

MEMORANDUM



JOINT BUDGET COMMITTEE

TO Joint Budget Committee Members
FROM JBC Staff
DATE APRIL 10, 2019
SUBJECT JBC Bill Drafts

This memo includes the following bill drafts for the Committee's consideration:

1. LLS 19-0899 "Reqmnts Of OIT Based On Evaluation Recommendations" (Kevin Neimond)
2. LLS 19-1033 "Exempt CDE From Office Of Information Technology" (Kevin Neimond)
3. LLS 19-0905 "SMART Committee Hearings" (Robin Smart)
4. LLS 19-0919 "Aquatic Nuisance Species Program Funding" (Tom Dermody)
5. LLS 19-1004 "Continue Breast & Cervical Cancer Program" (Eric Kurtz)
6. LLS 19-0964 "Rates for Senior Low-Income Dental Program" (Eric Kurtz)
7. LLS 19-1018 "Nursing Home Penalty Cash Fund" (Eric Kurtz)

This memo includes the following bill concepts for the Committee's consideration:

1. JBC TN 59 "CMTF Depreciation Lease Equivalent Payment" (Alfredo Kemm)

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
4.8.19

DRAFT

LLS NO. 19-0899.01 Nicole Myers x4326

COMMITTEE BILL

Joint Budget Committee

BILL TOPIC: "Reqmnts Of OIT Based On Evaluation Recommendations"

A BILL FOR AN ACT

101 **CONCERNING THE IMPLEMENTATION OF CERTAIN RECOMMENDATIONS**
102 **FROM THE INDEPENDENT EVALUATION OF THE STATE'S**
103 **INFORMATION TECHNOLOGY RESOURCES, AND, IN CONNECTION**
104 **THEREWITH, MAKING AN APPROPRIATION.**

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. House Bill 17-1361 required the state auditor to retain a qualified, independent third-party consulting firm to evaluate specified aspects of the state's information technology (IT)

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

resources. The bill requires the office of information technology (office) to take certain actions as recommended by the evaluation.

Current law requires the office to create a project plan for every major IT project undertaken by a state agency. The project plan is required to include certain goals, plans, and analyses regarding the major IT project. The bill adds a requirement that the project plan for every major IT project include a change management plan.

In addition, the bill specifies 3 new requirements of the office as follows:

- The office is required to develop and implement a communications and stakeholder management plan for interacting with any governmental unit of the executive, legislative, or judicial branch of state government that is billed for the use of the services provided by the office. The office is also required to solicit feedback to determine if the communications and stakeholder management plan is increasing satisfaction with the services provided by the office.
- The office is required to convene a working group of state agencies to develop and implement a strategic plan for how state agencies use technology to provide services, data, and information to citizens and businesses.
- The office is required to convene a working group of state agencies to determine the cost and feasibility of transferring ownership of IT infrastructure from state agencies to the office. The office is required to submit a report to the joint budget committee and the joint technology committee regarding the necessary statutory and rule changes and funding to implement the transfer of ownership of IT infrastructure.

The office is authorized to enlist vendor services in the development of the communications and stakeholder management plan, the plan for how state agencies use technology to interface with citizens and businesses, and the plan to transfer ownership of IT infrastructure.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-37.5-105, **amend**
3 (4)(c)(VIII) and (4)(c)(IX); and **add** (4)(c)(X) as follows:

4 **24-37.5-105. Office - responsibilities - rules.** (4) (c) As part of
5 any major information technology project by a state agency, classified as

1 such according to a comprehensive risk assessment performed by the
2 office, the project plan at a minimum shall include:

3 (VIII) A funding strategy for the ongoing maintenance and
4 eventual disposal of the information technology system; **and**

5 (IX) A planning and analysis function to be performed by the
6 office to ensure that the state agency's desired major information
7 technology project solution is in accordance with the office's technology
8 standards and to ensure that the scope and budget of the major
9 information technology project are vetted by the office; **AND**

10 (X) A CHANGE MANAGEMENT PLAN.

11 **SECTION 2.** In Colorado Revised Statutes, **add** 24-37.5-116 and
12 24-37.5-117 as follows:

13 **24-37.5-116. Communications and stakeholder management**
14 **plan.** (1) ON OR BEFORE JULY 1, 2020, THE OFFICE SHALL DEVELOP AND
15 IMPLEMENT A COMMUNICATIONS AND STAKEHOLDER MANAGEMENT PLAN
16 FOR INTERACTING WITH ANY DEPARTMENT, COMMISSION, COUNCIL,
17 BOARD, BUREAU, COMMITTEE, INSTITUTION OF HIGHER EDUCATION,
18 AGENCY, OR OTHER GOVERNMENTAL UNIT OF THE EXECUTIVE,
19 LEGISLATIVE, OR JUDICIAL BRANCH OF STATE GOVERNMENT THAT IS
20 BILLED FOR THE USE OF THE SERVICES PROVIDED BY THE OFFICE. THE
21 OFFICE MAY ENLIST VENDOR SERVICES IN THE DEVELOPMENT OF THE PLAN.

22 (2) ON OR BEFORE JANUARY 1, 2021, THE OFFICE SHALL DEVELOP
23 A METHOD TO ANNUALLY SOLICIT FEEDBACK FROM EVERY DEPARTMENT,
24 COMMISSION, COUNCIL, BOARD, BUREAU, COMMITTEE, INSTITUTION OF
25 HIGHER EDUCATION, AGENCY, OR OTHER GOVERNMENTAL UNIT OF THE
26 EXECUTIVE, LEGISLATIVE, OR JUDICIAL BRANCH OF STATE GOVERNMENT
27 THAT IS BILLED FOR THE USE OF THE SERVICES PROVIDED BY THE OFFICE TO

1 DETERMINE IF THE COMMUNICATIONS AND STAKEHOLDER MANAGEMENT
2 PLAN DEVELOPED AND IMPLEMENTED PURSUANT TO SUBSECTION (1) OF
3 THIS SECTION IS INCREASING THE GOVERNMENTAL UNIT'S SATISFACTION
4 WITH THE SERVICES PROVIDED BY THE OFFICE FOR WHICH IT IS BILLED.

5 **24-37.5-117. Use of technology to interact with citizens -**
6 **working group - strategic plan.** (1) THE OFFICE SHALL CONVENE A
7 WORKING GROUP OF STATE AGENCIES, AS DEFINED IN SECTION 24-37.5-102
8 (4), TO DEVELOP AND IMPLEMENT A STRATEGIC PLAN FOR HOW STATE
9 AGENCIES USE TECHNOLOGY TO PROVIDE SERVICES, DATA, AND
10 INFORMATION TO CITIZENS AND BUSINESSES. THE OFFICE SHALL
11 IMPLEMENT THE PLAN ON OR BEFORE JULY 1, 2020.

12 (2) THE OFFICE MAY ENLIST VENDOR SERVICES IN THE
13 DEVELOPMENT OF THE PLAN.

14 **SECTION 3.** In Colorado Revised Statutes, **add** 24-37.5-804 as
15 follows:

16 **24-37.5-804. Transfer of information technology**
17 **infrastructure ownership - working group - report.** (1) THE OFFICE
18 SHALL CONVENE A WORKING GROUP OF STATE AGENCIES, AS DEFINED IN
19 SECTION 24-37.5-102 (4), TO MEET DURING THE INTERIM FOLLOWING THE
20 FIRST REGULAR SESSION OF THE SEVENTY-SECOND GENERAL ASSEMBLY TO
21 DETERMINE THE COST AND FEASIBILITY OF TRANSFERRING OWNERSHIP OF
22 INFORMATION TECHNOLOGY INFRASTRUCTURE, AS DESCRIBED IN SECTION
23 24-37.5-102 (2)(a), FROM STATE AGENCIES TO THE OFFICE TO ENSURE
24 THAT INFORMATION TECHNOLOGY INFRASTRUCTURE IS ACQUIRED,
25 MAINTAINED, AND RETIRED IN ACCORDANCE WITH:

26 (a) THE CHIEF INFORMATION SECURITY OFFICER'S POLICIES,
27 STANDARDS, AND GUIDELINES DEVELOPED PURSUANT TO SECTION

1 24-37.5-403 (2); AND

2 (b) THE CHIEF INFORMATION OFFICER'S STANDARDS FOR ACQUIRING
3 INFORMATION TECHNOLOGY INFRASTRUCTURE DEVELOPED PURSUANT TO
4 SECTION 24-37.5-106 (1)(f.5).

5 (2) ON OR BEFORE DECEMBER 1, 2019, THE OFFICE SHALL SUBMIT
6 A REPORT TO THE MEMBERS OF THE JOINT BUDGET COMMITTEE AND THE
7 JOINT TECHNOLOGY COMMITTEE OF THE GENERAL ASSEMBLY REGARDING
8 THE NECESSARY STATUTORY CHANGES, RULE CHANGES, AND FUNDING TO
9 IMPLEMENT THE TRANSFER OF OWNERSHIP OF INFORMATION TECHNOLOGY
10 INFRASTRUCTURE FROM STATE AGENCIES TO THE OFFICE.

11 (3) THE OFFICE MAY ENLIST VENDOR SERVICES IN THE
12 DEVELOPMENT OF THE REPORT REQUIRED PURSUANT TO SUBSECTION (2)
13 OF THIS SECTION.

14 **SECTION 4. Appropriation.** (1) For the 2019-20 state fiscal
15 year, \$775,000 is appropriated to the office of the governor for use by the
16 office of information technology. This appropriation is from the general
17 fund. To implement this act, the office of information technology may use
18 this appropriation as follows:

19 (a) \$575,000 for central administration; and

20 (b) \$200,000 for project management, which amount is based on
21 an assumption that the office will require an additional 2.0 FTE.

22 **SECTION 5. Safety clause.** The general assembly hereby finds,
23 determines, and declares that this act is necessary for the immediate
24 preservation of the public peace, health, and safety.

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
4.8.19

DRAFT

LLS NO. 19-1033.01 Nicole Myers x4326

COMMITTEE BILL

Joint Budget Committee

BILL TOPIC: "Exempt CDE From Office Of Information Technology"

A BILL FOR AN ACT

101 CONCERNING SPECIFYING THAT THE DEPARTMENT OF EDUCATION IS
102 NOT A STATE AGENCY FOR PURPOSES OF THE OFFICE OF
103 INFORMATION TECHNOLOGY.

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. Currently the department of education is included in the definition of "state agency" as used in the office of information technology (office) provisions. The bill excludes the department of education from this definition.

In addition, the bill clarifies that although the department of

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education is not a state agency for purposes of the office, the chief information officer may enter into contracts with the department of education for the purpose of providing disaster recovery services.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-37.5-102, **amend**
3 (4) as follows:

4 **24-37.5-102. Definitions.** As used in this article 37.5, unless the
5 context otherwise requires:

6 (4) "State agency" means all of the departments, divisions,
7 commissions, boards, bureaus, and institutions in the executive branch of
8 the state government. "State agency" does not include the legislative or
9 judicial department, THE DEPARTMENT OF EDUCATION, the department of
10 law, the department of state, the department of the treasury, or
11 state-supported institutions of higher education.

12 **SECTION 2.** In Colorado Revised Statutes, 24-37.5-106, **amend**
13 (1.7) as follows:

14 **24-37.5-106. Chief information officer - duties and**
15 **responsibilities - broadband inventory fund created.** (1.7) The chief
16 information officer may enter into contracts with any local government,
17 state agency, or political subdivision of the state, including the legislative
18 and judicial departments, THE DEPARTMENT OF EDUCATION, the
19 department of law, the department of state, the department of treasury, or
20 state-supported institutions of higher education, for the purpose of
21 providing disaster recovery services.

22 **SECTION 3. Safety clause.** The general assembly hereby finds,

1 determines, and declares that this act is necessary for the immediate
2 preservation of the public peace, health, and safety. <{Confirm with
3 committee.}>

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
3.29.19

DRAFT

LLS NO. 19-0905.01 Pierce Lively x2059

COMMITTEE BILL

Joint Budget Committee

BILL TOPIC: "SMART Committee Hearings"

A BILL FOR AN ACT

101 CONCERNING THE TIMING OF JOINT COMMITTEE OF REFERENCE
102 HEARINGS UNDER THE "STATE MEASUREMENT FOR
103 ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT (SMART)
104 GOVERNMENT ACT".

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 requires all presentations made to joint committees of reference under the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act"

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to be conducted in the first 2 weeks of the regular legislative session rather than during the interim between legislative sessions, and as a result:

- Repeals the requirement that appointees to committees of reference be designated no later than December 1 prior to the convening of the general assembly; and
- Repeals the authorization that members and members-elect are entitled to per diem and reimbursement of expenses.

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

2 **SECTION 1.** In Colorado Revised Statutes, 2-7-203, **amend**
3 (2)(a) introductory portion, (2)(a)(III), and (2)(d); and **repeal** (2)(a.5) as
4 follows:

5 **2-7-203. Departmental presentations to legislative committees**
6 **of reference - departmental regulatory agendas.** (2) (a) Each joint
7 committee of reference shall conduct at least one but not more than three
8 hearings ~~during the interim between legislative sessions between~~
9 ~~November 1 and the commencement of the following~~ IN THE FIRST TWO
10 WEEKS OF THE regular legislative session, during which hearings the joint
11 committee shall hear a presentation from each department that is assigned
12 to such committee pursuant to subsection (1) of this section regarding:

13 (III) The department's budget request and associated legislative
14 agenda for the ~~upcoming~~ CURRENT regular legislative session.

15 (a.5) (I) ~~For purposes of the hearings required in paragraph (a) of~~
16 ~~this subsection (2), appointees to committees of reference shall be~~
17 ~~designated no later than the December 1 prior to the convening of the~~
18 ~~general assembly at which such member is to serve, whether such~~
19 ~~appointee is a member of the then current general assembly or a~~
20 ~~member-elect of the next general assembly. If, as of December 1 an~~
21 ~~election determination for a particular race has not been made, all~~
22 ~~appointees must be designated as soon as practicable after the results of~~

1 ~~the race have been determined. Such designations shall be made in~~
2 ~~accordance with the applicable rules of the house of representatives or the~~
3 ~~senate. Any member or member-elect appointed to a committee of~~
4 ~~reference for the current general assembly or the next general assembly~~
5 ~~may attend said hearings. The chairs of the committees of reference~~
6 ~~appointed for the current general assembly shall serve as chair until the~~
7 ~~convening of the next general assembly.~~

8 (H) ~~Members and members-elect are entitled to the payment of per~~
9 ~~diem and reimbursement of expenses as specified in section 2-2-307 for~~
10 ~~attending the hearings required in paragraph (a) of this subsection (2).~~

11 (d) The Colorado commission on criminal and juvenile justice
12 shall present a progress report on any recommendations the commission
13 anticipates will be made for the ~~upcoming~~ CURRENT legislative session
14 and any finalized recommendations for the ~~upcoming~~ CURRENT legislative
15 session to the joint judiciary committee of reference during the hearings
16 specified in ~~paragraph (a) of this subsection (2)~~ SUBSECTION (2)(a) OF
17 THIS SECTION.

18 **SECTION 2.** In Colorado Revised Statutes, 24-32-124, **amend**
19 **(6)** as follows:

20 **24-32-124. Law enforcement community services grant**
21 **program - committee - policies and procedures - fund - rules - report**
22 **- definitions - repeal.** (6) ~~On and after December 1, 2019,~~ The
23 department of local affairs shall include a summarized report of the
24 activities of the program in the department's annual presentation to the
25 committees of reference pursuant to section 2-7-203. Notwithstanding
26 section 24-1-136 (11)(a)(I), the reporting requirements set forth in this
27 section continue indefinitely.

1 **SECTION 3.** In Colorado Revised Statutes, 24-33.5-1810,
2 **amend** (6)(b) as follows:

3 **24-33.5-1810. School security disbursement program - created**
4 **- rules - definitions - repeal.** (6) (b) Beginning with the annual
5 presentation in 2019 provided by the department to the committees of
6 reference pursuant to section 2-7-203, the department shall include in the
7 annual presentation a summary of the reports received pursuant to
8 subsection (6)(a) of this section. ~~On or before~~ BEGINNING IN January 15,
9 2020, and ~~on or before~~ EVERY January 15 ~~each year~~ thereafter, the
10 department shall submit a summary of the reports received pursuant to
11 subsection (6)(a) of this section to the education committees of the senate
12 and the house of representatives, or any successor committees.

13 **SECTION 4.** In Colorado Revised Statutes, 24-33.5-2106,
14 **amend** (2) as follows:

15 **24-33.5-2106. Reporting requirements.** (2) On or before
16 January 15, 2019, and on or before ~~January 15~~ JANUARY 31 each year
17 thereafter for the duration of the grant program, the department shall
18 include a summarized report of the activities of the grant program in the
19 department's annual presentation to the applicable committee of reference
20 pursuant to section 2-7-203.

21 **SECTION 5.** In Colorado Revised Statutes, 25.5-5-324, **amend**
22 (4)(a) as follows:

23 **25.5-5-324. Nonemergency medical transportation - urgent**
24 **transportation need - report - repeal.** (4) (a) The state department shall
25 annually report on the implementation and effectiveness of the process
26 created in this section for meeting urgent transportation needs within the
27 nonemergency medical transportation benefit. The state department shall

1 present the report as part of its annual presentation to the health and
2 human services committee of the senate and the public health and human
3 services committee of the house of representatives, or any successor
4 committees, ~~that is held each year during the interim prior to the~~
5 ~~legislative session,~~ as required pursuant to section 2-7-203.

6 **SECTION 6. Act subject to petition - effective date.** This act
7 takes effect at 12:01 a.m. on the day following the expiration of the
8 ninety-day period after final adjournment of the general assembly (August
9 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
10 referendum petition is filed pursuant to section 1 (3) of article V of the
11 state constitution against this act or an item, section, or part of this act
12 within such period, then the act, item, section, or part will not take effect
13 unless approved by the people at the general election to be held in
14 November 2020 and, in such case, will take effect on the date of the
15 official declaration of the vote thereon by the governor.

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT

UNEDITED
UNREVISED
REDRAFT
2.19.19
Double underlining
denotes changes from
prior draft

LLS NO. 19-0919.01 Jennifer Berman x3286

COMMITTEE BILL

Joint Budget Committee

BILL TOPIC: "Aquatic Nuisance Species Program Funding"

A BILL FOR AN ACT

101 CONCERNING A CHANGE IN FUNDING SOURCE FOR THE AQUATIC
102 NUISANCE SPECIES PROGRAM FROM MONEY ALLOCATED
103 THROUGH THE SEVERANCE TAX OPERATIONAL FUND TO MONEY
104 APPROPRIATED FROM THE GENERAL FUND, AND, IN CONNECTION
105 THEREWITH, MAKING AN APPROPRIATION.

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 division of parks and wildlife (division) in the department of natural resources administers the aquatic

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nuisance species program (program) to prevent, control, contain, monitor, and eradicate aquatic nuisance species from state waters. The program is funded, in part, from money allocated from the severance tax operational fund (fund). Due to the variability of severance tax revenues from year to year, the program is subject to proportional reductions in the allocation of money from the fund in a given year.

The bill repeals the allocation of money for the program from the fund and appropriates \$2.2 million from the general fund to the department of natural resources for use by the division for the program.

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

2 **SECTION 1.** In Colorado Revised Statutes, 33-10.5-108, **amend**
3 (1)(a)(I) as follows:

4 **33-10.5-108. Division of parks and wildlife aquatic nuisance**
5 **species fund - creation - repeal.** (1) (a) (I) There is hereby created in the
6 state treasury the division of parks and wildlife aquatic nuisance species
7 fund, also referred to in this section as the "fund", which shall be
8 administered by the division. The fund consists of all money transferred
9 by the state treasurer as specified in sections ~~39-29-109.3 (2)(m)~~,
10 33-10.5-104.5 and 33-10.5-105. All money in the fund is
11 continuously appropriated to the division for the purpose of implementing
12 this article 10.5. All money in the fund at the end of each fiscal year
13 remains in the fund and does not revert to the general fund or any other
14 fund.

15 **SECTION 2.** In Colorado Revised Statutes, 39-29-109.3, **repeal**
16 (2)(m) as follows:

17 **39-29-109.3. Severance tax operational fund - repeal.**
18 (2) Subject to the requirements of subsections (3) and (4) of this section,
19 if the general assembly chooses not to spend up to one hundred percent
20 of the money in the operational fund as specified in subsection (1) of this

1 section, the state treasurer shall transfer the following amounts, with the
2 exception of the fiscal year commencing on July 1, 2018:

3 (m) ~~For the mitigation of aquatic nuisance species as specified in~~
4 ~~article 10.5 of title 33:~~

5 ~~(I) Repealed:~~

6 ~~(H) For the state fiscal year commencing July 1, 2009, and every~~
7 ~~state fiscal year thereafter, four million six thousand five dollars to the~~
8 ~~division of parks and wildlife aquatic nuisance species fund created in~~
9 ~~section 33-10.5-108 (1):~~

10 **SECTION 3. Appropriation.** For the 2019-20 state fiscal year,
11 \$2,200,000 is appropriated to the department of natural resources for use
12 by the division of parks and wildlife. This appropriation is from the
13 general fund. To implement this act, the division of parks and wildlife
14 may use this appropriation for implementation of the aquatic nuisance
15 species program.

16 **SECTION 4. Safety clause.** The general assembly hereby finds,
17 determines, and declares that this act is necessary for the immediate
18 preservation of the public peace, health, and safety.

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
3.8.19

DRAFT

LLS NO. 19-1004.01 Richard Sweetman x4333

COMMITTEE BILL

Joint Budget Committee

BILL TOPIC: "Continue Breast & Cervical Cancer Program"

A BILL FOR AN ACT

101 CONCERNING THE CONTINUATION OF THE BREAST AND CERVICAL
102 CANCER PREVENTION AND TREATMENT 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 extends the repeal date of the breast and cervical cancer prevention and treatment program 5 years to July 1, 2024.

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

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

1 **SECTION 1.** In Colorado Revised Statutes, 25.5-5-308, **amend**
2 (9)(g) and (10) as follows:

3 **25.5-5-308. Breast and cervical cancer prevention and**
4 **treatment program - creation - legislative declaration - definitions -**
5 **funds - repeal.** (9) (g) For the fiscal years 2014-15 through ~~2018-19~~
6 2023-24, the general assembly shall annually appropriate one hundred
7 percent of the state costs of the breast and cervical cancer prevention and
8 treatment program from the ~~moneys~~ MONEY credited to the breast and
9 cervical cancer prevention and treatment fund to ~~such~~ THE program;
10 except that, if the ~~moneys~~ MONEY in the breast and cervical cancer
11 prevention and treatment fund ~~are~~ IS insufficient to fully fund the
12 program, the general assembly shall appropriate sufficient ~~moneys~~ MONEY
13 from the general fund.

14 (10) This section is repealed, effective July 1, ~~2019~~ 2024, unless,
15 in any fiscal year before such date, ~~moneys~~ MONEY received as federal
16 financial participation provided pursuant to the federal "Breast and
17 Cervical Cancer Prevention and Treatment Act of 2000", enacted October
18 24, 2000, Pub.L. 106-354, as amended, ~~are~~ IS no longer available to the
19 fund or the rate of federal financial participation has been decreased, in
20 which case the general assembly may repeal this section at the regular
21 session of the general assembly immediately following such decrease or
22 discontinuation of federal ~~moneys~~ MONEY.

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

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
4.8.19

DRAFT

LLS NO. 19-0964.01 Jerry Barry x4341

COMMITTEE BILL

Joint Budget Committee

BILL TOPIC: "Rates For Senior Low-income Dental Program"

A BILL FOR AN ACT

101 CONCERNING RATE FLEXIBILITY ON EXISTING PROCEDURES IN THE
102 COLORADO DENTAL HEALTH CARE PROGRAM FOR LOW-INCOME
103 SENIORS.

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 adds to the duties of the department of health care policy and financing (department) under the Colorado dental health care program for low-income seniors (program) to review the operation and effectiveness of the program in the next annual report. Qualified grantees under the program and the department

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shall report recommendations concerning the operations and effectiveness of the program.

Under current law the senior dental advisory committee recommends to the medical services board the maximum reimbursement rate for dental procedures under the Colorado dental health care program for low-income seniors that cannot be less than the reimbursement rate previously adopted by the state board of health for the program. The bill changes the maximum reimbursement rate that the committee may recommend to not less than the medicaid fee-for-service rate.

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

2 <{Sections 1 and 2 of the bill were not in the original request of the
3 JBC. They were requested by the department and the dental association
4 after the JBC made the bill request.}>

5 **SECTION 1.** In Colorado Revised Statutes, 25.5-3-404, **amend**
6 (2)(a) as follows:

7 **25.5-3-404. Colorado dental health care program for**
8 **low-income seniors - rules.** (2) The state department shall:

9 (a) In consultation with the advisory committee, REVIEW THE
10 OPERATION AND EFFECTIVENESS OF THE PROGRAM AND develop a grant
11 application under the program consistent with rules of the medical
12 services board;

13 **SECTION 2.** In Colorado Revised Statutes, **amend** 25.5-3-405
14 as follows:

15 **25.5-3-405. Program reporting - repeal.** (1) (a) On or before
16 September 1, 2015, and each September 1 thereafter, each qualified
17 grantee receiving a dental health care services grant shall report to the
18 state department concerning the number of eligible seniors served, the
19 types of dental and oral health services provided, RECOMMENDATIONS
20 REGARDING THE OPERATION AND EFFECTIVENESS OF THE PROGRAM, and

1 any other information deemed relevant by the state department.

2 (2) (a) Notwithstanding the provisions of section 24-1-136
3 (11)(a)(I), on or before November 1, 2016, and each November 1
4 thereafter, the state department shall submit a report to the joint budget
5 committee of the general assembly and to the health and human services
6 committee of the senate and the public health care and human services
7 committee of the house of representatives, or any successor committees,
8 on the operation and effectiveness of the program, including an
9 itemization of the department's administrative expenditures in
10 implementing and administering the program and any recommendations
11 for legislative changes to the program.

12 (b) (I) IN THE ANNUAL REPORT SUBMITTED ON OR BEFORE
13 NOVEMBER 1, 2019, THE STATE DEPARTMENT SHALL SPECIFICALLY REPORT
14 ON THE OPERATION AND EFFECTIVENESS OF THE PROGRAM AND
15 RECOMMENDATIONS CONCERNING THE MOST EFFECTIVE OPTIONS FOR
16 ADMINISTERING THE PROGRAM.

17 (II) THIS SUBSECTION (2)(b) IS REPEALED, EFFECTIVE JANUARY 1,
18 2020.

19 **SECTION 3.** In Colorado Revised Statutes, 25.5-3-406, **amend**
20 (2)(b)(V) as follows:

21 **25.5-3-406. Senior dental advisory committee - creation -**
22 **duties - repeal.** (2) The advisory committee shall:

23 (b) Make recommendations to the medical services board
24 regarding rules to be promulgated pursuant to section 25.5-3-404,
25 including but not limited to:

26 (V) A maximum amount per procedure that can be spent by
27 qualified grantees and qualified providers that ~~shall~~ **MUST** not be less than

1 the reimbursement schedule adopted by the state board of health pursuant
2 to ~~section 25-21-105, C.R.S., prior to its repeal~~ FOR FEE-FOR-SERVICE
3 DENTAL FEES UNDER THE MEDICAL ASSISTANCE PROGRAM ESTABLISHED
4 IN ARTICLES 4, 5, AND 6 OF THIS TITLE 25.5.

5 **SECTION 4. Safety clause.** The general assembly hereby finds,
6 determines, and declares that this act is necessary for the immediate
7 preservation of the public peace, health, and safety.

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
4.8.19

DRAFT

LLS NO. 19-1018.01 Ed DeCecco x4216

COMMITTEE BILL

Joint Budget Committee

BILL TOPIC: "Nursing Home Penalty Cash Fund"

A BILL FOR AN ACT

101 **CONCERNING THE NURSING HOME PENALTY CASH FUND, AND, IN**
102 **CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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. Currently, the department of public health and environment and the department of health care policy and financing may not expend money from the nursing home penalty cash fund for grants benefitting residents of nursing facilities by fostering innovation and improving quality of life and care at the facilities (grants) if the expenditures would cause the fund balance to fall below \$1 million.

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

The bill repeals this reserve and instead requires the medical services board to establish a minimum reserve that will have the same limit on expenditures for grants. The annual cap on expenditures for grants, which is \$250,000 or possibly a lesser amount depending on whether the fund balance exceeds \$2 million, is also repealed.

The sunset review of the use of grants and the related nursing home innovations grant board is also repealed.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-34-104, **repeal**
3 (21)(a)(III) as follows:

4 **24-34-104. General assembly review of regulatory agencies**
5 **and functions for repeal, continuation, or reestablishment - legislative**
6 **declaration - repeal.** (21) (a) The following agencies, functions, or both,
7 will repeal on September 1, 2021:

8 (III) ~~The nursing home innovations grant board created in section~~
9 ~~25-1-107.5 (6), C.R.S., and the use of moneys in the nursing home~~
10 ~~penalty cash fund for the purposes described in section 25-1-107.5~~
11 ~~(4)(c)(H), C.R.S.;~~

12 **SECTION 2.** In Colorado Revised Statutes, 25-1-107.5, **amend**
13 (4)(d)(III); and **repeal** (4)(d)(I) and (7) as follows:

14 **25-1-107.5. Additional authority of department - rules -**
15 **remedies against nursing facilities - criteria for recommending**
16 **assessments for civil penalties - cooperation with department of**
17 **health care policy and financing - nursing home penalty cash fund -**
18 **nursing home innovations grant board - reports.** (4) (d) (I) ~~The~~
19 ~~departments shall distribute the following amounts of moneys in the~~
20 ~~nursing home penalty cash fund for the purposes described in~~
21 ~~subparagraph (H) of paragraph (c) of this subsection (4):~~

22 (A) ~~For any fiscal year, two hundred fifty thousand dollars if the~~

1 ~~fund balance is greater than two million dollars on July 1 of that fiscal~~
2 ~~year;~~

3 ~~(B) If the fund balance on July 1 of any fiscal year is less than two~~
4 ~~million dollars, the department shall distribute twenty-five percent of the~~
5 ~~moneys deposited in the fund in the immediately preceding fiscal year,~~
6 ~~not to exceed two hundred fifty thousand dollars in total fund distribution~~
7 ~~per fiscal year.~~

8 ~~(III) Notwithstanding subparagraph (I) of this paragraph (d), the~~
9 ~~departments shall ensure that the balance of the nursing home penalty~~
10 ~~cash fund does not fall below one million dollars as a result of~~
11 ~~expenditures for the purposes described in subparagraph (II) of paragraph~~
12 ~~(c) of this subsection (4) and shall not distribute moneys pursuant to this~~
13 ~~paragraph (d) for such purposes if making a distribution would cause the~~
14 ~~fund balance to fall below the minimum balance required by this~~
15 ~~subparagraph (II) THE MEDICAL SERVICES BOARD CREATED PURSUANT TO~~
16 ~~SECTION 25.5-1-301 SHALL ESTABLISH A MINIMUM RESERVE AMOUNT TO~~
17 ~~BE MAINTAINED IN THE NURSING HOME PENALTY CASH FUND TO ENSURE~~
18 ~~THAT THERE IS SUFFICIENT MONEY FOR THE DEPARTMENTS TO DISTRIBUTE~~
19 ~~IN ACCORDANCE WITH SUBSECTION (4)(b)(II) OF THIS SECTION, IF NEEDED.~~
20 ~~THE DEPARTMENTS SHALL NOT EXPEND MONEY FROM THE FUND FOR THE~~
21 ~~PURPOSES DESCRIBED IN SUBSECTION (4)(c)(II) OF THIS SECTION IF THE~~
22 ~~EXPENDITURE WOULD CAUSE THE FUND BALANCE TO FALL BELOW THE~~
23 ~~MINIMUM RESERVE AMOUNT.~~

24 ~~(7) (a) Subparagraph (II) of paragraph (c) of subsection (4) of this~~
25 ~~section, subsection (6) of this section, and this subsection (7) are~~
26 ~~repealed, effective September 1, 2021.~~

27 ~~(b) Prior to the repeal, the nursing home innovations grant board~~

1 and its functions, and the use of moneys in the nursing home penalty cash
2 fund for the purposes described in subparagraph (H) of paragraph (c) of
3 subsection (4) of this section, shall be reviewed pursuant to section
4 ~~24-34-104, C.R.S.~~

5 **SECTION 3. Appropriation.** For the 2019-20 state fiscal year,
6 \$250,000 is appropriated to the department of health care policy and
7 financing. This appropriation is from the nursing home penalty cash fund
8 created in section 25.5-6-205 (3)(a), C.R.S. To implement this act, the
9 department may use this appropriation for general professional services
10 and special projects.

11 **SECTION 4. Act subject to petition - effective date.** This act
12 takes effect at 12:01 a.m. on the day following the expiration of the
13 ninety-day period after final adjournment of the general assembly (August
14 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
15 referendum petition is filed pursuant to section 1 (3) of article V of the
16 state constitution against this act or an item, section, or part of this act
17 within such period, then the act, item, section, or part will not take effect
18 unless approved by the people at the general election to be held in
19 November 2020 and, in such case, will take effect on the date of the
20 official declaration of the vote thereon by the governor.

MEMORANDUM



JOINT BUDGET COMMITTEE

TO Joint Budget Committee
FROM Alfredo Kemm, JBC Staff (303.866.4549)
DATE April 10, 2019
SUBJECT Potential Legislation #59: The CMTF and Depreciation-Lease Equivalent Payments

In the Capital Construction briefing in December, staff recommended in issue brief 1, that the Committee pursue legislation as follows:

1. To change the name of the Controlled Maintenance Trust Fund to a more appropriately named emergency reserve fund and repeal the references to controlled maintenance in the legislative declaration; or repeal the Controlled Maintenance Trust Fund and create in its place an emergency reserve fund with no connection to controlled maintenance.

2. To eliminate depreciation-lease equivalent payment transfers to the Controlled Maintenance Trust Fund to preserve the purpose of this funding mechanism intended for capital replacement and controlled maintenance. Specifically, staff recommends that the legislation:

- Eliminate the depreciation-lease equivalent payment transfer included in Sections 24-30-1310 (2)(b), C.R.S., to the Controlled Maintenance Trust Fund; and
- Redirect the financing arrangement annual payment for controlled maintenance included in Section 24-30-1310 (2)(c)(II) to the Capital Construction Fund.

3. To require that all appropriations made in the capital construction section of the budget, excluding appropriations for information technology projects, shall be subject to the depreciation-lease equivalent payment mechanism, whether spending is depreciated or expensed. If spending is expensed, the entire expensed amount would be reflected in a depreciation-lease equivalent payment in the first budget cycle following the accounting record of the expense just as depreciation is treated for this purpose.

Most of staff's issue brief narrative follows:

AN OVERVIEW OF S.B. 15-211

In 2015, staff recommended and the Committee pursued legislation to create a transfer mechanism based on depreciation for capital construction appropriations in the Long Bill beginning in the FY 2015-16 budget.

The *annual depreciation-lease equivalent payment* is a transfer from the General Fund intended to function as a *sinking fund* transfer mechanism for all current and future capital construction purchases. A sinking fund periodically sets aside money for the replacement of a depleting asset.

State government depreciation is recorded for the purpose of collecting construction and capital asset costs from the federal government for federally supported programs housed in state buildings. Such depreciation is included in the statewide indirect cost assessment plan developed by the State Controller annually. Indirect cost recoveries collected by state agencies as set in the statewide plan are then used to offset General Fund in each department operating budget, reducing the state's

expenditure of General Fund by an amount equal to the annual statewide indirect cost recovery. Through this cycle, the depreciation of capital assets – captured in the indirect cost plan – has historically been routed to the operating budget.

The mechanism in S.B. 15-211 creates a *closed-loop* for capital construction dollars. When a capital construction project is funded, state funds are spent for that purpose, and the state funds purchase a capital asset equal to the same amount. As the capital project is depreciated on the state's accounting books, the capital asset value decreases by the amount of depreciation. The transfer mechanism in S.B. 15-211 returns the cash amount of the book depreciation to the state's capital construction funds. In this way, when a dollar is spent on capital construction, it is retained in the state's capital assets accounts through this transfer. As asset book values decrease by the depreciation amount, capital construction cash assets increase by the same amount, which are then used to pay for current recapitalization needs generally and the cycle repeats indefinitely for a new or additional dollar added to the state's capital assets stock.

SECTION 24-30-1310, C.R.S.

Section 24-30-1310 (2)(b) and (2)(c)(II), C.R.S., states:

(2) For every appropriation in the capital construction section of the 2015-16 annual general appropriation act and every appropriation in the capital construction section of each annual general appropriation act thereafter, not including appropriations for information technology projects, additional funding must be set aside as follows:

(b) If the funding source for the appropriation is from the general fund, the capital construction fund, or the controlled maintenance trust fund, the general assembly shall include an annual depreciation-lease equivalent payment line item payable from the general fund in the operating section of the annual general appropriation act for each state agency, including the department of higher education. On June 30 the state controller shall credit the annual depreciation-lease equivalent payment line item to the capital construction fund; except that, of such payment, an amount equal to one percent of the project cost will be deducted from the payment and credited to the principal of the controlled maintenance trust fund.

(c) If the funding source for the appropriation is a financing arrangement, including a lease-purchase agreement allowed pursuant to section 24-82-802, and the source of the funding for the financing payment is:

(II) From the general fund, the capital construction fund, or the controlled maintenance trust fund, then the general assembly shall include an annual controlled maintenance line item payable from the general fund in the operating section of the annual general appropriation act for each state agency, including the department of higher education, equal to one percent of the project cost, as calculated by the state agency of the state institution of higher education, which calculation the state institution of higher education shall report to the department of higher education. On June 30 the state controller shall credit such amount to the controlled maintenance trust fund.

Section 24-30-1310 (2)(b), C.R.S., specifies that 1.0 percent of the project cost be credited to the Controlled Maintenance Trust Fund from the depreciation-equivalent payment each year. Similarly, Section 24-30-1310 (2)(c)(II), C.R.S., specifies that 1.0 percent of the project cost be credited to the

Controlled Maintenance Trust Fund for an annual controlled maintenance line item for COP-financed projects. For a 40-year depreciation schedule, equal to 2.5 percent depreciation per year, the 1.0 percent formula credited to the Controlled Maintenance Trust Fund equals 40.0 percent of the depreciation-equivalent payment; the remaining 60.0 percent is deposited in the Capital Construction Fund.

THE CURRENT STATE OF THE CONTROLLED MAINTENANCE TRUST FUND

At the time in 2015, staff had recommended a 60-40 percent split for the purpose of building the principal of the Controlled Maintenance Trust Fund. Staff's thinking was that this might enable the fund to generate sufficient interest for the payment of controlled maintenance for these projects in 15 years, when statute provides that controlled maintenance could first be requested and funded for a building. However, since that time, staff has become convinced that the Controlled Maintenance Trust Fund is not functioning as intended in the legislative declaration creating the fund and likely never will as long as it includes its state emergency reserve designation.

The legislative declaration in Section 24-75-302.5 (1), C.R.S., states:

(1) In light of the fluctuating amounts of state revenues that have been available for controlled maintenance purposes in the past, the general assembly hereby finds and declares that a stable, predictable, and consistent source of revenues for controlled maintenance projects will better allow the state to fund such projects on a timely basis and avoid higher replacement costs. In order to provide a consistent source of revenues, the general assembly hereby further finds and declares that it is appropriate to create a trust fund which will generate an annual amount of interest which will be dedicated to controlled maintenance.

Section 24-75-302.5 (2), C.R.S., includes "For the 1996-97 fiscal year and fiscal years thereafter, the principal of the trust fund may constitute all or some portion of the state emergency reserve ...".

Controlled maintenance funding accounts for 0.5 percent of total inflows or fund revenue over the 10-year period from FY 2007-08 to FY 2016-17, while executive orders for emergencies accounts for 46.1 percent of fund revenue over that period. Additionally, prior to FY 2012-13, there was not much activity in the fund, with the exception of interest earnings which averaged \$16,254 over the first five-years.

It is possible that the negligible balance available in the fund over that period necessarily led to its lack of use for emergency funding over that period; i.e., if there are funds available they will be used for emergencies. Excluding the \$20.0 million added in FY 2017-18 to restore the amount used for emergency orders in FY 2016-17, executive orders for emergencies accounts for 51.3 percent and designated appropriations and transfers out account for 20.7 percent of fund inflows.

It appears that the Controlled Maintenance Trust Fund is effectively not funding controlled maintenance as was intended in its creation. It is being used to fund executive orders for emergencies on a regular basis when there is an adequate balance available.

IN PRACTICE, CAPITAL CONSTRUCTION EXPENDITURES MAY NOT BE PROPERLY DEPRECIATED

Staff discovered during the interim that at least one state agency fully expensed rather than depreciated its capital construction appropriation. Further, it is staff's understanding that the State Controller's state fiscal rules may be permissive rather than directive in recording depreciation for capital expenditures.

The statutory language that guides the depreciation-lease equivalent payment is based on depreciation. If state agencies are fully expensing their capital construction appropriation on a project in the first year rather than depreciating over the anticipated life of the capital asset, the funding mechanism intended through this provision is never exercised.

For example, a \$2.0 million capital renewal project replaces an HVAC system for a correctional facility. The HVAC system is anticipated to have at least a 10-year life by mechanical and accounting standards. In the first year, the proper accounting methodology would require that the \$2.0 million expended on the project be recorded as a cash outflow, reducing cash assets by \$2.0 million, and also recorded as a \$2.0 million increase in capital or long-term assets. Including the first year, over the next 10 years, a depreciation of \$200,000 would be recorded as a decrease in capital assets, until the HVAC system is fully expensed on the books. In this case, the department would reflect a depreciation lease-equivalent payment of \$200,000 General Fund for every year of depreciation. That payment is a funding mechanism that is routed back into the Capital Construction Fund. Keep in mind, as assets are depleted through depreciation, the cash asset is returned to the capital construction system through this mechanism to ensure that every dollar that would be claimed through depreciation – and in that way billed to the federal government – would be returned to the capital construction system.

However, if instead of depreciating, the department fully expensed the \$2.0 million capital renewal project in its accounting books, based on how statute is currently drafted, there would be no depreciation-lease equivalent payment. In this case, the larger weakness is in the permissiveness of the state fiscal rules and oversight from the Office of the State Controller in regards to accounting for capital assets. However, for budget purposes, this defeats the sinking fund mechanism intended by this policy; and that can simply be corrected by requiring that all dollars appropriated in the capital construction section of the budget be addressed through a depreciation-lease equivalent payment, whether those dollars are depreciated or expensed.

It is staff's understanding, that because of the permissive nature of accounting for capital assets, and because of state agencies propensity to expense rather than depreciate capital expenditures, the Office of the State Controller is likely missing out on payments from the federal government through the statewide indirect cost plan.

Nevertheless, at this time, staff does not wish to attempt to "fix" this problem at the fiscal rules or State Controller level, and instead recommends a solution that addresses the problem specifically related to the depreciation-lease equivalent payment.