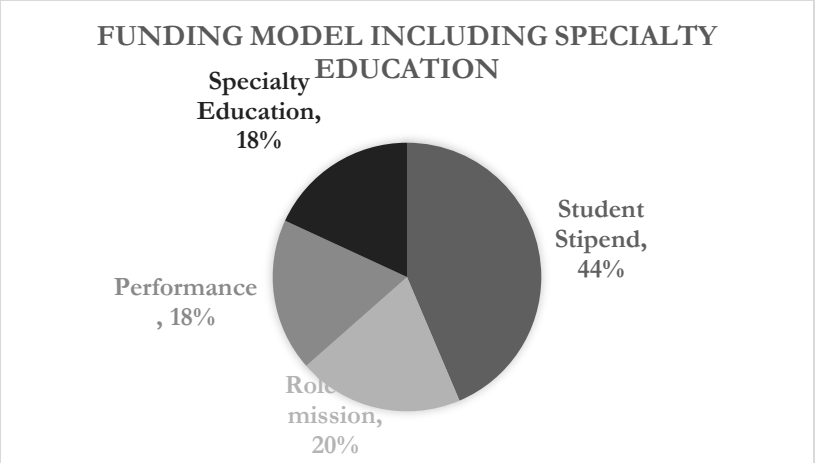
		Adams	Mesa	Metro	Western	CSU Sys	Ft. Lewis	CU	Mines	UNC	CCs	TOTAL
2017												
Student Stipends/COF	40%	2,583,654	12,250,625	28,824,110	2,652,165	38,476,247	3,611,952	55,730,988	5,536,702	13,801,128	95,166,302	258,633,873
Pell	5%	534,984	1,738,841	4,366,593	307,214	3,612,446	398,498	6,069,804	442,401	1,695,903	13,162,549	32,329,233
Resident Completions	20%	2,352,160	4,977,062	14,404,904	1,225,866	22,915,677	1,832,058	40,081,408	4,973,130	9,534,454	27,020,217	129,316,936
Base	35%	9,213,537	5,718,069	6,030,580	7,494,502	69,876,640	7,238,186	82,491,330	9,517,584	13,317,207	15,407,003	226,304,638
Total		14,684,335	24,684,597	53,626,187	11,679,747	134,881,010	13,080,694	184,373,530	20,469,817	38,348,692	150,756,071	646,584,680
2018												
Student Stipends/COF	40%	2,577,983	13,345,746	29,101,766	2,821,179	40,168,557	3,579,930	59,106,911	5,760,404	14,103,021	94,835,577	265,401,074
Pell	5%	586,982	1,953,080	4,323,706	312,930	3,862,649	387,192	6,710,264	457,179	1,779,803	12,801,351	33,175,136
Resident Completions	20%	2,349,539	5,436,646	14,357,552	1,128,046	22,641,012	1,902,326	41,150,307	5,279,788	9,251,310	29,204,011	132,700,537
Base	35%	9,454,611	5,867,684	6,188,372	7,690,597	71,704,975	7,427,574	84,649,730	9,766,613	13,665,654	15,810,130	232,225,940
Total		14,969,115	26,603,156	53,971,396	11,952,752	138,377,193	13,297,022	191,617,212	21,263,984	38,799,788	152,651,069	663,502,687
	change	1.9%	7.8%	0.6%	2.3%	2.6%	1.7%	3.9%	3.9%	1.2%	1.3%	2.6%
2019												
Student Stipends/COF	40%	2,577,157	14,548,610	31,413,308	3,054,792	44,068,240	3,465,333	65,844,422	6,041,727	15,085,749	103,055,132	289,154,470
Pell	5%	652,181	2,127,891	4,687,569	337,390	4,318,177	389,359	7,664,605	495,070	2,032,593	13,439,474	36,144,309
Resident Completions	20%	2,362,695	6,291,033	16,562,709	1,524,217	24,009,649	1,870,803	44,677,183	5,104,737	9,499,163	32,675,046	144,577,235
Base	35%	10,300,799	6,392,841	6,742,231	8,378,905	78,122,570	8,092,342	92,225,881	10,640,725	14,888,731	17,225,137	253,010,162
Total		15,892,832	29,360,375	59,405,817	13,295,304	150,518,636	13,817,837	210,412,091	22,282,259	41,506,236	166,394,789	722,886,176
	change	6.2%	10.4%	10.1%	11.2%	8.8%	3.9%	9.8%	4.8%	7.0%	9.0%	8.9%
2020												
Student Stipends/COF	40%	2,716,467	16,103,909	35,796,473	3,352,194	48,787,572	3,593,537	75,712,353	7,213,960	17,352,338	116,071,110	326,699,913
Pell	5%	672,603	2,271,859	5,436,567	352,170	5,107,476	388,945	9,127,136	599,501	2,295,276	14,585,956	40,837,489
Resident Completions	20%	2,791,516	7,287,123	17,401,138	1,832,712	27,997,554	1,944,002	50,635,370	5,982,890	10,850,385	36,627,266	163,349,956
Base	35%	11,638,312	7,222,924	7,617,680	9,466,869	88,266,444	9,143,097	104,201,009	12,022,377	16,821,967	19,461,745	285,862,424
Total		17,818,898	32,885,815	66,251,858	15,003,945	170,159,046	15,069,581	239,675,868	25,818,728	47,319,966	186,746,077	816,749,782
	change	12.1%	12.0%	11.5%	12.9%	13.0%	9.1%	13.9%	15.9%	14.0%	12.2%	13.0%
2021												
Student Stipends/COF	40%	2,593,913	16,675,353	36,490,044	3,514,136	48,917,697	3,446,995	79,033,942	7,506,252	17,419,821	119,269,258	334,867,411
Pell	5%	627,143	2,359,033	5,600,489	388,504	5,300,790	421,265	9,771,916	571,131	2,413,384	14,404,771	41,858,426
Resident Completions (r	20%	2,689,748	6,752,380	17,911,855	1,641,033	27,447,142	1,622,636	53,556,498	5,379,658	12,084,224	38,348,532	167,433,706
Base	35%	11,929,270	7,403,497	7,808,122	9,703,541	90,473,106	9,371,674	106,806,034	12,322,936	17,242,516	19,948,289	293,008,985
		17,840,074	33,190,263	67,810,510	15,247,214	172,138,735	14,862,570	249,168,390	25,779,977	49,159,945	191,970,850	837,168,528
	change	0.1%	0.9%	2.4%	1.6%	1.2%	-1.4%	4.0%	-0.2%	3.9%	2.8%	2.5%
DHE Request under HB1319		17,748,627	33,053,840	67,490,548	15,355,158	172,576,680	14,956,678	245,324,809	25,618,287	48,614,944	196,428,955	837,168,526
Simple model above/(below) re		91,447	136,423	319,962	(107,944)	(437,945)	(94,108)	3,843,581	161,690	545,001	(4,458,105)	2
Percentage Difference		0.5%	0.4%	0.5%	-0.7%	-0.3%	-0.6%	1.6%	0.6%	1.1%	-2.3%	0.0%

APPENDIX: THE HIGHER EDUCATION FUNDING MODEL - H.B. 14-1319
STATUTORY FRAMEWORK FOR THE MODEL

House Bill 14-1319 details several major funding categories, as reflected in the chart below. The statute is highly prescriptive. However, in practice there is space for the General Assembly to adjust funding based on its policy priorities. The chart shows the basic model components and the pie charts show the share allocated to each component in the FY 2019-20 request.







COLLEGE OPPORTUNITY FUND STUDENT STIPENDS: These are amounts provided for undergraduate resident students. Funding for student stipends must constitute at least 52.5 percent of total state appropriations, as defined by the bill. As shown above, once specialty education is included, the share of funding from stipends falls to 44 percent.

ROLE AND MISSION FUNDING: The role and mission statutory language requires that this component include:

Institutional mission. Amount to offset the costs incurred in providing undergraduate programs at each institution, including the following components: selectivity, number of campuses, rural or urban location, low student enrollment, undergraduate programs with a high cost per student, and whether the institution conducts research.

Support services for Pell-eligible, first-generation, and underserved undergraduate students. Must include an amount for Pell-eligible students at least equal to ten percent of the amount of the College Opportunity Fund stipend. May include amounts for first-generation or underserved students.

Graduate programs. Must include an amount for each graduate student enrolled in an institution, which amount shall be based on the subject and level of the graduate program.

Remediation. Must include an amount for each eligible governing board to offset the costs incurred in providing effective basic skills courses and the costs incurred in providing approved supplemental academic instruction.

Additional factors. Up to two additional factors.

PERFORMANCE FUNDING: The performance funding component includes:
Completion. An amount for each certificate or degree awarded and each student transferring from a community college. Must include additional amount for each Pell-eligible undergraduate completion.
Retention. An amount for each governing board based on the number of students enrolled in an institution that make academic progress by completing thirty credit hours, sixty credit hours, or ninety credit hours.
Additional metrics. Up to four additional performance funding metrics.

GENERAL ROLE AND MISSION AND PERFORMANCE METRIC REQUIREMENTS:

- It is the General Assembly's intent that the components of the fee-for-service contracts be "fairly balanced" between role and mission factors and performance metrics.
- Role and mission and performance metrics must be tied to the policy goals established by the General Assembly and the Commission in its Master Plan and must be transparent and measurable.
- Each role and mission factor may be applied differently to institutions, but to the extent possible, similar institutions must be treated similarly.
- Each performance funding metric must be applied uniformly to all governing boards.

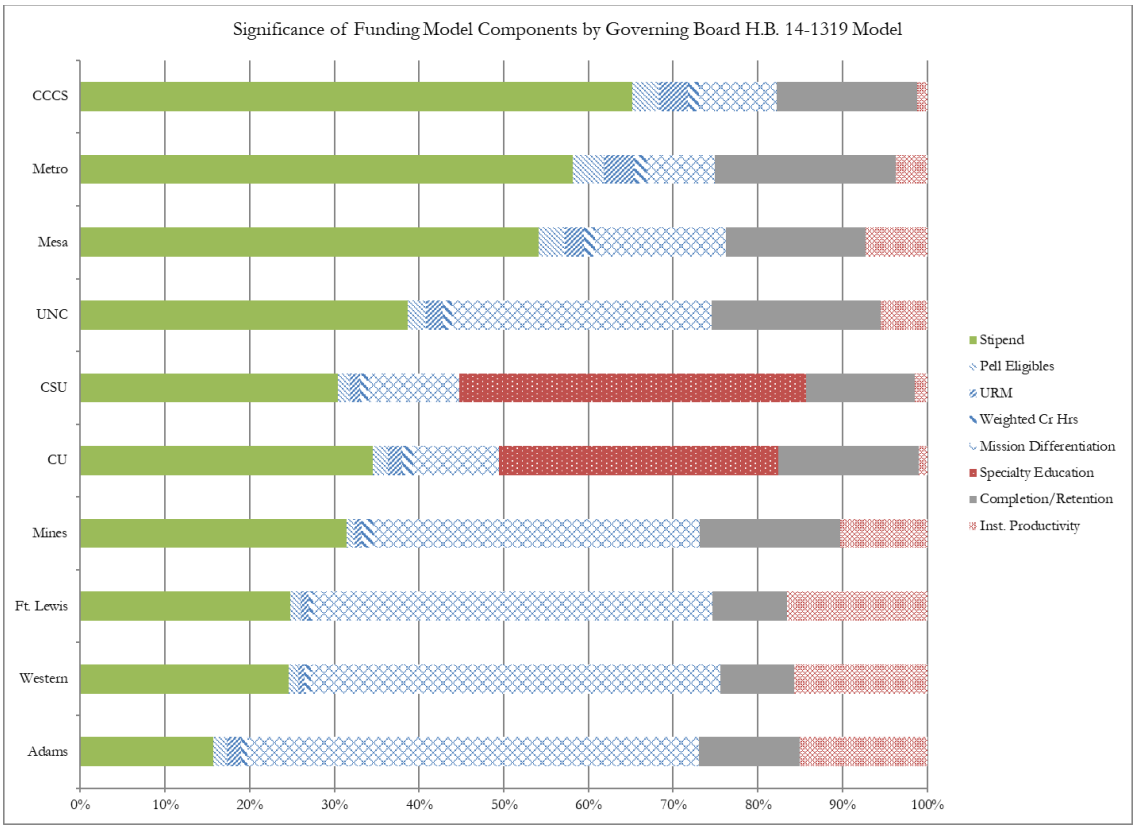
SPECIALTY EDUCATION, LOCAL DISTRICT COLLEGES, AREA TECHNICAL COLLEGES: Specialty education programs (the medical school at the University of Colorado and the veterinary school and various agricultural extension programs at Colorado State University), as well as funding for local district junior colleges and area vocational schools are required to increase or decrease at the same rate as overall funding for higher education institutions ("total state appropriation") but may increase more or decrease less.

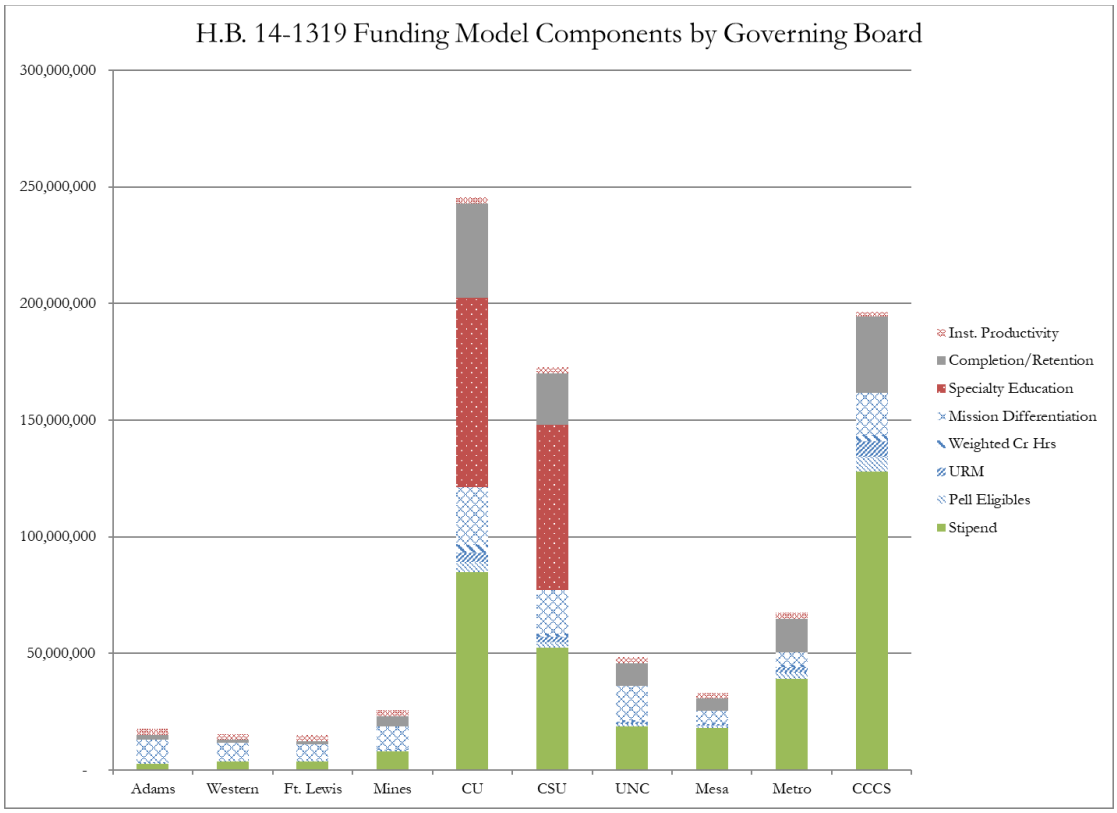
GUARD RAILS: Through FY 2019-20, the appropriation for a governing board may not increase or decrease by a percentage that exceeds five percentage points of the average for all the governing boards. Beginning in FY 2020-21, use of the guardrails is optional.

ANNUAL PROCESS: The Department and CCHE must annually submit a budget request that includes a detailed description of role and mission factors and metrics, values assigned, and funding for each institution for each funding metric. The Joint Budget Committee may modify the model within the constraints outlined in H.B. 14-1319. Specifically, the JBC is required to follow the minimum statutory requirements concerning role and mission and performance funding but may apply different weights to the factors and metrics than the values determined by the commission.

The chart on the following page shows the Department's **requested allocations under the H.B. 14-1319 model for FY 2020-21**.

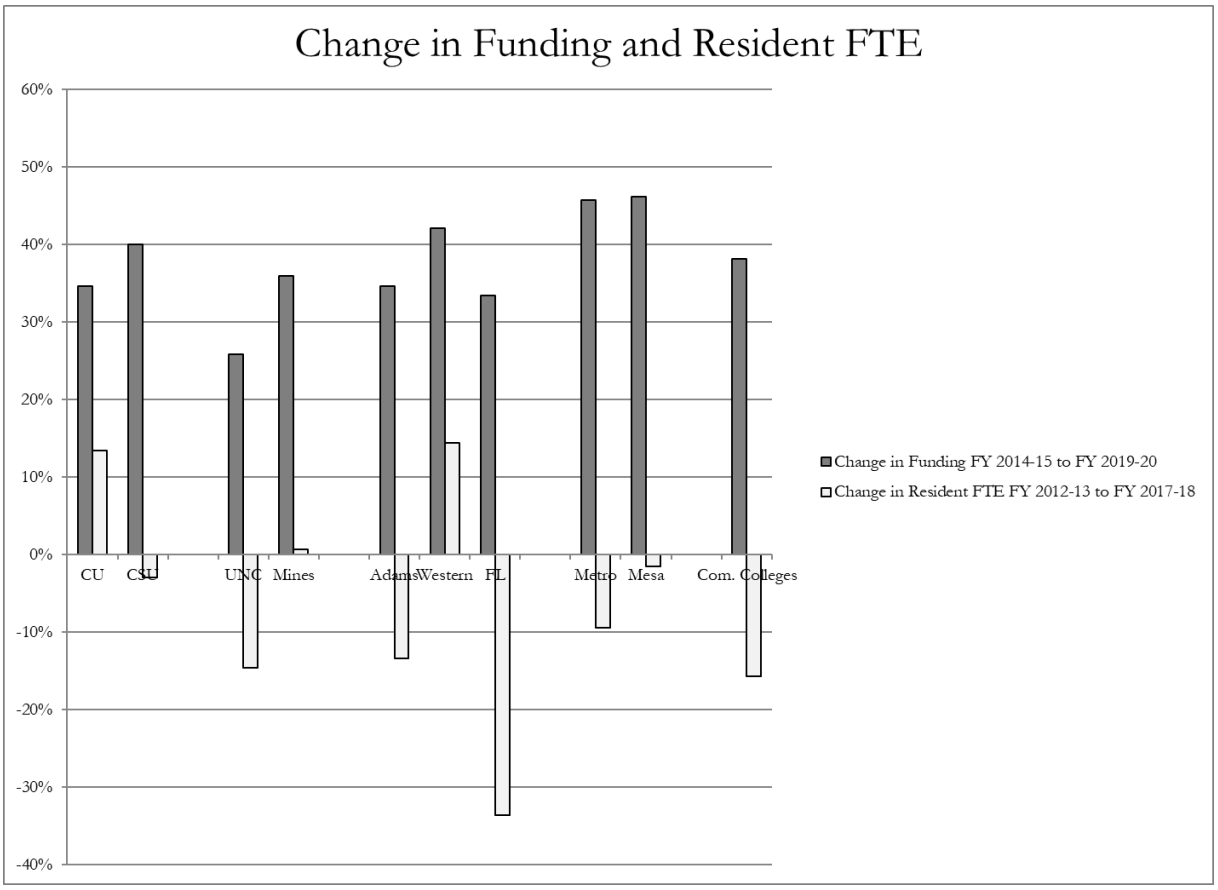
Departmeı	Total Funding	Adams	Mesa	Metro	Western	CSU Sys	Ft. Lewis	CU	Mines	UNC	CCs
HB 14-1319 Model											
FY 2019-20 Model	1319 Model	17,280,257	32,184,959	63,669,142	15,035,379	101,863,784	14,136,437	162,407,320	25,371,265	47,004,464	189,865,735
	SEP	-	-	-	-	68,964,435		78,966,607		-	-
	Total	17,280,257	32,184,959	63,669,142	15,035,379	170,828,219	14,136,437	241,373,927	25,371,265	47,004,464	189,865,735
FY 2020-21 Allocations											
COF stipend											
Amount	359,570,606	2,785,267	17,905,495	39,181,918	3,773,374	52,526,359	3,701,280	84,864,282	8,059,989	18,704,882	128,067,760
Credit hours 2019		29,013	186,516	408,145	39,306	547,150	38,555	884,003	83,958	194,843	1,334,039
	Gov board's share of category	0.8%	5.0%	10.9%	1.0%	14.6%	1.0%	23.6%	2.2%	5.2%	35.6%
	Share of gov board's funding	15.7%	54.1%	58.2%	24.6%	51.6%	24.8%	51.6%	31.4%	38.6%	65.2%
Pell Stipend											
Amount	18,509,294	277,315	1,043,136	2,476,469	171,792	2,343,946	186,278	4,321,024	252,547	1,067,170	6,369,617
Credit hours 2019		19,258	72,440	171,977	11,930	162,774	12,936	300,071	17,538	74,109	442,335
	Gov board's share of category	1.5%	5.6%	13.4%	0.9%	12.7%	1.0%	23.3%	1.4%	5.8%	34.4%
	Share of gov board's funding	1.6%	3.2%	3.7%	1.1%	2.3%	1.2%	2.6%	1.0%	2.2%	3.2%
Underrepresented Minority (URM) Stipend											
Amount	17,644,267	306,115	716,731	2,424,744	124,330	2,089,706	141,077	4,030,805	213,566	942,883	6,654,309
Credit hours 2019		21,258	49,773	168,385	8,634	145,119	9,797	279,917	14,831	65,478	462,105
	Gov board's share of category	1.7%	4.1%	13.7%	0.7%	11.8%	0.8%	22.8%	1.2%	5.3%	37.7%
	Share of gov board's funding	1.7%	2.2%	3.6%	0.8%	2.1%	0.9%	2.4%	0.8%	1.9%	3.4%
Weighted Credit Hours	10,000,000	133,045	445,618	948,557	106,601	1,655,169	86,364	3,188,082	360,491	529,315	2,546,759
Weighted Credit Hours		96,880	324,488	690,715	77,625	1,205,252	62,888	2,321,481	262,501	385,434	1,854,485
	Gov board's share of category	1.3%	4.5%	9.5%	1.1%	16.6%	0.9%	31.9%	3.6%	5.3%	25.5%
	Share of gov board's funding	0.8%	1.3%	1.4%	0.7%	1.6%	0.6%	1.9%	1.4%	1.1%	1.3%
Mission	120,781,600	9,443,250	5,125,000	5,427,500	7,433,250	18,608,250	7,039,500	24,948,750	9,872,500	14,852,500	18,031,100
	Gov board's share of category	7.8%	4.2%	4.5%	6.2%	15.4%	5.8%	20.7%	8.2%	12.3%	14.9%
	Share of gov board's funding	53.3%	15.5%	8.1%	48.4%	18.3%	47.1%	15.2%	38.5%	30.7%	9.2%
Completion and Retentic	134,033,443	2,113,741	5,465,952	14,407,103	1,336,620	22,133,059	1,317,295	40,664,211	4,265,851	9,676,508	32,653,102
		980	2,535	6,681	620	10,264	611	18,859	1,978	4,488	15,143
	Gov board's share of category	1.6%	4.1%	10.7%	1.0%	16.5%	1.0%	30.3%	3.2%	7.2%	24.4%
	Share of gov board's funding	11.9%	16.5%	21.4%	8.7%	21.7%	8.8%	24.7%	16.6%	20.0%	16.6%
Institutional Productivity	24,999,999	2,665,236	2,389,721	2,497,925	2,416,069	2,535,505	2,472,967	2,521,080	2,635,566	2,649,054	2,216,876
	Gov board's share of category	10.7%	9.6%	10.0%	9.7%	10.1%	9.9%	10.1%	10.5%	10.6%	8.9%
	Share of gov board's funding	15.0%	7.2%	3.7%	15.7%	2.5%	16.5%	1.5%	10.3%	5.5%	1.1%
Subtotal	685,539,209	17,723,969	33,091,653	67,364,216	15,362,036	101,891,994	14,944,761	164,538,234	25,660,510	48,422,312	196,539,523
	Gov board's share of category	2.6%	4.8%	9.8%	2.2%	14.9%	2.2%	24.0%	3.7%	7.1%	28.7%
SEP Amounts						70,688,546		80,940,772			
	Total	17,723,969	33,091,653	67,364,216	15,362,036	172,580,540	14,944,761	245,479,006	25,660,510	48,422,312	196,539,523
	Change from prior year	2.5%	2.7%	5.5%	2.1%	1.0%	5.4%	1.7%	1.1%	2.9%	3.4%

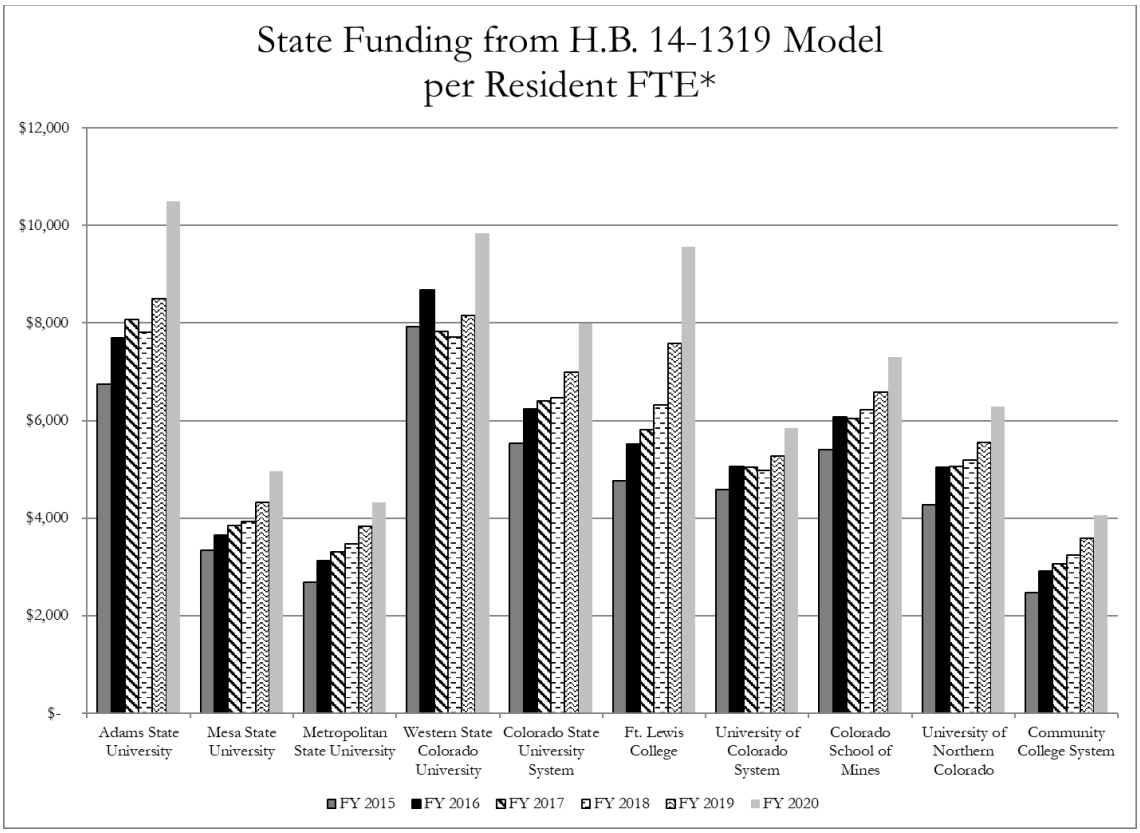

Significance of Funding Model Components by Governing Board H.B. 14-1319 Model
CCCS
Metro
Mesa
UNC
CSU
CU
Mines
Ft. Lewis
Western
Adams
0%
10%
20%
30%
40%
50%
60%
70%
80%
90%
100%
Stipend
Pell Eligibles
URM
Weighted Cr Hrs
Mission Differentiation
Specialty Education
Completion/Retention
Inst. Productivity


H.B. 14-1319 Funding Model Components by Governing Board
300,000,000
250,000,000
200,000,000
150,000,000
100,000,000
50,000,000
-
Adams
Western
Ft. Lewis
Mines
CU
CSU
UNC
Mesa
Metro
CCCS
Inst. Productivity
Completion/Retention
Specialty Education
Mission Differentiation
Weighted Cr Hrs
URM
Pell Eligibles
Stipend

RESULTS OF THE FUNDING MODEL OVER TIME

As reflected in the charts below, as state funding has increased over the last six years, all of the institutions have benefitted. Total funding has *partially* tracked enrollment trends. Thus, funding for an institution has increased less rapidly if the institution's student population has been shrinking and more rapidly if it has been growing. However, these volume adjustments have always been mitigated by a significant amount of funding in other categories, as well as adjustments requested and adopted to help offset the resulting funding trends.




State Funding from H.B. 14-1319 Model
per Resident FTE*
$12,000
$10,000
$8,000
$6,000
$4,000
$2,000
$-
Adams State University
Mesa State University
Metropolitan State University
Western State Colorado University
Colorado State University System
Ft. Lewis College
University of Colorado System
Colorado School of Mines
University of Northern Colorado
Community College System
FY 2015
FY 2016
FY 2017
FY 2018
FY 2019
FY 2020

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Joint Budget Committee
FROM	Amanda Bickel, JBC Staff (303-866-4960)
DATE	February 4, 2020
SUBJECT	Potential Unemployment Insurance Solvency Bill Draft

Representative (now Senator) Hansen was interested in having the Joint Budget Committee sponsor a bill to shore-up the solvency of the Unemployment Insurance Trust Fund. One option discussed was to combine this with a bill that would uncap or modify the cap on the Employment Support Fund, which is derived from UI premiums and is used for administrative costs throughout the Department of Labor and Employment.

Staff will bring back this issue for discussion on February 18, during figure setting for the Department of Labor and Employment. However, in advance of that meeting, Committee members may wish to to consider whether they are interested in pursuing legislation related to the solvency of the UI Trust Fund and whether any member is interested in taking the lead on this issue.

GENERAL FACTORS DRIVING THE BUDGET

WORKFORCE DEVELOPMENT PROGRAMS

These programs provide employment services for businesses and job training and placement services for job seekers through a network of state- and county-run one-stop workforce centers. Although most activities are supported with federal funds not subject to appropriation by the General Assembly, a portion is covered by state-appropriated cash funds.

In addition, in recent years the General Assembly has created various targeted workforce development programs in this division that receive state General Fund appropriations. Employment and training programs account for 24.5 percent of the total Department appropriations and 22.8 percent of its General Fund appropriations in FY 2019-20.

The Department's FY 2019-20 budget was largely driven by changes associated with the out-year impact of state workforce development programs authorized in 2018 legislation and the authorization of new programs through 2019 legislation.

UNEMPLOYMENT INSURANCE PROGRAMS

The Unemployment Insurance Programs (UI Programs) provide temporary compensation to individuals who are laid off through no fault of their own. The appropriation for UI Programs in the Long Bill reflects the cost of administering the UI Programs. Pursuant to Section 8-77-104 (1), C.R.S., the funds used to pay benefits are not subject to appropriation by the General Assembly and do not appear in the Long Bill. Unemployment Insurance claims are paid from the Unemployment Insurance Trust Fund (UITF), which is derived from premiums paid by Colorado employers but resides in the federal treasury. The federal Unemployment Insurance Program maintains the UITF in conjunction with the State.

The appropriation for administering the UI Programs accounts for 17.6 percent of the Department's FY 2018-19 appropriation. Over 70 percent of this is federal funds, while most of the balance is cash funds derived from a portion of employers' unemployment insurance premiums.

Economic cycles drive the demand for this program. In a healthy economy, the number of claims is lower, resulting in fewer benefits being paid. This both reduces the demand for state administrative activities and builds up the balance of the UITF. During challenging economic times, the number of claims and benefits paid increases, increasing administrative costs and reducing the balance of the UITF. As of June 2019, the cash fund balance in the UITF was $1.14 billion.

In recent years, the General Assembly has devoted substantial resources to updating UI information technology systems, and the FY 2019-20 budget for this division includes significant new information technology operating costs.

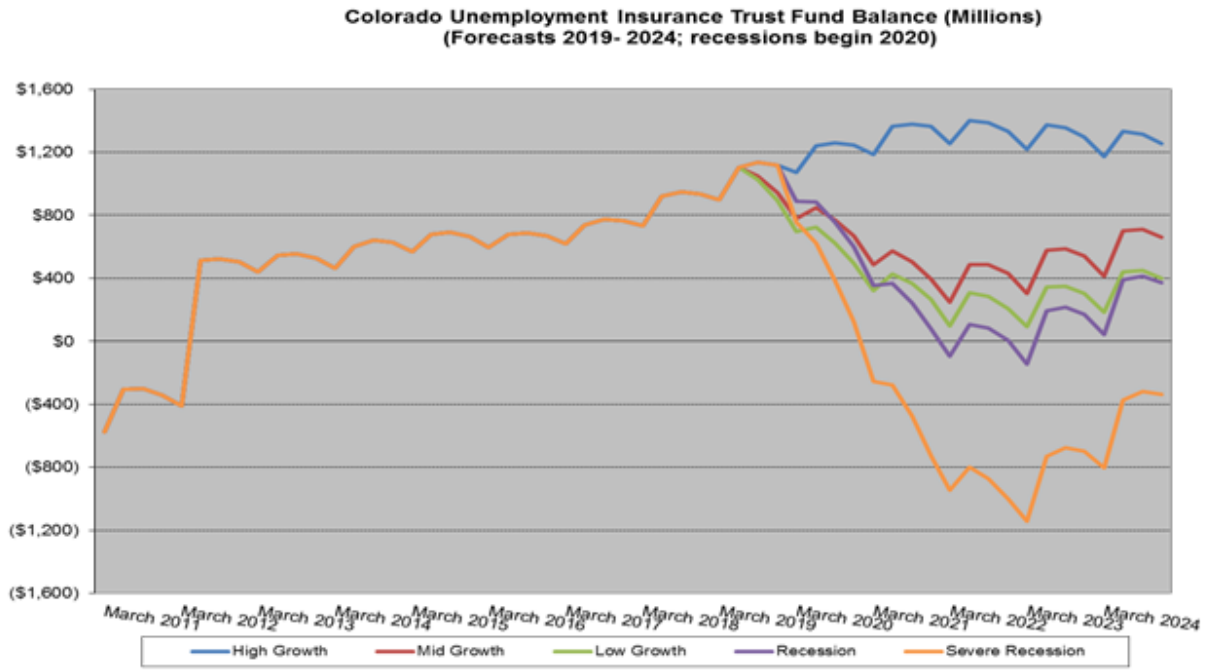
UI BENEFIT PAYMENTS FOR FY 2010-11 TO FY 2018-19

FISCAL YEAR	BENEFIT PAYMENTS	CHANGE FROM PREVIOUS YEAR	PERCENT CHANGE FROM PREVIOUS YEAR
FY 2010-11 Actual	$761,771,730	($301,534,755)	
FY 2011-12 Actual	883,986,486	122,214,756	16.0%
FY 2012-13 Actual	708,295,673	(175,690,813)	-19.9%

UI Benefit Payments for FY 2010-11 to FY 2018-19			
Fiscal Year	Benefit Payments	Change from Previous Year	Percent Change from Previous Year
FY 2013-14 Actual*	746,155,963	37,860,290	5.4%
FY 2014-15 Actual	540,022,887	(206,133,076)	-27.6%
FY 2015-16 Actual	512,011,850	(28,011,037)	-5.2%
FY 2016-17 Actual	482,342,410	(29,669,440)	-5.8%
FY 2017-18 Actual	409,108,000	(73,234,410)	-15.2%
FY 2018-19 Estimated	374,723,625	(34,384,375)	-8.4%
* Federal Emergency Unemployment Compensation ended			

Unemployment Insurance Trust Fund Solvency: During FY 2009-10 the UITF became insolvent which resulted in Colorado borrowing funds from the federal Unemployment Trust Fund. Pursuant to H.B. 12S-1002 (Unemployment Insurance Revenue Bonds), the Department issued bonds to finance the federal debt in order to avoid a federal tax credit reduction for Colorado employers. Colorado employers were obligated to pay assessments for the principal owed on the federal debt. This solvency surcharge ended when bonds were issued in 2013 to cover the debt, but employers were required to pay a bond principal surcharge. This surcharge ended when the bonds were paid off in May 2017.

Statute at Section 8-72-102(3), C.R.S., requires that the Department provide an annual report to the General Assembly on the health of the UITF. *The 2019 report indicates that while the UITF remains solvent under current growth conditions, it will become insolvent within a year under moderate-to-severe recession conditions.* During the last recession, the Fund went insolvent and the State ultimately issued bonds to pay necessary obligations for workers. Employers were required to pay a surcharge of 20 to 25 percent until the bonds were paid off in May 2017.



The following are some key findings from the Department's *2019 Colorado Unemployment Insurance Trust Fund Summary Report*:

- "At $1.1 billion, the June 30, 2019 fund balance is nearly $400 million below the level necessary to meet the U.S. Department of Labor's current solvency recommendation by year-end 2019." "The USDOL recommends that all state trust funds reach an average high cost multiple(ACHM) of at least 1.0 by 2020." An ACHM of 1.0 indicates that the fund has enough reserves to pay benefits for a year at recession levels. "The 2019 ACHM for Colorado is estimated to by 0.79 and is expected to decrease to about 0.68 by 2024."

- "Dependent upon the timing, severity, and duration of the next recession, the trust fund may again become insolvent and borrowing will be required to make legally obligated benefit payments. This will inflict substantial costs to employers in the form of surcharges, administrative costs, and interest expenses. This will take effect at the same time the premium rate schedules shift to their highest levels, thereby compounding the financial stress upon employers."

- Colorado's current taxable wage base (the base to which UI charges are applied) is $13,100. "Had the taxable wage base been maintained at parity with the 1988 base (47 percent of average annual earnings) the wage base would now be over $28,000."

- "**CDLE recommends increasing the taxable wage base beginning 2021.**"

Despite the recommendations in its report, the Department has indicated to staff that adjusting the base for UI wage premiums is not part of its legislative agenda for 2020. The Department was unable to reach agreement with employers when it entered into negotiations several years ago and has apparently taken no further action on this issue.

WORKERS' COMPENSATION

Colorado employers are required to carry workers' compensation insurance to pay for medical expenses incurred during the treatment of work-related injuries and for partial wage replacement. The Division of Workers' Compensation provides services to support this mandate including customer service, claims resolution, employer and employee education, and cost containment programs. The budget for the Division of Worker's Compensation is driven by the number of workers injured in a given year and the number of hearings requested by an employer, insurance company, or injured worker to determine what benefits should be provided. The Workers' Compensation program offers claims intervention, mediation, pre-hearing conferences, settlement conferences, and arbitration to assist with dispute resolution. These administrative activities are supported by cash fund surcharges on workers' compensation premiums that are subject to appropriation by the General Assembly.

The Division also administers the Major Medical and Subsequent Injury programs, which provide benefits to individuals injured at work. The Major Medical program is available to industrial workers who sustained catastrophic injuries between 1971 and 1981. The Subsequent Injury program is designed to compensate employers for hiring an individual who has an existing partial disability. The injury must have been sustained before 1993 for traumatic injuries and before 1994 for occupational diseases. Funds for both programs are continuously appropriated pursuant Sections 8-46-202 (1)(c) and 8-46-101 (4)(b), C.R.S., respectively, and expenditures are dependent on claims processed during the fiscal year.

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Joint Budget Committee
FROM	Carolyn Kampman, JBC Staff Director (303-866-4959)
DATE	February 4, 2020
SUBJECT	Amounts Requested by Governor for Separate Legislation

The Governor's budget request includes several place holders for amounts that he is proposing be appropriated or transferred through separate legislation. Most of these items will be included in JBC staff "figure setting" presentations so that the JBC has an opportunity to make decisions about these items in the context of the affected department or program area.

This memorandum includes a list of those place holders that will not be included in JBC staff figure setting presentations or other presentations to the JBC. While the JBC can make decisions about these items at any time, staff does not expect the JBC to make decisions about these items today. Staff will present these items to the JBC again during the staff comeback process in March to provide another opportunity for the JBC to act on these items before the FY 2020-21 budget package is finalized.

GOVERNOR'S LEGISLATION PROPOSALS THAT WILL NOT BE INCLUDED IN OTHER PRESENTATIONS TO THE JBC

DEPARTMENT	DESCRIPTION	TOTAL FUNDS	GENERAL FUND
Legislative Proposals JBC is Requested to Sponsor:			
n/a	Transfer from State Employee Reserve Fund to General Fund	$20,000,000	$20,000,000
Natural Resources	Transfer $5.0 million General Fund to the Severance Tax Perpetual Base Fund for water plan investments (remaining $5.0 million requested by Governor is proposed to be transferred from the Capital Construction Fund)	5,000,000	5,000,000
Subtotal: Partial List of Legislative Proposals JBC is Requested to Sponsor		$25,000,000	$25,000,000
Legislative Proposals to be Sponsored by Other Legislators:			
Public Safety	Pretrial Assessment and Supervision*	$5,000,000	$5,000,000
Education	Improving School Climate and Safety	3,000,000	3,000,000
Education	Mill Levy Incentive for Teacher Compensation	3,000,000	3,000,000
HCPF/DORA, Division of Insurance	Public Option (H.B. 19-1004)	1,000,000	1,000,000
Public Safety	Preventing Targeted Violence	575,000	575,000
Human Services	Foster Care Education	515,000	515,000
DORA, Division of Insurance	Pharmaceutical Cost Transparency	300,000	300,000
Natural Resources	Search and Rescue	180,000	180,000
CDPHE	Not-for-profit Hospitals	170,000	170,000
Law	Hospital Non-competitive Trade Practices	62,000	62,000
DORA, Division of Insurance	Pharmaceutical Rebates	50,000	50,000
Subtotal: Partial List of Legislative Proposals to be Sponsored by Other Legislators		$10,852,000	$10,852,000
Total		**$35,852,000**	**$35,852,000**

*Please note that the Attorney General's letter includes a statement urging the JBC to "provide a legislative set-aside in the amount of $6.5 million" to cover the costs associated with a bill to implement an improved pre-trial services program for all 64 counties. This request appears to duplicate, or at least overlap with, the Governor's proposed $5.0 million placeholder for pretrial assessment and supervision.