MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Joint Budget Committee Members
FROM	JBC Staff
DATE	March 7, 2018
SUBJECT	JBC Bill Drafts and Memos

This memo includes the following bill drafts for the Committees consideration.

- JBC Bill #56 – LLS 0988 "Concerning Changing the Payroll Periods for Salaries Paid Through the State's Payroll System from Monthly to Biweekly Rather than Twice Monthly"(Alfredo Kemm)
- JBC Bill #28 – LLS 1007 "Concerning the Repeal of the Local Government Retail Marijuana Impact Grant Program." (Carolyn Kampman)
- JBC Bill #8 – LLS 1029 "Concerning Measures to Address Coverage Gaps in the Statewide Digital Trunked Radio System, and, in Connection Therewith, Making an Appropriation." (Kevin Neimond)
- JBC Bill #64 – LLS 1050 "Concerning Authority for the Department of Human Services to Retain Amounts from Certain Cash Funds for its Indirect Costs." (Robin Smart)
- JBC Bill #58 – LLS 1068 "Concerning Evidence-based Review of State Programs by a Laboratory at an Institution of Higher Education, and, in Connection Therewith, Making an Appropriation." (Vance Roper)

Additionally, the Committee will be discussing the following bills from the Anytime Potential Bill List:
- Potential Bill #67 – Durable Medical Equipment – Eric Kurtz
- Potential Bill #3 – School Finance Property Tax System – Craig Harper
- Potential Bill #5 – Early College Program - memo included "Legislation Regarding Early College High Schools" – Craig Harper
- Potential Bill #45 – Part B Money IDD Waitlist – Robin Smart
- Potential Bill #59 – Smart Act – Robin Smart
- Potential Bill #50 – Unclaimed Property Trust Fund – Vance Roper
- Potential Bill #51 – Orphan Wells – Scott Thompson
- Potential Bill #66 – Reorganize Division of Central Services – Scott Thompson
- Potential Bill #65 – Workers Compensation Cash Fund – Amanda Bickel

DRAFT
3.5.18

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

DRAFT

LLS NO. 18-0988.01 Nicole Myers x4326 **COMMITTEE BILL**

Joint Budget Committee

BILL TOPIC: "Biweekly Salary Payment For State Employees"

A BILL FOR AN ACT

CONCERNING CHANGING THE PAYROLL PERIODS FOR SALARIES PAID THROUGH THE STATE'S PAYROLL SYSTEM FROM MONTHLY TO BIWEEKLY RATHER THAN TWICE MONTHLY.

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 majority of state employees who are paid through the state's payroll system are paid on a monthly basis and some state employees are paid on a biweekly basis. For employees who are paid monthly, salaries are paid as of the last working day of the month; except that salaries for June are paid on the first

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working day of July. For employees who are paid biweekly, salaries are paid 14 days after the last day of the pay period.

In 2015, the general assembly passed legislation that required all state employees paid through the state's payroll system to be paid twice a month beginning July 1, 2017. It also required salaries to be paid 14 days after the last day of the pay period. In 2016, the general assembly passed legislation that allowed the state personnel director to delay the implementation date of the twice-monthly payroll system, and the implementation of such system has not yet occurred.

The bill repeals the requirement to implement a twice-monthly payroll system and instead requires all state employees that are paid through the state's payroll system to be paid biweekly beginning July 1, 2018. Salaries will be paid 14 days after the last day of the pay period. Beginning in the 2018-19 fiscal year and in each fiscal year thereafter, the bill requires each department to transfer the general-funded payroll expense for the first biweekly payroll paid on or after June 1 plus the next biweekly payroll paid in June into the next fiscal year. The state controller is required to work with each department and the office of state planning and budgeting to ensure that such transfer occurs.

In 2015, the general assembly also enacted a one-time loan program to assist state employees in covering expenses in the first month that there is a 14-day period between the end of the pay period and the payment of salary. The bill modifies the loan program to specify the calculation of the loan and to allow employees to apply to the department of personnel for the loan in July 2018.

In addition, the bill makes necessary conforming amendments to allow the state's payroll system to pay all employees on a biweekly basis.

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

SECTION 1. In Colorado Revised Statutes, 24-50-104, **amend** (8)(a), (8)(b), and (8)(c); and **repeal** (8)(a.5), (8)(a.6), (8)(d), and (8)(g) as follows:

24-50-104. Job evaluation and compensation - state employee reserve fund - created - definitions - repeal. (8) **Payroll.** (a) ~~For pay periods beginning before July 1, 2017, salaries for positions in the state personnel system paid on a monthly basis shall be paid as of the last working day of the month; except that:~~ SALARIES FOR EMPLOYEES PAID THROUGH THE STATE'S PAYROLL SYSTEM SHALL BE PAID ON A BIWEEKLY

BASIS AND SHALL BE PAID FOURTEEN DAYS AFTER THE LAST DAY OF THE FOURTEEN-DAY PAY PERIOD.

~~(I) Salaries for the month of June shall be paid on the first working day of July; and~~

~~(II) For state personnel employees in the department of transportation hired before August 5, 1998, as amended, salaries for the month of December shall be paid on the first working day in January, unless any such employee informs the controller of the department of transportation of the employee's desire to be paid in the same manner as other employees in the state personnel system as provided in this subsection (8), in which case, the employee shall be paid in such manner.~~

(a.5) ~~For pay periods beginning before July 1, 2017, for state employment positions that are not in the state personnel system and that are not otherwise covered by paragraph (a) of this subsection (8), salaries paid on a monthly basis for the month of June shall be paid on the first working day of July.~~

(a.6) ~~For pay periods beginning before July 1, 2017, for state employment positions that are not otherwise covered by paragraph (a) or (a.5) of this subsection (8), whether or not the positions are in the state personnel system:~~

~~(I) and (II) (Deleted by amendment, L. 2015.)~~

~~(III) Effective July 1, 2012, and for pay periods beginning before July 1, 2017, salaries paid on a biweekly basis shall be paid fourteen days after the last day of the fourteen-day pay period.~~

(b) ~~For pay periods beginning on or after July 1, 2017, salaries for employees paid through the state's payroll system shall be paid twice a month as follows:~~ IN EACH FISCAL YEAR, EACH DEPARTMENT SHALL

TRANSFER THE GENERAL-FUNDED PAYROLL EXPENSES FOR THE FIRST BIWEEKLY PAYROLL PAID ON OR AFTER JUNE 1 PLUS THE NEXT BIWEEKLY PAYROLL PAID IN JUNE TO THE NEXT FISCAL YEAR. THE STATE CONTROLLER SHALL WORK WITH EACH DEPARTMENT AND THE OFFICE OF STATE PLANNING AND BUDGETING TO ENSURE THAT SUCH TRANSFER OCCURS.

~~(I) For work performed from July 1, 2017, to July 15, 2017, employees shall be paid on July 31, 2017. For work performed from July 16, 2017, to July 31, 2017, employees shall be paid on August 15, 2017.~~

~~(II) Except as otherwise specified in subparagraph (III) of this paragraph (b), for all pay periods after the pay periods specified in subparagraph (I) of this paragraph (b), for work performed from the first day of the month to the fifteenth day of the same month, employees shall be paid on the last day of that month. For work performed from the sixteenth day of the month to the end of the same month, employees shall be paid on the fifteenth day of the following month.~~

~~(III) For work performed from June 1, 2018, to June 15, 2018, employees shall be paid on July 1, 2018, and for work performed from June 1 to June 15 each year thereafter, employees shall be paid on July 1 of the applicable year.~~

(c) (I) Any state employee may apply to the department of personnel for a one-time loan to assist the employee in covering expenses in July ~~2017~~ ***2018***. The amount of the loan shall not be more than an amount equal to the employee's net pay for a one-half month pay period. THE STATE CONTROLLER SHALL WORK WITH EACH DEPARTMENT AND THE OFFICE OF STATE PLANNING AND BUDGETING TO DETERMINE THE AMOUNT OF THE LOAN FOR EACH EMPLOYEE.

(II) An employee who receives a loan from the state pursuant to this ~~paragraph (c)~~ SUBSECTION (8)(c) shall repay the loan as specified in this ~~subparagraph (II)~~ SUBSECTION (8)(c)(II). An employee may repay the loan early with no prepayment penalty. If an employee separates from state employment prior to the full loan repayment, the balance of the loan shall be deducted from the employee's last paycheck. An employee shall repay the loan over a three-year period with an after-tax deduction in each paycheck equal to one ~~seventy-second~~ SEVENTY-EIGHTH of the loan amount plus simple interest at the ~~state treasury's incremental borrowing rate~~ LOWEST INTEREST RATE ALLOWABLE BY LAW.

(d) ~~Monthly salaries shall be converted to annual salary as the basis for calculating amounts due for periods other than monthly.~~

(g) ~~Notwithstanding the provisions of this subsection (8), if the state personnel director determines that, due to circumstances in connection with the implementation of the human resources information system, it will not be possible on July 1, 2017, to begin paying salaries twice monthly for employees paid through the state's payroll system as otherwise required in this subsection (8), the director shall, on or before June 1, 2017, notify employers that pay employees through the state's payroll system, employees who are paid through the state's payroll system, and the general assembly that the department will not meet the July 1, 2017, deadline and include in the notice the new date on which the implementation of the twice monthly payroll system will begin. In addition, if the implementation of the twice monthly payroll system is delayed, the director shall allow any state employee to apply to the department of personnel for a one-time loan to assist the employee in covering expenses in the first month in which employees will be paid~~

~~twice monthly, rather than for the month of July 2017, as provided in paragraph (c) of this subsection (8).~~

SECTION 2. In Colorado Revised Statutes, 24-75-201, **amend** (2)(a)(III)(A); and **repeal** (2)(a)(III)(B) as follows:

24-75-201. General fund - general fund surplus - custodial moneys. (2) (a) The general fund surplus shall be determined based upon the accrual system of accounting, as enunciated by the governmental accounting standards board; except that:

(III) (A) General fund revenues shall be restricted ~~only upon actual payment on the first and fifteenth working day of July of salaries of state employees for the month of~~ IN THE AMOUNT OF THE FIRST BIWEEKLY PAYROLL PAID ON OR AFTER JUNE 1 PLUS THE AMOUNT OF THE NEXT BIWEEKLY PAYROLL PAID IN June from general fund revenues.

(B) ~~General fund revenues shall be restricted only upon actual payment in July of any bimonthly salaries of state employees for which all or a portion thereof is for work performed during the month of June from general fund revenues.~~

SECTION 3. Effective date. This act takes effect July 1, 2018.

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

DRAFT
3.5.18

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

DRAFT

LLS NO. 18-1007.01 Ed DeCecco x4216 **COMMITTEE BILL**

Joint Budget Committee

BILL TOPIC: "Repeal Loc Gov Retail Marijuana Impact Grant Prog"

A BILL FOR AN ACT

101 CONCERNING THE REPEAL OF THE LOCAL GOVERNMENT RETAIL
102 MARIJUANA IMPACT GRANT 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. On July 1, 2019, the bill repeals the local government retail marijuana impact grant program, under which the department of local affairs (department) awards grants to eligible local governments for documented marijuana impacts. Any encumbered money from the fiscal year 2017-18 appropriation to the department remains

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available for expenditure in the next fiscal year. The bill also repeals a reporting requirement regarding the effectiveness of the grant program.

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

SECTION 1. In Colorado Revised Statutes, 24-32-117, **amend** (3); **repeal** (5); and **add** (6) as follows:

24-32-117. Retail marijuana impact grants - program - creation - definitions - repeal. (3) The general assembly may annually appropriate ~~moneys~~ MONEY from the marijuana tax cash fund created in section 39-28.8-501 ~~C.R.S.,~~ or the proposition AA refund account created in section 39-28.8-604 (1) ~~C.R.S.,~~ to the division to make the grants described in subsection (2) of this section and for the division's reasonable administrative expenses related to the grants. Any ~~unexpended and unencumbered moneys~~ ENCUMBERED MONEY from an appropriation made pursuant to this subsection (3) ~~remain~~ REMAINS available for expenditure by the division in the next fiscal year without further appropriation.

(5) ~~(a) On or before November 1, 2018, and on or before November 1 each year thereafter, the division shall include an update regarding the effectiveness of the grant program in its report to the members of the applicable committees of reference in the senate and house of representatives required by the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act", part 2 of article 7 of title 2, C.R.S.~~

~~(b) The reporting requirement in paragraph (a) of this subsection (5) is not subject to the provisions of section 24-1-136 (11)(a)(I).~~

(6) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2019.

SECTION 2. In Colorado Revised Statutes, 39-28.8-501, **repeal** (2)(b)(IV)(K) as follows:

39-28.8-501. Marijuana tax cash fund - creation - distribution - legislative declaration. (2) (b) (IV) Subject to the limitation in subsection (5) of this section, the general assembly may annually appropriate any money in the fund for any fiscal year following the fiscal year in which it was received by the state for the following purposes:

(K) ~~For grants to local governments for documented retail marijuana impacts through the local government retail marijuana impact grant program created in section 24-32-117;~~

SECTION 3. Effective date. This act takes effect July 1, 2018.

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

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

DRAFT 3.5.18

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LLS NO. 18-1029.01 Nicole Myers x4326 **COMMITTEE BILL**

Joint Budget Committee

BILL TOPIC: "Digital Trunked Radio System Coverage Gaps"

A BILL FOR AN ACT

CONCERNING MEASURES TO ADDRESS COVERAGE GAPS IN THE STATEWIDE DIGITAL TRUNKED RADIO SYSTEM, AND, IN 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. The statewide digital trunked radio system (DTRS) provides interoperable radio communications that allow personnel from multiple agencies in different levels of government to rapidly share information and coordinate efforts in emergency situations. While DTRS is considered one of the nation's most successful statewide

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public safety communications voice networks, there are areas of the state that do not have adequate coverage on the DTRS network. This means public safety officials are unable to communicate with others when working in geographies with little to no coverage.

The general assembly established the public safety communications trust fund (trust fund) for the acquisition and maintenance of public safety communications systems, including the DTRS. Currently, through the 2024-25 fiscal year, the general assembly appropriates $7.2 million each fiscal year from the general fund and other funds to the trust fund for purposes of the DTRS. The governor's office of information technology (office) is required to use the money for the replacement of legacy radio equipment and hardware at radio tower sites and for software upgrade assurance. Due to a one-time savings achieved through negotiations between the office and its DTRS software vendor, approximately $3 million of the money appropriated to the trust fund to date is unexpended.

The bill authorizes the office to use any unencumbered and unexpended money appropriated for purposes of the DTRS on DTRS site supporting infrastructure and DTRS supporting software and hardware.

In addition, in both the 2018-19 and 2019-20 fiscal years, the bill requires the general assembly to appropriate an additional $2 million from the general fund to the trust fund. The bill requires the office to use the money to work in partnership with local and regional government entities to add additional radio tower sites in areas of the state that are experiencing critical coverage gaps for public safety radio communications. The office is required to submit a report to the joint budget committee detailing the use of the additional $2 million.

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

SECTION 1. In Colorado Revised Statutes, 24-37.5-506, **amend** (2.5)(b); and **add** (2.5)(a)(III) and (2.7) as follows:

24-37.5-506. Public safety communications trust fund - creation. (2.5) (a) (III) THE OFFICE MAY USE ANY UNENCUMBERED AND UNEXPENDED MONEY APPROPRIATED PURSUANT TO SUBSECTIONS (2.5)(a)(I) AND (2.5)(a)(II) OF THIS SECTION ON DIGITAL TRUNKED RADIO SYSTEM SITE SUPPORTING INFRASTRUCTURE AND DIGITAL TRUNKED RADIO SYSTEM SUPPORTING SOFTWARE AND HARDWARE.

(b) On or before November 1, 2014, and on or before November

1 of each year thereafter through November 1, 2025, the office, in consultation with the department of corrections, the department of natural resources, the department of public safety, the department of transportation, and any other state department OR LOCAL OR REGIONAL GOVERNMENT deemed appropriate by the office, shall submit a report to the joint budget committee of the general assembly detailing the use of the ~~moneys~~ MONEY appropriated to the fund pursuant to ~~paragraph (a) of this subsection (2.5)~~ SUBSECTION (2.5)(a) OF THIS SECTION. The report must include the following:

(I) Comprehensive documentation regarding the purposes for which the ~~moneys~~ MONEY appropriated pursuant to ~~subparagraphs (I) and (II) of paragraph (a) of this subsection (2.5)were~~ SUBSECTION (2.5)(a) OF THIS SECTION WAS used during the prior fiscal year and ~~are~~ IS being used during the current fiscal year and the anticipated use of the ~~moneys~~ MONEY that will be appropriated in future fiscal years;

(II) Of the total amount expended during the prior fiscal year for each of the purposes specified in ~~subparagraphs (I) and (II) of paragraph (a) of this subsection (2.5)~~ SUBSECTIONS (2.5)(a)(I) AND (2.5)(a)(II) OF THIS SECTION, the amount that was appropriated from the general fund and the amount that was appropriated from any other fund; and

(III) For the appropriation or appropriations for the next fiscal year, a recommendation regarding the amount to be appropriated from the general fund and the amount to be appropriated from any other fund for each of the purposes specified in ~~subparagraphs (I) and (II) of paragraph (a) of this subsection (2.5)~~ SUBSECTIONS (2.5)(a)(I) AND (2.5)(a)(II) OF THIS SECTION.

(2.7) (a) IN BOTH THE 2018-19 AND 2019-20 FISCAL YEARS, THE

GENERAL ASSEMBLY SHALL APPROPRIATE TWO MILLION DOLLARS FROM THE GENERAL FUND TO THE FUND. THE OFFICE SHALL USE THE MONEY APPROPRIATED TO THE FUND PURSUANT TO THIS SUBSECTION (2.7) TO WORK IN PARTNERSHIP WITH LOCAL AND REGIONAL GOVERNMENT ENTITIES TO ADD ADDITIONAL RADIO TOWER SITES IN AREAS OF THE STATE THAT ARE EXPERIENCING CRITICAL COVERAGE GAPS FOR PUBLIC SAFETY RADIO COMMUNICATIONS. IN WORKING WITH LOCAL AND REGIONAL GOVERNMENTS TO ADDRESS SUCH COVERAGE GAPS, THE OFFICE SHALL PRIORITIZE THE FOLLOWING:

(I) LOCATIONS THAT HAVE EXISTING RADIO TOWER AND OTHER INFRASTRUCTURE TO WHICH THE OFFICE MAY ADD EQUIPMENT;

(II) LOCATIONS IN WHICH A KNOWN PUBLIC SAFETY RADIO COMMUNICATIONS COVERAGE ISSUE MAY BE ADDRESSED; AND

(III) LOCATIONS THAT PROVIDE A BENEFIT TO BOTH THE STATE AND TO LOCAL GOVERNMENT FIRST RESPONDERS.

(b) ON OR BEFORE NOVEMBER 1, 2019, AND ON OR BEFORE NOVEMBER 1, 2020, THE OFFICE, IN PARTNERSHIP WITH LOCAL AND REGIONAL GOVERNMENT ENTITIES AS THE OFFICE DEEMS APPROPRIATE, SHALL SUBMIT A REPORT TO THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY DETAILING THE USE OF THE MONEY APPROPRIATED TO THE FUND PURSUANT TO SUBSECTION (2.7)(a) OF THIS SECTION. THE REPORT MUST INCLUDE COMPREHENSIVE DOCUMENTATION REGARDING THE PURPOSES FOR WHICH THE MONEY APPROPRIATED PURSUANT TO SUBSECTION (2.7)(a) OF THIS SECTION WAS AND IS BEING USED DURING THE CURRENT FISCAL YEAR AND THE ANTICIPATED USE OF THE MONEY THAT WILL BE APPROPRIATED IN THE NEXT FISCAL YEAR, IF APPLICABLE, AND ANY OTHER INFORMATION DEEMED RELEVANT BY THE OFFICE.

SECTION 2. Appropriation. For the 2018-19 state fiscal year, $2,000,000 is appropriated to the office of the governor for use by the office of information technology. This appropriation is from the public safety communications trust fund created in section 24-37.5-506 (1), C.R.S. To implement this act, the office may use this appropriation for the public safety network.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

DRAFT
2.23.18

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

DRAFT

LLS NO. 18-1050.01 Ed DeCecco x4216 **COMMITTEE BILL**

Joint Budget Committee

BILL TOPIC: "DHS Indirect Cost Assessments From Cash Funds"
DEADLINES: File by: 2/27/2018

A BILL FOR AN ACT

CONCERNING AUTHORITY FOR THE DEPARTMENT OF HUMAN SERVICES TO RETAIN AMOUNTS FROM CERTAIN CASH FUNDS FOR ITS INDIRECT COSTS.

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 authorizes the department of human services to retain money for its indirect costs, based on a federally approved cost allocation plan, from the older Coloradans cash fund and the nurse home visitor program fund.

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

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

SECTION 1. In Colorado Revised Statutes, 26-11-205.5, **amend** (2) as follows:

26-11-205.5. Older Coloradans program - distribution formula - cash fund. (2) ~~Moneys~~ AFTER RETAINING AN AMOUNT FOR THE STATE DEPARTMENT'S INDIRECT COSTS, AS CALCULATED UNDER THE FEDERALLY APPROVED COST ALLOCATION PLAN, MONEY appropriated for the program shall be distributed to area agencies on aging using the same formula that the state office uses to distribute ~~moneys~~ MONEY available under Title III, parts (B), (C), (D), and (F) of the federal "Older Americans Act of 1965", as amended, but such ~~moneys~~ MONEY shall be allocated as a whole and not allocated to individual parts of Title III; except that appropriations from the fund of accumulated interest are not subject to the restriction that requires allocations as a whole. An area agency on aging shall use no more than ten percent of the ~~moneys~~ MONEY received from the program for administrative expenses.

SECTION 2. In Colorado Revised Statutes, 26-6.4-107, **amend** (2)(b) as follows:

26-6.4-107. Selection of entities to administer the program - grants - nurse home visitor program fund - created. (2) (b) Grants awarded pursuant to ~~paragraph (a) of this subsection (2)~~ SUBSECTION (2)(a) OF THIS SECTION are payable from the nurse home visitor program fund, which fund is hereby created in the state treasury. The nurse home visitor program fund, referred to in this section as the "fund", is administered by the state department and consists of ~~moneys~~ MONEY transferred thereto by the state treasurer from ~~moneys~~ MONEY received pursuant to the master settlement agreement in the amount described in ~~paragraph (d) of this subsection (2)~~ SUBSECTION (2)(d) OF THIS SECTION. In addition, the state treasurer shall credit to the fund any public or private gifts, grants, or donations received by the state department to implement the program, including any ~~moneys~~ MONEY received from the United States federal government for the program. The fund is subject to annual appropriation by the general assembly to the state department for grants to entities for operation of the program. The state department may retain THE AMOUNT NEEDED TO PAY FOR THE PROGRAM'S SHARE OF THE STATE DEPARTMENT'S INDIRECT COSTS, AS CALCULATED UNDER THE FEDERALLY APPROVED COST ALLOCATION PLAN. IN ADDITION, THE STATE DEPARTMENT MAY RETAIN a total of up to five percent of the amount annually appropriated from the fund for the program, in order to compensate the health sciences facility pursuant to section 26-6.4-105 (3), as set forth in the scope of work in the agreement between the state department and the health sciences facility, and to compensate the state department for the actual costs the state department incurs in implementing ~~the provisions of paragraph (a.5) of this subsection (2)~~ SUBSECTION (2)(a.5) OF THIS SECTION, as determined by the state department; except that the portion of the costs to compensate the state department for implementing ~~the provisions of paragraph (a.5) of this subsection (2)~~ SUBSECTION (2)(a.5) OF THIS SECTION shall not exceed two percent of the amount annually appropriated from the fund for the program, and the portion of such costs to compensate the health sciences facility under section 26-6.4-105 (3), as set forth in the scope of work in the contract between the state department and the health sciences facility, shall not exceed three percent of the amount annually appropriated from the fund for the program. In addition, if the total amount annually appropriated from the fund for the program exceeds nineteen million dollars, the state department and the health sciences facility shall assess whether a smaller percentage of the appropriated funds exceeding nineteen million dollars is adequate to cover their actual costs and shall jointly submit to the general assembly a report articulating their conclusions on this subject. The actual costs of the state department include state department personnel and operating costs and any necessary transfers to the department of health care policy and financing for administrative costs incurred for the medicaid program associated with the program. The actual costs of the health sciences facility include the facility's own actual program costs and those of its contractors and subcontractors. Any costs for time studies required to obtain medicaid reimbursement for the program may be paid from program funds and are not subject to the five percent limit in this section. Notwithstanding section 24-36-114, ~~C.R.S.,~~ all interest derived from the deposit and investment of ~~moneys~~ MONEY in the fund shall be credited to the fund. All unexpended and unencumbered ~~moneys~~ MONEY in the fund at the end of any fiscal year remain in the fund and shall not be transferred to the general fund or any other fund.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

DRAFT 3.2.18

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LLS NO. 18-1068.01 Jerry Barry x4341 **COMMITTEE BILL**

Joint Budget Committee

BILL TOPIC: "Evidence-based Review Of State Programs"

A BILL FOR AN ACT

CONCERNING EVIDENCE-BASED REVIEW OF STATE PROGRAMS BY A LABORATORY AT AN INSTITUTION OF HIGHER EDUCATION, AND, IN 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. The bill authorizes the legislative council to enter into a contract with a qualified laboratory at an institution of higher education (laboratory) in the state to perform evidence-based performance analyses and evaluations (evaluations) on state programs. The laboratory shall first establish definitions to be used in its

evaluations.

The bill:

- Authorizes a member of the general assembly to request that an evaluation of a state program be conducted by the laboratory;
- Directs the laboratory to provide an estimate of the costs of each requested evaluation;
- Authorizes the legislative council to prioritize and approve requests for evaluations subject to available appropriations;
- Subject to available appropriations, authorizes the executive committee of the legislative council to approve requests for evaluations while the general assembly is not in session;
- Directs that time frames for requests are to be established in the joint rules of the senate and the house of representatives; and
- Makes an appropriation.

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

SECTION 1. In Colorado Revised Statutes, **add** part 20 to article 2 of title 2 as follows:

PART 20

EVIDENCE-BASED PERFORMANCE

ANALYSIS OR EVALUATION

2-2-2001. Performance analysis and evaluation - contract - definitions. (1) ON OR BEFORE SEPTEMBER 1, 2018, THE LEGISLATIVE COUNCIL SHALL ENTER INTO A CONTRACT WITH A QUALIFIED LABORATORY IN AN INSTITUTION OF HIGHER EDUCATION WITHIN THE STATE, REFERRED TO IN THIS PART 20 AS THE "LABORATORY", TO PERFORM EVIDENCE-BASED PERFORMANCE ANALYSES AND EVALUATIONS OF STATE PROGRAMS USING DEFINITIONS ESTABLISHED IN ACCORDANCE WITH SUBSECTION (2) OF THIS SECTION.

(2) (a) ON OR BEFORE JANUARY 1, 2019, THE LABORATORY SHALL NOTIFY THE LEGISLATIVE COUNCIL AND THE JOINT BUDGET COMMITTEE OF

THE DEFINITIONS TO BE USED WHEN PERFORMING AN ANALYSIS OR EVALUATION. THE DEFINITIONS MUST INCLUDE DEFINITIONS FOR:

(I) EVIDENCE-BASED;

(II) RANDOMIZED CONTROL;

(III) QUASI-EXPERIMENTAL; AND

(IV) PROMISING PRACTICE.

(b) NO LATER THAN JANUARY 31, 2019, THE LABORATORY SHALL APPEAR BEFORE THE JOINT BUDGET COMMITTEE TO DESCRIBE THE PROCESSES THAT IT WILL USE TO CONDUCT ANALYSES AND EVALUATIONS AND DISCUSS ITS DEFINITIONS.

2-2-2002. Requests for performance analysis or evaluation. (1) STARTING WITH THE 2019 REGULAR SESSION OF THE GENERAL ASSEMBLY, NO LATER THAN A DAY CERTAIN OF A REGULAR LEGISLATIVE SESSION AS ESTABLISHED IN THE JOINT RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES, A LEGISLATIVE MEMBER MAY SUBMIT A REQUEST IN WRITING TO THE LEGISLATIVE COUNCIL CREATED IN SECTION 2-3-301 (1) REGARDING THE STATE PROGRAM FOR WHICH HE OR SHE WISHES TO HAVE THE LABORATORY PERFORM AN EVIDENCE-BASED PERFORMANCE ANALYSIS OR EVALUATION DURING THE NEXT INTERIM BETWEEN SESSIONS. AT MINIMUM, THE REQUEST MUST SPECIFY:

(a) THE STATE PROGRAM TO BE ANALYZED OR EVALUATED;

(b) WHETHER THE PROGRAM IS SUBJECT TO A REVIEW BY THE DEPARTMENT OF REGULATORY AGENCIES PURSUANT TO SECTION 2-3-1203 OR 24-34-104 AND, IF SO, WHEN THE LAST REVIEW WAS CONDUCTED AND WHEN THE NEXT REVIEW IS SCHEDULED;

(c) THE PURPOSE OF THE ANALYSIS AND WHY IT IS APPROPRIATE TO CONDUCT THE ANALYSIS OR EVALUATION AT THIS TIME; AND

(d) WHEN THE ANALYSIS SHOULD BE COMPLETED AND WHICH COMMITTEES OF REFERENCE SHOULD BE NOTIFIED OF THE RESULTS.

(2) THE LEGISLATIVE COUNCIL STAFF SHALL FORWARD COPIES OF THE REQUESTS TO THE LABORATORY FOR AN ESTIMATE OF THE COSTS OF THE ANALYSIS OR EVALUATION. THE LABORATORY SHALL PROVIDE ESTIMATES OF THE COSTS OF EACH REQUEST SUBMITTED PURSUANT TO SUBSECTION (1) OF THIS SECTION BY A DATE ESTABLISHED IN THE JOINT RULES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES.

(3) NO LATER THAN A DAY CERTAIN OF A REGULAR LEGISLATIVE SESSION AS ESTABLISHED IN THE JOINT RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES, THE DIRECTOR OF RESEARCH OF THE LEGISLATIVE COUNCIL SHALL DETERMINE THE AMOUNT OF MONEY AVAILABLE WITHIN THE LEGISLATIVE BUDGET FOR ANALYSES AND EVALUATIONS BY THE LABORATORY AND SHALL PROVIDE THAT INFORMATION TO THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL.

(4) (a) NO LATER THAN A DAY CERTAIN OF A REGULAR LEGISLATIVE SESSION AS ESTABLISHED IN THE JOINT RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES, THE LEGISLATIVE COUNCIL SHALL MEET TO REVIEW AND PRIORITIZE REQUESTS MADE BY LEGISLATIVE MEMBERS PURSUANT TO SUBSECTION (1) OF THIS SECTION. SUCH REVIEW AND PRIORITIZATION MUST TAKE INTO ACCOUNT THE INFORMATION PROVIDED BY THE DIRECTOR OF RESEARCH OF THE LEGISLATIVE COUNCIL AS SPECIFIED IN SUBSECTION (2) OF THIS SECTION. THE LEGISLATIVE COUNCIL SHALL ALSO DETERMINE IF ANY OF THE PRIORITIZED REQUESTS WARRANT CONTRACTING WITH THE LABORATORY, AND, IF SO, THE LEGISLATIVE COUNCIL STAFF SHALL ENTER INTO A CONTRACT WITH THE LABORATORY FOR THE ANALYSIS OR EVALUATION.

(b) AFTER THE GENERAL ASSEMBLY HAS ADJOURNED, IF A REQUEST FOR AN EVIDENCE-BASED PERFORMANCE ANALYSIS OR EVALUATION IS BROUGHT TO THE ATTENTION OF THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL AND THE EXECUTIVE COMMITTEE DETERMINES THAT THE REQUEST IS THE RESULT OF CHANGED CIRCUMSTANCES OR NEW CIRCUMSTANCES AND IS APPROPRIATE MATERIAL FOR AN ANALYSIS OR EVALUATION TO BEGIN PRIOR TO THE NEXT INTERIM BETWEEN LEGISLATIVE SESSIONS AND IF THERE IS SUFFICIENT MONEY AVAILABLE FOR THE ANALYSIS OR EVALUATION, THEN THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL MAY AUTHORIZE A CONTRACT WITH THE LABORATORY FOR THE ANALYSIS OR EVALUATION BY ADOPTING A RESOLUTION.

SECTION 2. In Colorado Revised Statutes, **repeal** 24-33.5-514.

SECTION 3. In Colorado Revised Statutes, 39-28.8-501, **amend** (2)(b)(IV)(M) and (2)(b)(IV)(N); and **add** (2)(b)(IV)(O) as follows:

39-28.8-501. Marijuana tax cash fund - creation - distribution - legislative declaration. (2) (b) (IV) Subject to the limitation in subsection (5) of this section, the general assembly may annually appropriate any money in the fund for any fiscal year following the fiscal year in which it was received by the state for the following purposes:

(M) For the expenses of the department of education and the department of public health and environment in developing and maintaining the resource bank for educational materials on marijuana and providing technical assistance as required in section 22-2-127.7; ~~and~~

(N) For housing, rental assistance, and supportive services, including reentry services, pursuant to section 24-32-721; AND

(O) FOR EVIDENCE-BASED ANALYSIS AND EVALUATION OF STATE

PROGRAMS PURSUANT TO SECTION 2-2-2002.

SECTION 4. In Colorado Revised Statutes, 2-3-1203, **repeal** (14)(a)(II) as follows:

2-3-1203. Sunset review of advisory committees - legislative declaration - definition - repeal. (14) (a) The following statutory authorizations for the designated advisory committees are scheduled for repeal on September 1, 2023:

(II) ~~The EPIC advisory board created in section 24-33.5-514 (2), C.R.S.;~~

SECTION 5. Appropriation - adjustments to 2018 long bill. (1) To implement this act, the general fund appropriation made in the annual general appropriation act for the 2018-19 state fiscal year to the department of public safety for use by the division of criminal justice for the capacity resource center is decreased by $888,694, and the related FTE is decreased by 9.0 FTE.

(2) For the 2018-19 state fiscal year, $888,694 is appropriated to the legislative department for use by the legislative council. This appropriation is from the general fund. To implement this act, the department may use this appropriation for contracts with an institution of higher education to conduct research into evidence-based performance analysis and evaluation of state programs.

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

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Joint Budget Committee Members
FROM	Craig Harper, JBC Staff (303-866-3481)
DATE	March 5, 2018
SUBJECT	Legislation Regarding Early College High Schools

During the FY 2018-19 JBC Staff Briefing for the Department of Education, the Committee discussed budgetary and policy concerns associated with school districts' increasing use of early college high schools to provide postsecondary credit to high school students, including programs specifically designed to serve 5^{th} and 6^{th} year high school students (see attached issue brief). The Committee asked staff to work with the Office of Legislative Legal Services (OLLS) and external stakeholders to develop potential legislation to put additional "sideboards" on early college high schools. Based on those efforts, staff recommends that the Committee sponsor legislation (see draft language below) adjusting the statutory definition of early college to:

- Clarify that high school and postsecondary courses are to be taken concurrently during the four years of high school (rather than in years five and six).
- Clarify that early colleges' curriculum must be designed to be completed within four years (rather than in five or six).
- Require the State Board of Education (which designates early college high schools) to review all of the previously-approved programs to ensure that they meet the above requirements. Any school not meeting the requirements by July 1, 2018 would lose its early college designation.

DRAFT LANGUAGE:

Early College definition: Section 22-35-103 (10), C.R.S.

(10) (a) "Early college" means a secondary school that provides only a curriculum that ~~is designed in a manner that ensures~~ REQUIRES EACH STUDENT TO ENROLL IN AND COMPLETE SECONDARY AND POSTSECONDARY COURSES WHILE ENROLLED IN THE FOUR YEARS OF HIGH SCHOOL SUCH THAT, UPON SUCCESSFUL COMPLETION OF THE CURRICULUM, THE ~~a~~ student ~~who successfully completes the curriculum~~ will have completed ~~either~~ THE REQUIREMENTS OF A HIGH SCHOOL DIPLOMA AND an associate's degree OR OTHER POSTSECONDARY CREDENTIAL or AT LEAST sixty credits toward the completion of a postsecondary credential. THE CURRICULUM MUST BE DESIGNED TO BE COMPLETED WITHIN FOUR YEARS. "Early college" includes only the following:

~~(a)~~ (I) Dolores Huerta preparatory high school in Pueblo;
~~(b)~~ (II) Southwest early college charter high school in Denver;
~~(c)~~ (III) Front range early college in Denver;
~~(d)~~ (IV) Colorado Springs early colleges in Colorado Springs;
~~(e)~~ (V) Early college high school in Arvada;
~~(f)~~ (VI) A secondary school that satisfies the provisions of this subsection (10) and identifies itself as an "early college" on May 21, 2009; and
~~(g)~~ (VII) A secondary school that is designated, after May 21, 2009, as an early college by the state board of education.

(b) AS SOON AS PRACTICABLE AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (10)(b), THE STATE BOARD SHALL REVIEW THE SECONDARY SCHOOLS DESCRIBED IN SUBSECTION (10)(a)(VI) AND THE

SECONDARY SCHOOLS DESIGNATED AS PROVIDED IN SUBSECTION (10)(a)(VII) AND SHALL CONFIRM WHETHER EACH SECONDARY SCHOOL MEETS THE CURRICULUM REQUIREMENTS SPECIFIED IN SUBSECTION (10)(a) OF THIS SECTION, AS AMENDED ON THE EFFECTIVE DATE OF THIS SUBSECTION (10)(b). EFFECTIVE JULY 1, 2018, A SECONDARY SCHOOL THAT THE STATE BOARD DETERMINES DOES NOT MEET THE CURRICULUM REQUIREMENTS SPECIFIED IN SUBSECTION (10)(a) OF THIS SECTION IS NO LONGER DESIGNATED AS AN EARLY COLLEGE. IN REVIEWING A SCHOOL'S DESIGNATION, THE STATE BOARD SHALL NOT REQUIRE THE SCHOOL TO SUBMIT DOCUMENTATION BEYOND THE MINIMUM NECESSARY TO CONFIRM THAT THE SCHOOL'S CURRICULUM MEETS THE REQUIREMENTS SPECIFIED IN SUBSECTION (10)(a) OF THIS SECTION.

FY 2018-19 JBC STAFF BRIEFING ISSUE:

ISSUE: EARLY COLLEGE ENROLLMENT AND BUDGET IMPACT

Early college high schools provide curricula that ensure that students who successfully complete the curricula will have earned a high school diploma and completed either an associate's degree or sixty credits toward the completion of a postsecondary credential. The number of early colleges and enrollment in the programs has increased significantly. While many early college students graduate in four years, students that remain beyond year four (for whom schools continue to receive school finance funding) increase costs to the State and raise budgetary and policy concerns about the efficient use of state resources and the substitution of state funds for other sources such as Pell Grants.

SUMMARY

- Early college high schools provide curricula that ensure that students who successfully complete the program earn a high school diploma and complete either an associate's degree or sixty credits toward the completion of a postsecondary credential.

- The number of early colleges has increased from five schools grandfathered under the original statutory authorization in 2009 to a total of 20 schools approved by the State Board through June 2017. Early college enrollment increased from 2,211 pupils in FY 2012-13 to 3,337 in FY 2016-17, with multiple additional schools expected to begin operations in FY 2018-19.

- Based on previous legislative discussions, staff's understanding was that early college students completed the necessary requirements in the typical four-year timeline for high school, and many do so. However, some students remain beyond the fourth year to finish the program, and some schools are implementing programs specifically to serve 5^{th} and 6^{th} year high school students.

- Increasing the number of students remaining beyond year four raises budgetary and policy concerns. First, keeping the students in high school inherently increases enrollment and the cost of school finance, with the State bearing all of the cost. Second, the system substitutes state funds for other resources (e.g., Pell grants) that would be available if the students had graduated from high school. Finally, the system raises questions about the equity of access to these opportunities.

- Based on advice from the Department of Law, the Department and the State Board have little legal authority over early college enrollment and operations beyond the designation of early college programs and school finance processes regarding per pupil revenue for concurrent enrollment.

RECOMMENDATION

Staff recommends that the Committee discuss the potential budgetary and policy concerns associated with early colleges with the Department at the upcoming hearing. Staff recommends that the Committee and the General Assembly consider legislative sideboards for the early college program to maximize the use of non-state revenues (such as Pell grants and local funds) where possible. For example, the General Assembly could require early colleges to officially graduate their students in four years to make them eligible for Pell Grant funds for years 5 and beyond, reducing pressure on the State budget.

DISCUSSION

BACKGROUND – EARLY COLLEGES

Early college high schools provide curricula that ensure that students who successfully complete the curricula will have earned a high school diploma *and* completed either an associate's degree or sixty credits toward the completion of a postsecondary credential. The schools, which include district (non-charter), district charter, and State Charter Institute (CSI) schools, partner with one or more institutions of higher education to provide postsecondary coursework and credentials. Section 22-35-103 (10), C.R.S., enacted in H.B. 09-1319 (Concurrent Enrollment Programs Act), defines early college, grandfathers five schools that were already operating, and authorizes the State Board of Education to designate additional schools as early colleges.

EARLY COLLEGE FUNDING

Early colleges are funded through the K-12 school finance system and receive per pupil funding (at the school district's per pupil amount) for each student enrolled in the early college. The early college then uses a portion of each student's per pupil funding to pay tuition to partnering institutions of higher education at rates negotiated in cooperative agreements between either the school district or the charter school and the partner institution. Students are also eligible for college opportunity fund (COF) stipends, paid to the partnering institutions of higher education.

INCREASING NUMBER OF SCHOOLS AND INCREASING ENROLLMENT

The number of early colleges has increased since 2009, from five schools grandfathered in the original legislation to a total of 20 schools authorized by the State Board as of June 2017. The past two years have seen particularly large increases, with four schools approved in 2016 and seven approved in 2017 (see following table, which is in order of approval by the State Board). The schools include district (non-charter), district charter, and State Charter School Institute (CSI) schools.

EARLY COLLEGE HIGH SCHOOLS			
SCHOOL	LOCATION	DISTRICT	APPROVAL YEAR
Chavez-Huerta Preparatory Academy	Pueblo	Pueblo City	2009 (Grandfathered)
Colorado Springs Early College High School	Colo. Springs	CSI	2009 (Grandfathered)
Early College of Arvada	Arvada	CSI	2009 (Grandfathered)
Mapleton Early College High School	Mapleton	Mapleton	2009 (Grandfathered)

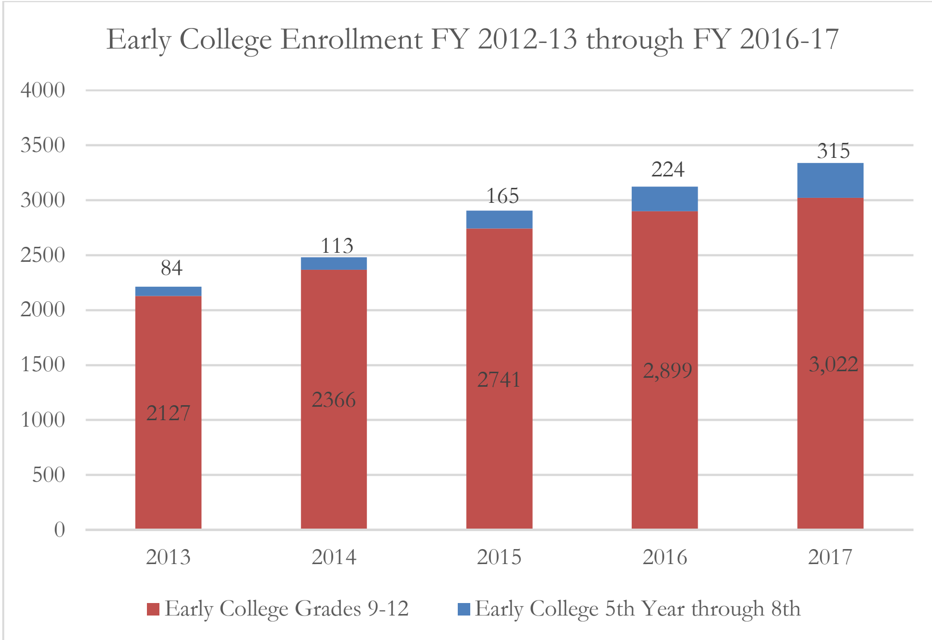
EARLY COLLEGE HIGH SCHOOLS			
SCHOOL	LOCATION	DISTRICT	APPROVAL YEAR
Southwest Early College High School	Denver	Denver	2009 (Grandfathered)
Colorado Early Colleges Fort Collins	Fort Collins	CSI	2012
Early College High School	Colo. Springs	Colo. Springs 11	2013
Colorado Early College - Parker/Douglas	Parker	CSI	2015
Fred N. Thomas Career Education Center Middle College	Denver	Denver	2015
Battle Mountain Early College High School	Eagle	Eagle	2016
Eagle Valley Early College High School	Eagle	Eagle	2016
Pikes Peak Early College	Colo. Springs	Falcon	2016
West Early College	Denver	Denver	2016
Denver School of Innovation and Sustainable Design	Denver	Denver	2017
Dr. Martin Luther King Jr. Early College	Denver	Denver	2017
High Tech Early College	Denver	Denver	2017
Colorado Early College – Aurora	Aurora	CSI	2017
Early College Academy	Greeley	Greeley	2017
Lake County High School Early College	Leadville	Lake County	2017
Manual High School	Denver	Denver	2017

As one would expect given the increasing number of schools, early college enrollment has also increased in recent years, from a total of 2,211 students in FY 2012-13 to 3,337 students in FY 2016-17 (with further increase anticipated for FY 2017-18). As additional schools begin operations, including five Denver schools approved in 2016 and 2017 that are scheduled to begin operations in fall of 2018, enrollment may increase rapidly.

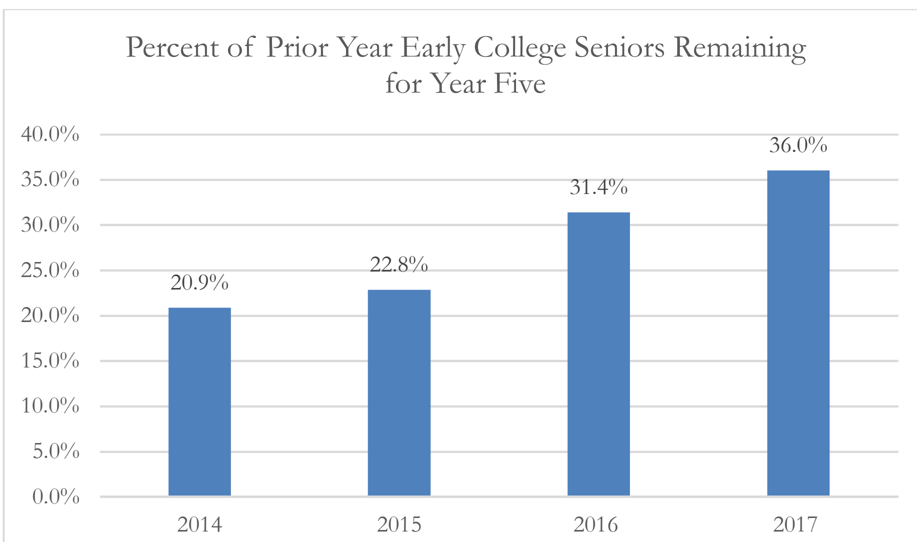
COST AND LENGTH OF EARLY COLLEGE PROGRAMS

If a student graduates within the typical four year timeline (after grade 12), then there is no additional school finance-related cost to the State associated with that student. However, students remaining in high school beyond grade 12 do increase cost to the State by continuing to require per pupil funding for the additional years. Such cost is entirely borne by the State because the local share of funding does not increase with the number of students. Thus, for example, each student remaining one of the Denver early colleges beyond grade 12 would require an additional $7,939 in state share payments (based on the current per pupil appropriation for Denver in FY 2017-18).

Previous discussions of the early college model have often focused on the rigor required to complete high school graduation requirements and an associate's degree (or sixty postsecondary credits) in the typical four-year timeline for high school. Not all students complete the curriculum in four years (for example, for the 2016-17 school year, 315 out of a total of 3,337 (9.4 percent) early college students were beyond 12th grade). The percentage of early college students beyond grade 12 has increased from 3.8 percent of early college enrollment in FY 2012-13 to 9.4 percent in FY 2016-17.



Similarly, the share of early college 12th graders remaining for a 5th year of high school has increased since 2013. Staff's estimates indicate that the percentage of early college seniors remaining for the fifth year increased from 20.9 percent of 2013 seniors remaining in 2014 to 36.0 percent of 2016 seniors remaining in 2017 (see graph below).



In fact, some early colleges are explicitly extending to include 5th and 6th year enrollment. For example:

- Denver Public Schools' early college website states that early colleges allow students to remain enrolled until age 21 and that early college students in Denver "have the option of completing a fifth year of college-only classes."[1]

[1] See: https://collegeandcareer.dpsk12.org/early-college/

- Eagle County Schools specifically describe the early college programs as offering *two free years* of college (grades 13 and 14).[2] The Eagle County programs require students to transfer to the early college by May of their *senior* year of high school, meaning that the curriculum does not necessarily exist below grade 13. Staff also notes that the Eagle County website indicates that the district pays up to $5,000 per student in college expenses per year. With $7,960 per student in per pupil revenue in FY 2017-18, the district would be retaining $2,960 per student for students that are not actually attending Eagle County schools. The amount retained would be higher if the college expenses are less than $5,000 (which is likely depending on the partnering institution).

CONCERNS AND POINTS TO CONSIDER

The increasing prevalence of early college programs, especially programs operating on an extended high school model (beyond grade 12) raises several concerns for the Committee and the General Assembly's consideration.

- *K-12 Budget Impact:* As discussed above, every student that remains in an early college program requires per pupil funding from the State. <u>Because the local share of funding does not increase with enrollment, the State is effectively responsible for the entire cost of the additional (beyond grade 12) students.</u> That state funding is then not available to support other K-12 students and/or reduce the budget stabilization factor. While not a particularly significant impact given current early college enrollment (333 students beyond grade 12 in FY 2016-17), significant growth in early college enrollment would increase the impact on the state budget. In addition, unlike students in the Accelerating Students through Concurrent Enrollment (ASCENT) Program, which are funded at a flat rate statewide, early college students are funded at each district's per pupil amount, making early college students more expensive per pupil than ASCENT students.
- *Efficiency and Other Revenue Sources:* Retaining students in high school in the early college model precludes the use of other resources (e.g., Pell Grants) to defray the cost of providing postsecondary education. Given that Pell Grants generally require students to have *graduated* from high school, retaining the students as high school students requires the State to substitute state funding for Pell Grant funds that would otherwise be available (approximately $3,000 per student for eligible students).
- *District/Early College "Profit" Incentive:* As discussed above, the school districts and early colleges pass through a portion of the per pupil revenue provided by the State to cover college expenses at partner institution(s). However, the ability to retain a portion (in some cases a significant portion) of the revenue associated with each student, including for students that are no longer attending the district's schools, may create a financial incentive to continue to count students beyond grade 12 with the cost falling on the State.
- *Control of Fifth (and Subsequent) Year Enrollment:* Related to the first concern, the Long Bill explicitly caps the number of students able to participate in the ASCENT program each year, presumably in an effort to control the cost of the program and the impact on overall education funding. Outside of requiring State Board of Education approval for early colleges (with no requirement to consider the financial impact), there is no similar constraint on early college enrollment. Thus, the General Assembly caps the number of *less expensive* students participating in the ASCENT program but not the number of *more expensive* early college students. At the rate the early college program is growing, staff anticipates that early college 5th year (and potentially 6th year) enrollment will soon surpass ASCENT enrollment.

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[2] See: http://www.eagleschools.net/article/free-college-%E2%80%94-no-longer-pipe-dream

- *Legislative Intent:* Staff cannot definitively speak to legislative intent regarding early colleges retaining students beyond grade 12. However, staff's understanding is that ASCENT was meant to be *the* program for fifth-year seniors for concurrent enrollment purposes. Staff is not aware of any decision (to date) to offer free postsecondary education beyond grade 12 on a broad scale (outside of the ASCENT Program). The school districts and early colleges appear to be assuming that the decision has been made.
- *Equity of Access:* Staff is also concerned about a lack of equitable access to these programs. With the exception of Lake County High School Early College in Leadville, all of the existing and approved early colleges are in major population centers, and nearly all are along the I-25 corridor from Fort Collins to Pueblo. If the State is going to offer and pay for free postsecondary education (through an associate's degree or 60 credits), then staff would argue that the opportunity should be available to high school students statewide and *not* restricted to students along the I-25 corridor or those that happen to have the opportunity to attend an early college.

Staff recommends that the Committee and the General Assembly consider additional "sideboards" to clarify the intent of the early college system and maximize the efficiency of use of state funds.

COLORADO
Department of Health Care Policy & Financing

HCPF Position on Proposed Provider Rate Changes

Durable Medical Equipment

The 21st Century Cures Act required all Medicaid agencies to reduce their payment rates for certain DME codes to what Medicare pays effective January 1, 2018 but did not provide the final affected code set until the end of February 2018.

Based on initial calculations, the Department assumes a $35.8M reduction to those rates for a full fiscal year, and $17.9 million reduction for January – June 2018. Based on research from other states, Colorado is one of a handful of states that currently pays significantly higher on these codes than Medicare. However, the Department believes that when possible, providers should have advanced warning of a pending rate change so providers have sufficient time to determine whether they will continue offering services at the new rates and have time to transition clients to new providers if they are not.

Since the federal legislation makes the rate changes retroactive, the Department would support legislation that would give the Department authority to give those providers a temporary "glide path" using state only funds until July 2018 when rates would go down to the federally approved level.

The Department would support utilizing the General Fund share of the reduction, an estimated $8.9M, for a one-time state only supplemental payment to help offset the loss to providers for claims incurred between January 1, 2018 and June 30, 2018. The executive branch does not support continuing a state only option beyond FY 2018-19 or backfilling the federal funds loss for FY 2017-18 with General Fund.

Oncology Rates

Last year the Joint Budget Committee approved the Department's budget request R7 which changed the payment methodology for Office Administered Drugs (OAD) to Average Sales Price plus 2.5%. The goal of the request was to pay more accurately for OADs after the Department determined it was underpaying for some OADs while overpaying for others, and establish a methodology to allow for rates to fluctuate with market prices.

The budget request assumed an effective date of January 1, 2018 but after consulting with the Centers for Medicare and Medicaid Services (CMS), the Department was required to make the change retroactive to July 1, 2017 in order to be compliant with the Covered Outpatient Drug Final Rule (effective April 2017). The Department noticed the change through the State Plan Amendment process and in our July 2017 provider bulletin. The change in timing for implementation benefited providers like Mental Health Centers who were underpaid for long-acting antipsychotics but will negatively impact providers that were potentially overpaid for various OADs. The providers most negatively impacted by the change are those that provided certain oncology drugs.

The new rates for OADs are currently loaded in the system and paying but the Department has not yet begun recouping payment from providers for OADs administered between July 1, 2017 to December 31, 2017.

The Department and the Office of State Planning and Budgeting met with stakeholders from the oncology community and has agreed to support a bill that would allow for a one-time state only payment to help offset the impending claw back. The Department would suggest modeling the state only payment by bringing four procedure codes (J9206, J9171, J9201, J9045) whole between July 1, 2017 and January 1, 2018. The estimated state only cost for this would be $754K to soften the impact of the claw back for providers.

For questions please contact HCPF's Legislative Liaison, Zach Lynkiewicz, at 303-866-2031