

MEMORANDUM



JOINT
BUDGET
COMMITTEE

To JBC Members
From JBC Staff
Date March 21, 2025
Subject Figure Setting Comeback Packet 7

Included in this packet is staff comeback memos for the following items:

Department of Corrections, page 2, (Justin Brakke): Revised Recommendation for Community Corrections Appropriations

Department of Education, (Amanda Bickel):

- (page 10) Updates Related to Public School Capital Construction Assistance, Charter School Facilities Assistance, and Funds Available from Capping Revenue to Public School Capital Construction Assistance; also includes bill draft
- (page 32) Staff Initiated Repeal Ascent Program

Legislative Department, page 38, (Amanda Bickel): ARPA Bill, Transfer to General Fund – Unused Legislative Appropriation

Department of Local Affairs & Department of Public Safety, page 39, (Amanda Bickel and Alfredo Kemm): Updated Local Government Severance Tax Data, Finalize Digital Trunked Radio Decision

Department of Natural Resources, page 55, (Kelly Shen): Footnote update in Department of Natural Resources



Joint Budget Committee Staff

Memorandum

To: Joint Budget Committee
From: Justin Brakke, JBC Staff (303-866-4958)
Date: Friday, March 21, 2025
Subject: [Revised recommendation for community corrections appropriations](#)

JBC action

Key Takeaway: The JBC approved JBC staff's recommendation to reduce mostly guaranteed revenue for providers by \$2.5 million General Fund and increase unguaranteed revenue for providers by \$2.5 million General Fund. The guaranteed revenue does not depend service provision. The unguaranteed revenue depends on the number of offenders served. The JBC also adjusted the Long Bill footnote that governs how the community corrections system is funded. Specifically, that DCJ adjust reimbursement rates on an as-needed basis.

Components of action: Approve JBC staff recommendation

- **Reallocate \$2.5 million General Fund from the *Community Corrections Facility Payments* line item to the *Community Corrections Placements*.** Assumes the elimination of 16 facility payments for providers with a physical capacity greater than 105 beds. Assumes the retention of 11 facility payments for smaller providers. Assumes that most larger providers can offset the lack of a facility payment by increasing their average daily population (ADP) by about 6 qualified offenders ($\$161,000 \text{ FY } 2024\text{-}25 \text{ facility payment} \div \$70.39 \text{ standard residential per-diem} \div 365 \text{ days} = 6 \text{ average daily population of offenders}$). A \$2.5 million General Fund appropriation in the *Placements* line item supports an ADP of about 96 standard residential placements.
- **Adjust *Community Corrections Placements* Long Bill footnote to provide the DCJ with the flexibility to adjust per-diem rates.** The Long Bill footnote governs the DCJ's allocation of the appropriation for *Placements*, which has consistently reverted millions of dollars over the past few fiscal years. The DCJ defers to the per-diem rate set in the Long Bill footnote, but this deference is not a legal requirement. The DCJ could adjust per-diem rates on a limited basis in lieu of a facility payment, hence the change to the Long Bill footnote.

Reason for comeback

Provide the JBC with alternatives to the approved JBC staff recommendation. Address provider concerns, which include a lack of trust in the Department's administration of appropriations for community corrections.

Revised Recommendation

Budget and other non-statutory changes

- Reallocate \$1.25 million from *Facility Payments* line item to *Placements* line item in FY 2025-26. Reallocate the originally approved amount of \$2.5 million in FY 2026-27, annualized through the budget process.
- Amend previously approved request for information to include the following:
 - On August 1, report the allocation of the appropriation for *Community Corrections Placements*. This report should include:
 - A summary of all contracted and subcontracted amounts for FY 2025-26. This summary should include:
 - The dollar amount allocated, the number of beds, and the per-diem rate for FY 2025-26.
 - The dollar amount allocated, the number of beds, and the per-diem rate for FY 2024-25, along with actuals for each figure. For example, 200 beds were allocated and 175 beds were filled; \$2.0 million was allocated and \$1.75 million was spent.
 - The dollar amount allocated, the number of beds, and the per-diem rate for FY 2023-25, along with actuals for each figure.
 - All FY 2025-26 contracts uploaded to a Google Drive.
 - Provide quarterly reports of spending by contracted and subcontract.

Statutory changes

- **Eliminate DCJ's statutory authority to transfer 10% of appropriations between line items for community corrections [Section 17-28-108 (5) C.R.S].** This is a legacy item from 1993 when the Long Bill structure for community corrections was very different, as was the system itself. Staff has concerns about the potential use of this statutory transfer authority and the degree to which department's use such transfer authority to not keep the General Assembly informed about spending trends and needs. Staff recommends that the Department and JBC discuss potential Long Bill footnotes to provide transfer authority during the next budget cycle.
- **Authorize up to \$2.0 million in over-expenditures for felony placements in community corrections for the next three fiscal years.** This is a little over 2.0% of the appropriation for *Community Corrections Placements*. The amount is somewhat arbitrary; the JBC should pick a number that it is comfortable with if it is amenable to the concept. The purpose is to reassure providers that the Division has the authority to reimburse them if they serve more

offenders than expected/allocated. Staff thinks this is a better option than appropriating General Fund with the hope that utilization increases, particularly among DOC transition placements. Staff recommends the three-year window so the impact of the change can be considered before extending it or making it permanent.

Additional information (optional reading)

Cost of community corrections relative to prison

Community corrections is less expensive than prison a broad sense. But community corrections is now more expensive in annual budgeting terms. Savings from the use of community corrections will only manifest through prison closures or avoided prison openings.

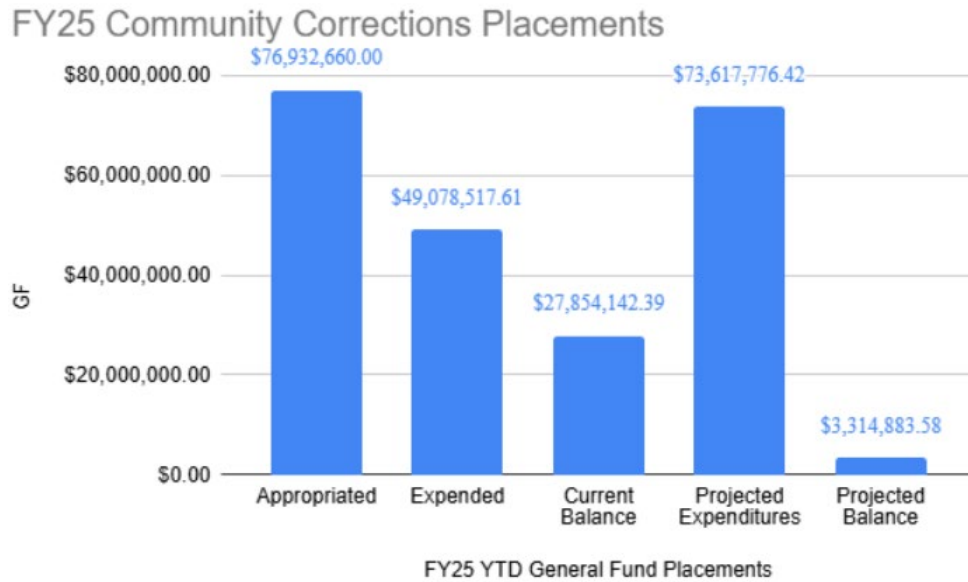
The overall daily cost of incarceration across all DOC state prison facilities is more than twice the daily cost of a standard residential community corrections bed. It is currently \$70.39 per day for standard residential community corrections. Staff estimates that it costs well over \$160 per day across all state-run DOC facilities.

But the budgetary reality is that changes in community corrections capacity cost more than changes in prison capacity through the annual budget process, with prison closures or openings being the exception.

- 192 prison beds at Delta, a Level 1 minimum security prison = \$1.7 million General Fund and 14.0 FTE
- 192 private prison beds at a per-diem of \$66.52 = \$4.7 million General Fund
- 192 standard residential community corrections beds at a per-diem of \$70.39 = \$4.9 million General Fund.

Projected \$3.3 million General Fund reversion in FY 2024-25

Data through the end of February 2025 suggest that the *Community Corrections Placements* line item will revert about \$3.3 million General Fund at the end of the current fiscal year (see chart on next page).



Source: Division of Criminal Justice Community Corrections Placements Budget Dashboard¹

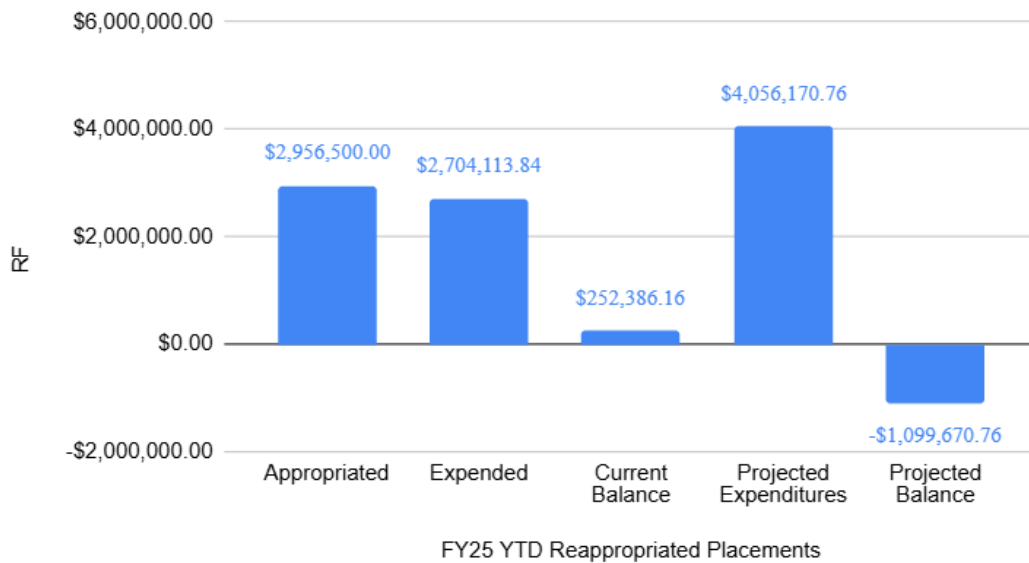
Projected \$1.0 million over-expenditure for Correctional Treatment Cash Fund placements

Data through the end of February 2025 suggest that the Department will overspend its appropriation for placements supported by the Correctional Treatment Cash Fund, which appear as reappropriated funds in the Long Bill (see chart on next page).

¹ See <https://sites.google.com/state.co.us/cc-placement-budget?usp=sharing>. The dashboard offers the following notes about the data:

- Simple projection calculations are utilized for this data and do not include any anticipated increases in capacity related to opening beds or Average Daily Population Trend Analysis. They assume spending will stay average.
- Per C.R.S. 17-27-108(5), the Department has the authority to move up to 10% of annual appropriations between community corrections line items. Given that there are several line items that could be utilized for this purpose, the projected balances were not directly compared with each other to get one single projection.
- Data includes all invoices submitted and processed by date last updated. Any lates invoices will not be reflected.

FY25 YTD Correctional Treatment Cash Fund Placements



Source: Division of Criminal Justice Community Corrections Placements Budget Dashboard

Recent funding changes and attempted changes

- **FY 2025-26 approved actions to date:** Net General Fund increase of about \$650,000 across all community corrections line items.
- **FY 2024-25:** Stakeholders requested and the JBC approved an 87% increase in reimbursement rates for certain specialized services. This cost about \$3.0 million General Fund within the existing appropriation.
- **FY 2022-23**
 - The General Assembly opts to cover 100% of offender subsistence or “rent” fees of \$17.00 per day by increasing the standard residential reimbursement rate by that amount. At the time, providers generally asserted that they were only able to collect about 80% of what offenders owed. So, based on this assertion, the General Assembly increased provider rates by about 20%.
 - The General Assembly approved appropriations for performance-based contracting, which at the time boosted the reimbursement rate by up to 2% for higher performing providers.
- **In 2021 and 2022,** stakeholders in the community corrections system explored ways to support misdemeanor placements with General Fund appropriations. Statute only allows the General Fund to support felony placements. As JBC staff understood it, and still understands it, there were a couple of key things driving this effort.

- HB 19-1263 reclassified some drug-related felonies as misdemeanors. The thinking, as JBC staff understood it, was that the same people who benefitted from community corrections services as felony offenders would still benefit from those services as misdemeanants.
- The other issue was financial stress. The community corrections population crashed during COVID. The DOC released a lot of inmates to parole and the courts drastically reduced their operations. **Allowing the General Fund to support misdemeanor placements would have increased provider revenue, but it also would have eaten into the system’s existing capacity to serve DOC inmates and other felony offenders.**

Facility payments

Summary

JBC staff thinks the General Assembly should move away from facility payments and focus on better funding methods for actual services. Previous JBC staff initiated the recommendation to add the *Facility Payments* the FY 2014-15 Long Bill. Current JBC staff thinks the facility payment was, and is, a band-aid that does not address the actual issues that drove the recommendation. Staff thinks that the JBC, General Assembly, the Division of Criminal Justice, and stakeholders in the community corrections system should devote their energy to addressing core issues related to per-diem rates, bed allocations, and the efficiency of placements.²

Furthermore, the facility payment is divorced from its original design, in part because the design was an overly-complicated attempt to micromanage staffing and compensation levels across a diverse array of dozens of providers. Now the facility payment is essentially guaranteed revenue that does not serve a larger purpose.

Details

This statement from a JBC staff briefing in December 2013 captures the impetus for the facility payment: “...It is probably impossible to operate a small community corrections facility that provides standard beds and relies exclusively on revenue provided by the Division of Criminal Justice and on subsistence fees from offenders.”

The proposed solution, or part of it, was to give every facility the same amount of money regardless of facility size, offender population, or location. The logic being that, for instance, a payment of \$100,000 is proportionally more valuable to smaller providers who cannot achieve economies of scale than larger providers who can achieve economies of scale.

There were conditions attached to it, but every provider regardless of size was eligible for the payment. A Long Bill footnote established ultra-specific conditions:

² This should not be read as a criticism of previous JBC staff. Current JBC staff does not know the context in which previous JBC staff was operating or what the JBC at the time was asking JBC staff to do.

“These payments may be withheld in whole or in part from facilities that (1) fail to maintain a ratio of at least one case manager for every 20 residents, (2) fail to raise average pay and benefits of security staff members by at least 10 percent, or (3) fail to raise the average pay and benefits of case managers by 10 percent. A facility is exempt from requirement (2) if the sum of average pay and benefits for security staff members exceeds \$33,000 annually. A facility is exempt from requirement (3) if the sum of average salary and benefits for case managers exceeds \$38,500 annually. For purposes of these computations, payroll taxes are not benefits. Community corrections programs are encouraged to exceed these goals.”

Current JBC staff thinks the JBC and General Assembly should not attempt to micromanage a diverse system of dozens of providers through Long Bill footnotes and complicated funding mechanisms. They are not sustainable or easily replicated, especially if there is turnover on the JBC, JBC staff, or within the Division of Criminal Justice. At this point, the facility payment is guaranteed revenue for providers. There is modest Long Bill footnote guidance about legislative intent with respect to performance enhancing measures.

Furthermore, the facility payment does not deal with core problems and potentially discourages actions required to address those core problems. For example, imagine that you are a provider with a 50-bed facility. You are getting \$100 per day for every day that an offender occupies that bed and receives your services. But you cannot stay financially viable at that per-diem rate for that amount of beds. The primary options for dealing with that are:

- Supply a viable number of beds
- Set a viable price for the service

Those two solutions may encounter different problems and potential solutions to those problems. In JBC staff’s view, it would be more helpful and productive for stakeholders to focus on those two main issues. The facility payment does not deal with these issues. In JBC staff’s view, it discourages the discussion and development of processes and policies pertaining to viable sizing and pricing for the service.

Tension between cost and quantity in *Placements*

Decision makers (JBC, Gov’s Office, DCJ, etc.) have historically worried about retaining capacity while keeping a lid on appropriations.

- **Cost:** A Long Bill footnote establishes a fixed per-offender per-day reimbursement rate. The universal per-diem rate for standard residential services is \$70.39. This rate applies all programs providing that service, regardless of the size, location, or quality of that program. A 50-bed program in southwest Colorado gets the same per-offender per-diem rate as a 300-bed program along the Front Range. The exception is incentive payments related to performance-based contracting.

- **Quantity:** The fixed per-diem rate produces a predictable amount of “funded capacity” in community corrections.

Why attempt to maintain a predictable amount of funded community corrections capacity?

Theoretically, more community corrections capacity means more people not in prison, which means more General Fund savings because community corrections is cheaper than prison.

This tradeoff is more complicated than it used to be. As noted on page 3, the budgetary reality is that changes in community corrections capacity cost more than changes in prison capacity through the annual budget process, with prison closures or openings being the exception.

JBC staff perceives that desire to retain community corrections capacity is still a major factor in how people think about community corrections. For example, it is possible that DCJ may be apprehensive about exercising its authority adjust per-diem rates. If the Division increases per-diem rate, and the appropriation stays constant, the State ends up paying for fewer community corrections beds, thereby reducing funded capacity, thereby increasing the prison population (in theory). For example:

- \$50 per diem for 1 bed for 365 days = an \$18,250 appropriation.
- \$100 per-diem within an \$18,250 appropriation for 365 days gets you 0.5 beds.

If the Division increases per-diem rates and the community corrections population increases unexpectedly, it could lead to a couple of things: (1) a request for a significant increase in General Fund appropriations, or (2) a mid-year per-diem rate reduction. In the first case, the Division risks criticism from the General Assembly. In the second case, the Division risks upsetting providers. JBC staff plans to explore the tension between cost and capacity in a future briefing issue.



Joint Budget Committee Staff

Memorandum

To: Members of the Joint Budget Committee
From: Amanda Bickel, JBC Staff (303-866-4960)
Date: March 21, 2025
Department: Department of Education
Subject: Staff Comeback – Updates Related to Public School Capital Construction Assistance, Charter School Facilities Assistance, and Funds Available from Capping Revenue to Public School Capital Construction Assistance; also includes bill draft

This memo includes the following items:

- Revised Estimate for Revenue/Cash Grants for Public School Capital Construction Assistance & Revised Estimate for Fiscal Impact of Capping Revenue to Public School Capital Construction Assistance Fund
- Revised Estimate for Charter School Facilities Assistance/Possible Interaction with Federal Grant
- Draft of LLS 941.0 (Limit on revenue to the PSCCAF)

Revised Estimate for Revenue/Cash Grants for Public School Capital Construction Assistance

- As explained during the staff figure setting presentation for the Department of Education, revenue estimates for the Public School Capital Construction Assistance Fund, which supports the Building Excellent Schools Today (BEST) program, are updated after the revenue forecast. The figures included below are based on the March OSPB forecast, as well as updated information from the State Land Board.
- During figure setting for the Department of Education, the Committee also voted to sponsor legislation to cap revenue to the Public School Capital Construction Assistance Fund at \$150.0 million. Therefore, staff has included recommendations both for new appropriations in the Long Bill and the appropriation adjustments that will be included in the new legislation.

Updated Forecast

The most recent estimate of revenue to the Public School Capital Construction Assistance Fund, based on the selected forecast (which affects the Marijuana Excise Tax Revenue component) is shown below, using the OSPB Forecast. As shown below:

- Staff recommends that the Long Bill provides an appropriation of **\$157,075,447** for B.E.S.T. cash grants (similar to figure in March 5, 2025 figure setting)
 - Staff recommends that the bill to be carried by the JBC to cap the Public School Capital Construction Assistance Fund reduces that figure to **\$111,427,360** (approximately \$4.4 million more than estimated in March 5, 2025 figure setting)
- Staff recommends that school finance calculations assume that **\$45.6 million** will be available from this bill at the end of FY 2024-25 and deposited to the State Public School Fund to offset other sources of funding for school finance in FY 2025-26 (General Fund and State Education Fund). **This is \$5.4 million less than estimated in staff’s March 5, 2025 figure setting packet.**

The appropriation for BEST cash grants will serve as an upper limit on the amount of cash grants in FY 2025-26, the amount that will actually be deposited to the State Public School Fund still represents a mid-year estimate that will be different in June 2025

Revised Projection BEST Cash Grants/ Diversion to State Public School Fund				
	Detail	Current Law (Long Bill) Subtotal	With Revenue Cap (JBC Bill)	Diverted to State Public School Fund (JBC Bill)
FY 2023-24 EOY Cash Balance	\$485,472,625	\$485,472,625	\$485,472,625	
FY 25 Revenue				
Lottery	\$2,500,000			
MJ Funds	\$42,500,000			
Interest	\$16,000,000			
4400 Transfer SB23-220	0			
State Land Board	\$104,648,087			
Perm Fund Interest	\$30,000,000			
MTCF Transfer	<u>\$0</u>			
Revenue total		\$195,648,087		
Revenue with Diversion to School Finance			\$150,000,000	\$45,648,087
FY25 Expenditures/Obligations				

Revised Projection BEST Cash Grants/ Diversion to State Public School Fund				
	Detail	Current Law (Long Bill) Subtotal	With Revenue Cap (JBC Bill)	Diverted to State Public School Fund (JBC Bill)
Admin	\$2,250,000			
Cash Grants	\$155,245,826			
State Debt Service	\$61,962,219			
District Debt Service				
MJ Excise to Charter Schools	\$7,457,234			
HB24-1448 Charter School funds	\$11,500,000			
Prior year obligations	<u>\$200,510,996</u>			
FY 25 Expend/Obligation total		\$438,926,275	\$438,926,275	
EOY Balance/Avail for FY26	\$242,194,437	\$242,194,437	\$196,546,350	
Available for FY26				
State Debt Service Reserve	\$61,961,490			
MJ Excise to Charter Schools	\$6,757,500			
HB24-1448 Charter School funds	\$12,000,000			
Administration	\$3,400,000			
Min Stat Reserve	<u>\$1,000,000</u>			
FY 26 Other Obligations total		\$85,118,990	\$85,118,990	
Cash Grants	\$157,075,447	\$157,075,447	\$111,427,360	

Original Recommendation

→ Staff-initiated Long Bill Adjustments for BEST Cash Grants

Request

The Department requested a continuation level of \$155,245,826 cash funds spending authority for the Public School Capital Construction Assistance Board - Cash Grants line item as part of the November 1, 2024 request.

Recommendation

The final recommendation for this line item will be further adjusted based on data that will be presented in March. However, based on current law and the most recent forecast data

available, staff is reflecting a relatively small adjustment, which would bring the cash grants in this line item to **\$158,000,000**, an increase of \$2.5 million. *Note that this is the current law estimate that is used for the Long Bill.*

The staff recommendation for the Long Bill begins with the amount that staff would expect to be available for the program based on *current law*, current revenue projections for FY 2024-25 from Marijuana Excise Tax and State Land Board receipts, and the methodology the Committee previously adopted for setting this line item.

This figure will be adjusted:

- **As necessary** to address any significant changes in Marijuana Excise Tax revenue projections consistent with the March forecast (or any updates to State Land Board revenue projections). Any related recommendations are *pending*.
- **As necessary** for updates to projected State Land Board revenue and other revenue sources.

In the most recent two years, the figures presented in March have differed significantly from earlier estimates. Furthermore, the final revenue received for the fiscal year has been significantly different from March estimates, leading to accumulation of reserves that can be appropriated in the next year. Staff thus emphasizes that the figure proposed is *preliminary*.

If the JBC introduces a bill that includes staff's R1 recommendation, described above, the bill will reduce the cash grants amount by approximately \$51.0 million, which would be diverted to State Public School Fund.

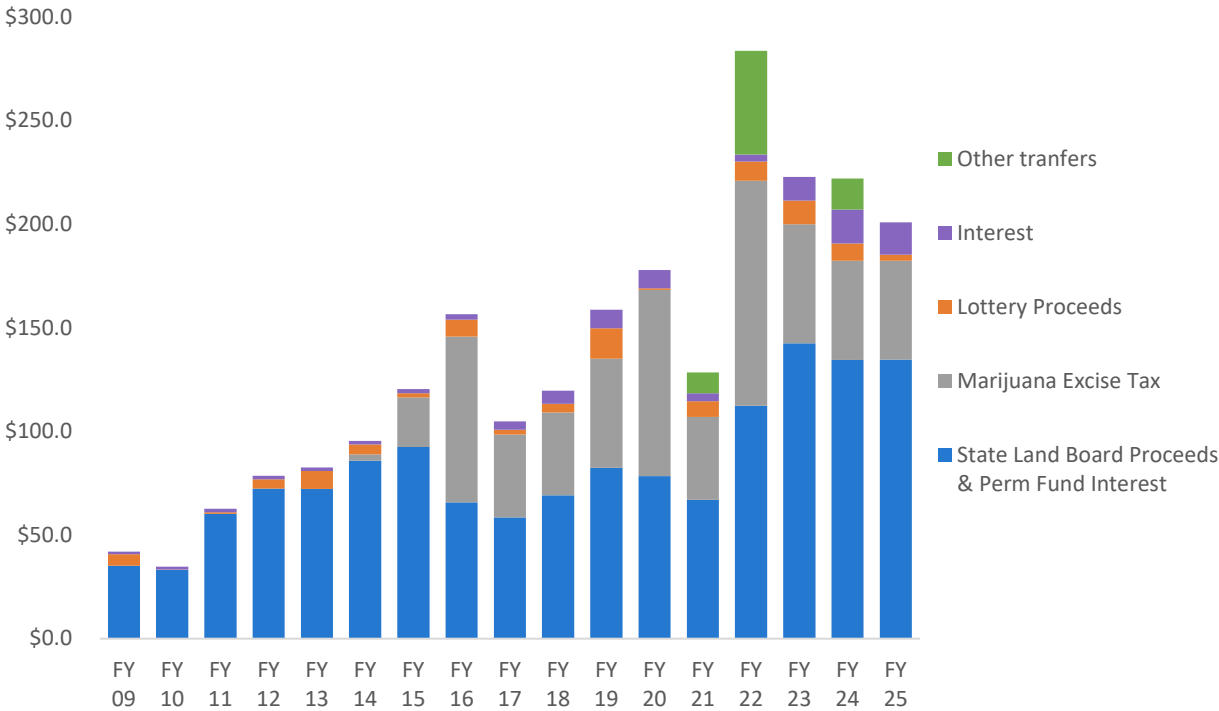
Analysis

Background-Source of Funds: The Public School Capital Construction Assistance Fund (PSCCAF), which supports the Building Excellent Schools Today (BEST) program, receives funding from multiple sources. The scale of funding from these sources varies substantially from year to year, since the Fund receives percentages of revenue from income streams that are themselves highly variable. Fund sources include:

- 50 percent of the gross amount of revenues from income and mineral royalties derived from state public school lands, with a guarantee of \$40.0 million per year (even if that is more than 50.0 percent of revenues);
- all recreational marijuana excise tax funds based on current law, with a guarantee of the first \$40.0 million raised from the recreational marijuana excise tax, pursuant to Section 16(5)(d) of Article VIII of the state constitution;
- interest earnings on the Permanent Fund – until FY 2023-24, up to \$20.0 million of interest “spillover” after allocations to the State Public School Fund, but this is modified in H.B. 24-1448 so that by FY 2026-27 it includes the first \$41.0 million of interest earnings on the Permanent Fund;
- lottery “spillover” proceeds that would otherwise be transferred to the General Fund;

- interest and investment income earned on the Public School Capital Construction Fund; and
- other one-time transfers and investments from the General Assembly. This has included transfers from the Marijuana Tax Cash Fund and the State Education Fund, among other sources.¹

**Public School Capital Construction Assistance Fund Revenue:
Reliance on State Land Board Proceeds and Marijuana Excise Tax**
(\$ Millions)



Background – Use of Funds: The FY 2024-25 appropriations from the Public School Capital Construction Assistance Fund and the related Charter School Facilities Assistance Account include the following components (excluding funds that originate from local sources).

FY 2024-25 PSSCAF AND PSSCAF CHARTER SCHOOL ACCOUNT APPROPRIATIONS	
Administration	\$1,714,569
Centrally appropriated	654,600
Lease Purchase Payments (COPs)	62,500,000
Cash Grants	155,245,826

¹ An additional source of revenue to the fund is matching dollars provided by school districts for payments on COPs; however, to provide a clearer picture, this additional revenue is not included in the figures shown.

FY 2024-25 PSCCAF AND PSCCAF CHARTER SCHOOL ACCOUNT APPROPRIATIONS	
Capital Construction Priority Assessment Tool	150,000
Charter School Facilities Assistance Account (diversion from the PSCCAF)	20,355,662
Total	\$240,620,657

- The cash grants amount has been most variable from year-to-year, based on available revenue. The cash grants amount is unusually high based on recent State Land Board receipts.
- The lease purchase payments amount is expected to increase to as much as \$75.0 million.
- The Charter School Facilities Assistance amount is expected to increase to \$25.3 million by FY 2028-29 before declining to \$9.7 million in FY 2029-30.

Recent changes in H.B. 24-1448 (New School Finance Formula): Changes included in H.B. 24-1448 increased funding for public school capital construction. These included:

- Made \$21.0 million *less* available for public school operating expenses by FY 2026-27 in order to support public school capital construction.
- Increased the cap on BEST annual COP payments from state funds from \$62.5 million to \$75.0 million, which will obligate the state to a floor of this amount plus funding for administration once such COPs are issued (unless the General Assembly chooses to scale this back).
- Diverted increasing amounts of revenue to charter school capital construction, adding \$16.0 million by FY 2028-29. Although the increase ends in FY 2028-29 and reverts to base funding amounts, staff anticipates that the General Assembly will be under pressure to maintain a higher level of charter school capital construction support.

Current Law Calculation - Methodology Adopted Starting FY 2022-23: Both COP payment and cash grants amounts are subject to annual appropriation by the General Assembly. The COP payment amount is capped by the total COP payments authorized by the General Assembly (\$150 million total funds, including a maximum of \$75.0 million from state funds).

Beginning with FY 2022-23, the Department proposed, staff recommended, and the JBC supported a new, consistent methodology for setting for the Public School Capital Construction Assistance -- Cash Grants line item. **The approach relies on estimated revenue in the year when figure setting occurs (FY 2024-25 for the FY 2025-26 budget).** The calculation presented in Department spreadsheets is as follows:

- Calculate the projected end of year uncommitted fund balance for the current fiscal year (FY 2024-25). By February 2025, some of the revenue for the year is already known. Current year (FY 2024-25) appropriations for cash grants and COP obligations are also known.
- Reduce by required statutory reserves (1 year COP payment reserve required by statute) and \$1.0 million Genreal Fund also required by statute.
- Reduce by projected administrative and transfer obligations to charter schools for the coming fiscal year (FY 2025-26)

- Remaining balance = Recommended Cash Grants appropriation.

Note that, in this calculation, the COP obligation for FY 2025-26 is assumed to be paid from FY 2025-26 revenue, rather than FY 2024-25 revenue. However: (1) the recommended calculation includes a full one-year of reserves for the COP amount; and (2) current law and Constitutional provisions make it unlikely that program revenue will fall below \$80.0 million, including \$40.0 million from marijuana excise taxes and \$40.0 million from the State Land Board. So long as the COP cap does not increase without a corresponding increase in reliable revenue, this approach does not seem particularly risky.

FY 2025-26 Current Law Calculation

FY 2025-26 CURRENT LAW BEST CASH GRANTS - PRELIMINARY	
FY 2023-24 EOY Cash Balance	\$484,110,562
FY 25 Revenue	
Lottery	\$3,000,000
MJ Funds	\$47,700,000
Interest	\$15,500,000
State Land Board	\$134,648,087
FY25 Expenditures/Obligations	
Admin	\$2,228,381
Cash Grants	\$155,245,826
State Debt Service	\$61,962,219
District Debt Service	
MJ Excise to Charter Schools	\$18,957,234
Prior year obligations	\$200,042,458
EOY Balance/Avail for FY26	\$246,522,531
Available for FY26	
State Debt Service Reserve	\$66,123,990
MJ Excise to Charter Schools	\$19,345,800
Administration	\$2,284,408
Min State Reserve	\$1,000,000
Cash Grants	\$157,768,333

Revised Estimate for Charter School Facilities Assistance/Possible Interaction with Federal Grant

- As explained during the staff figure setting presentation for the Department of Education, revenue estimates for the Public School Capital Construction Assistance Fund, which supports the Building Excellent Schools Today (BEST) program, are updated after the revenue forecast. The figures included below are based on the March OSPB forecast, as well as updated information from the State Land Board.

Revised Recommendation for Long Bill

The figures below are based on the statutory formulas for the Charter School Facilities Assistance line item. The diversion from the PSSCAF from Marijuana Excise taxes to a separate account for this program is based on the share of students in the October count who attend charter schools as a percentage of the total student population. Staff understands that the Controller’s Office treats this amount as informational only, since the diversion is statutory and the correct amount of the diversion is not known until the end of the fiscal year when all marijuana excise tax revenue has been accounted for.

Charter School Facilities Assistance (Using OSPB March 2025 Forecast)	
	FY 2025-26
State Education Fund	\$23,523,071
PSSCAF Diversion - MJ Excise - Informational	\$6,757,500
PSSCAF Diversion - HB24-1448	12,000,000
Total line item	\$42,280,571

Possible Implication for Federal Grant

As reviewed in staff’s figure setting write-up (included below), H.B. 24-1448 (New School Finance Formula) provided a large additional diversion from the Public School Capital Construction Assistance Fund to the Charter School Facilities Assistance Account (\$11.5 million in FY 2024-25 and \$12.0 million in FY 2025-26, increasing annually through FY 2028-29). Staff understands that much of the justification for this additional support was to obtain a federal grant to support charter school capital construction assistance.

Staff’s understanding is that the decline in Marijuana Excise Tax Revenue, and the related decline in the formula distribution for this program, may jeopardize the required match for the federal grant. However, due to the changes occurring at the federal Department of Education, the State has not been able to verify whether there are related implications or not.

The table below shows the state match amount *assumed* in the federal grant application and how that compares to the federal requirement. As shown, in some years the match to be

provided was anticipated to exceed the total required once boosted with the additional HB24-1448 funds.

However, **the amount of match for FY 2025-26 that was incorporated in the federal grant application was \$43,931,551, This exceeds the \$42,280,571 now anticipated to be available in FY 2025-26.** Since the state did not change its formula but is rather affected by the total Marijuana Excise Tax available, it is uncertain whether federal authorities will consider this to be a violation of the grant terms.

Amount of Grant	Project Year	School Year	Federal Fiscal Year	State Funding	Match Amount	Percentage of Government Share compared to State Share	Percentage of State Share compared to Government Share	Meet Match Requirement (1st year 10%; 2nd year 20%; 3rd year 40%; 4th year 60%; 5th year 80%)
\$0	Base Year	22-23	2022	\$38,609,676	--	--	--	--
\$11,372,375	1	24-25	2024	\$42,892,702	\$4,283,026	72.64%	27.36%	>10%? Yes
\$10,154,162	2	25-26	2025	\$43,931,551	\$5,321,875	65.61%	34.39%	>20%? Yes
\$7,713,535	3	26-27	2026	\$46,132,939	\$7,523,263	50.62%	49.38%	>40%? Yes
\$5,273,195	4	27-28	2027	\$48,059,467	\$9,449,791	35.82%	64.18%	>60%? Yes
\$2,833,148	5	28-29	2028	\$50,015,840	\$11,406,164	19.90%	80.10%	>80%? Yes

Original Recommendation

➔ Staff initiated Adjustments to State Aid for Charter School Facilities

Request

The Department requested \$44,791,130 cash funds for this line item in the November 1, 2024 request, including \$23,935,468 from the State Education Fund and \$20,855,662 from the Charter School Facilities Assistance Account (a diversion from the Public School Capital Construction Assistance Fund). The request includes an annualization (an increase of \$500,000 for provisions of H.B. 24-1448 (New public school finance formula)).

Recommendation

The preliminary staff recommendation for this line item is \$43,931,551 based on the statutory formulas established in H.B. 19-1055 and H.B.24-1448 and updated data from the Department. This figure includes \$24,287,687 from the State Education Fund, \$7,643,864 from marijuana

excise tax revenue, and \$12,000,000 from interest on the Permanent Fund. The latter two figures are amounts deposited in the Charter School Facilities Assistance Account of the Public School Capital Construction Assistance Fund..

Staff requests permission to adjust these amounts based on the March 2025 Revenue Forecast.

Analysis

In 2001 (S.B. 01-129) the General Assembly created a new program to distribute State Education Fund moneys to charter schools for capital construction. The program has been modified several times. H.B. 19-1055 modified the funding and annually adjusts the amount available from each of two fund sources based on statewide student enrollment in charter schools pursuant to Sections 22-54-124(3)(a)(IV)(C) and 22-43.7-104(2)(d), C.R.S.

- From the State Education Fund, statute requires funding be tied to the previous base of \$20.0 million per year and adjusts this figure annually for charter school enrollment. The calculation compares charter school enrollment as a percentage of statewide pupil enrollment in the preceding budget year to the percentage of students who were enrolled in charter schools in the 2017-18 school year.
- For marijuana excise tax revenues, statute requires that a portion of total marijuana excise tax revenues be deposited into the Charter School Facilities Assistance Account. The transfer is based on the percentage of statewide student enrollment that was enrolled in charter schools in the previous school year compared to the overall population of students.

House Bill 24-1448 provided additional increases for charter school facility assistance. It provided \$11,500,000 for this program in FY 2024-25 as an additional diversion from the Public School Capital Construction Assistance Fund. The diversion increases annually, reaching \$15,000,000 in FY 2028-29, before ending entirely in FY 2029-30. This additional revenue matches federal grant funds that have been awarded to Colorado.

The following table shows a history of per pupil funding amounts for this line item from FY 2006-07 through the FY 2026-26 preliminary recommendation and out-year forecast.

State Funding for Charter School Capital Construction Grant Program (with projections for fiscal years through 2028-29)						
Fiscal Year	State Education Fund	Excise Tax Funding	One-Time Funding	State Legislated Funding for SFIG	Total Funding	Growth from Base year
FY01-02	\$ 6,471,051.60				\$ 6,471,051.60	
FY02-03	\$ 7,813,943.00				\$ 7,813,943.00	
FY03-04	\$ 5,000,000.00				\$ 5,000,000.00	
FY04-05	\$ 5,000,000.00				\$ 5,000,000.00	
FY05-06	\$ 5,000,000.00				\$ 5,000,000.00	
FY06-07	\$ 7,800,000.00				\$ 7,800,000.00	
FY07-08	\$ 5,000,000.00				\$ 5,000,000.00	
FY08-09	\$ 5,000,000.00				\$ 5,000,000.00	
FY09-10	\$ 5,000,000.00				\$ 5,000,000.00	
FY10-11	\$ 5,000,000.00				\$ 5,000,000.00	
FY11-12	\$ 5,000,000.00				\$ 5,000,000.00	
FY12-13	\$ 6,000,000.00				\$ 6,000,000.00	
FY13-14	\$ 7,000,000.00				\$ 7,000,000.00	
FY14-15	\$ 13,500,000.00				\$ 13,500,000.00	
FY15-16	\$ 20,000,000.00	\$ 2,000,000.00			\$ 22,000,000.00	
FY16-17	\$ 20,000,000.00	\$ 5,000,000.00			\$ 25,000,000.00	
FY17-18	\$ 20,000,000.00	\$ 5,000,000.00			\$ 25,000,000.00	
FY18-19	\$ 20,000,000.00	\$ 9,250,000.00			\$ 29,250,000.00	
FY19-20	\$ 20,656,559.00	\$ 7,951,358.00			\$ 28,607,917.00	
FY20-21	\$ 22,430,131.00	\$ 9,390,631.00			\$ 31,820,762.00	
FY21-22	\$ 22,829,962.00	\$ 8,696,085.00			\$ 31,526,047.00	
FY22-23	\$ 23,939,892.74	\$ 14,669,782.59			\$ 38,609,675.33	SFIG Base Year
FY23-24	\$ 24,379,016.00	\$ 8,855,662.60	\$ 10,000,000.00		\$ 43,234,678.60	
Total	\$ 282,820,555.34	\$ 70,813,519.19	\$ 10,000,000.00		\$ 363,634,074.53	
FY24-25	\$ 23,935,468.00	\$ 7,457,233.96		\$ 11,500,000.00	\$ 42,892,701.96	\$ 4,283,026.63
FY25-26	\$ 24,287,686.51	\$ 7,643,864.37		\$ 12,000,000.00	\$ 43,931,550.88	\$ 5,321,875.55
FY26-27	\$ 24,641,675.07	\$ 8,491,264.33		\$ 13,000,000.00	\$ 46,132,939.40	\$ 7,523,264.07
FY27-28	\$ 24,995,663.64	\$ 9,063,803.42		\$ 14,000,000.00	\$ 48,059,467.06	\$ 9,449,791.73
FY28-29	\$ 25,349,652.21	\$ 9,666,187.54		\$ 15,000,000.00	\$ 50,015,839.75	\$ 11,406,164.42

The table below shows the funding from the federal grant received for charter school capital construction.

Federal Grant for Charter Construction	Project Year 1	Project Year 2	Project Year 3	Project Year 4	Project Year 5	Total
	2024-25	2025-26	2026-27	2027-28	2028-29	
Federal Funds Available for Awards	\$11,025,000	\$9,800,000	\$7,350,000	\$4,900,000	\$2,450,000	\$35,525,000
Federal funds for Admin	347,375	354,162	363,535	373,195	383,148	1,821,414
Total Federal Award	\$11,372,375	\$10,154,162	\$7,713,535	\$5,273,195	\$2,833,148	\$37,346,414

Draft of LLS 941.0 (Limit on revenue to the PSCCAF)

- A draft of the bill approved by the JBC to limit revenue to the Public School Capital Construction Assistance Fund is attached. In addition to capping revenue as staff

- recommended, the JBC also requested that staff explore: (1) adding an annual inflationary adjustment; and (2) considering a related cap on charter school facilities assistance.
- Staff notes that the State Board of Education has sent a letter to the JBC requesting that the cap in this bill be for one year only.
 - Staff notes that this bill assists with balancing for school finance over the longer term staff does not recommend this. Staff currently anticipates that the bill will provide approximately \$46 million in revenue for public school finance in FY 2025-26 and approximately \$30 million in subsequent years, although such figures are difficult to project.
 - Staff is not recommending changes to the JBC’s original action, but has provided bill text consistent with options discussed so the JBC can decide on any updates.

Original Recommendation – Approved by JBC

→ R1 BEST component [Legislation recommended]

Request

Among other components, Department Request R1 includes a proposal to cap BEST cash grants at \$129 million (the average of grants for the past five years) and direct any revenue greater than that to the State Public School Fund for school finance. The Governor’s November request estimates that this will provide \$58 million to the State Public School Fund for school finance in FY 2025-26.

In recent communication, the Governor’s Office has revised the available revenue from this mechanism downwards and is currently projecting that this proposal would provide \$35.0 million in additional revenue for school finance in FY 2025-26 and approximately \$25.0 million in future years.

Recommendation

Staff recommends the Executive Request in concept, but with adjustments.

- **Staff recommends specifying in statute that *total annual revenue to the BEST program will be capped* (as opposed to cash grants). Any revenue received above a specified figure by the end of a fiscal year would be diverted to the State Public School Fund. **For purposes of discussion, staff is using a \$150.0 million figure for the cap in order to generate \$50.0 million for public school operating expenses, but this is one of several levers that could be adjusted, based on how much money the General Assembly wishes to direct to public school operating versus capital construction.****
- The rationale for the approach recommended—as opposed to the one requested—is to avoid favoring funding categories other than cash grants, such as Certificates of Participation. BEST funds address multiple needs, including cash grants, certificates of

participation, and charter school assistance. Any restrictions the General Assembly wishes to apply should apply to all categories, leaving the BEST board and General Assembly flexibility in determining the balance.²

Ultimately, the question facing the General Assembly is a policy question about the amount of funds to direct to public school capital construction versus public school operating costs, taking into consideration that the BEST revenue stream is unpredictable.

If legislation goes into effect before the end of FY 2024-25 to cap BEST revenue at \$150.0 million:

- Staff estimates that approximately **\$107.0** million will be available for BEST cash grants in FY 2025-26 (*less than the \$129.0 million estimated in the request*).
- Staff anticipates that approximately **\$51.0** million in additional revenue will be available to support school finance in FY 2025-26 from an FY 2024-25 cap (*less than the \$58.0 million estimated in the request, but higher than OSPB's more recent estimate*); with a \$150.0 million cap, **staff would expect a \$30.0 million diversion to occur in future years.**
- Staff further estimates that, **with a \$150 million cap, over the long term, the total available for cash grants will range from \$50.0 million to \$75.0 million**—substantially less than the \$129 million per year average available in the last five years. If the General Assembly wishes to maintain cash grants at closer to the \$100 million level, it could divert a smaller amount to public school operating expenses.

Depending on its policy goals, **the General Assembly could instead apply an overall BEST cap of \$172.0 million**, which would increase cash grants to the requested \$129.0 million but also reduce the diversion to school finance by the same amount, to approximately \$29.0 million, based on current data. In future years there might be little or no diversion at all to public school operating costs at this level of cap.

Analysis

Staff observations: *Staff agrees that some course-correction is needed to the balance between capital and operating support for public schools, given that increases for public school operating will also need to be scaled back to balance the budget. However, determining the appropriate balance between two significant state needs—public school operating versus public school capital construction—is a policy choice for which there is no clear “right” answer.*

- **Capital Construction Needs:** Statewide facility assessments indicate that nearly **\$20.0 billion** will be required by 2030 to address the public school capital construction needs in the State.³ Annual BEST revenue of \$150.0 to \$250.0 million, even with local matching

² Any legislation that caps BEST revenue should reiterate that the first \$40.0 million of marijuana excise tax revenue will be provided for the program, pursuant to Section 16(5)(d) of Article VIII of the state constitution.

³ <https://api.vfafacility.com/CDOEDashboard/stateLevel/state.jsp>

funds, can do little to address a problem of this scale. Local bond measures will need to continue to bear primary responsibility for school capital costs and will likely continue to be inadequate in many districts. BEST funds make it possible in select areas (particularly rural areas) to address needs that a locality otherwise cannot address, but the impact will be barely discernable statewide.

- ***Operating Budget Needs: Two new school finance adequacy studies estimate that \$3.6 to \$4.1 billion in additional public school operating revenue is required each year.***⁴

The key levers for the JBC's consideration are as follows:

- Out of any funds received, how much to public school operations versus capital construction? Recent year revenue has exceeded \$200 million, but it is not clear whether that will continue.
- Of the amount allocated for public school capital construction, how much should be allocated to COP payments, versus charter school facility assistance, versus cash grants? Staff recognizes that each of these components is important but does not wish to create an incentive for additional COP issuances, which could be an unintended consequence of the proposed policy, as framed by the Governor's Office.

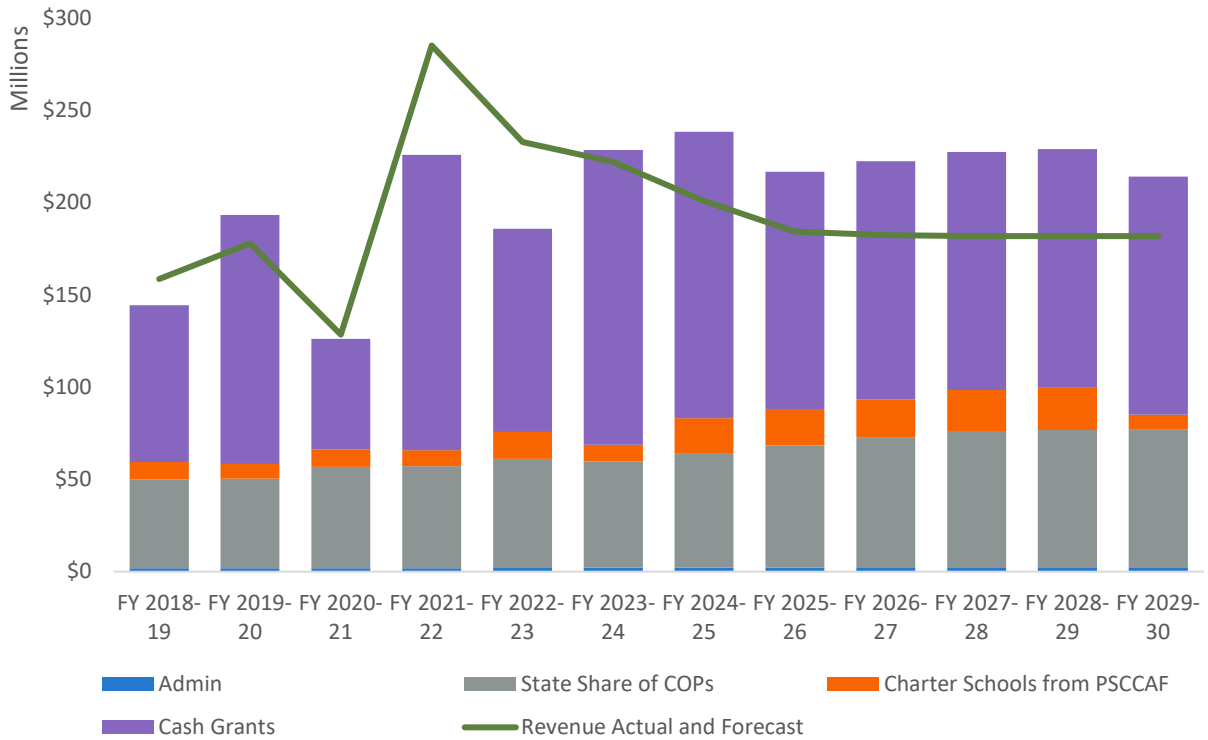
Governor's Proposal v. Long Term Revenue Forecast: The November 1, 2024 request estimated that \$58.0 million would be generated by the proposal to cap cash grants at \$129.0 million. *The Governor's Office has now revised its estimate to be \$35.0 million available from a \$129.0 million cash funds cap for FY 2025-26, with approximately \$25.0 million per year available in subsequent years.*

Based on updated data, the proposal from the Governor's Office seems likely to provide some revenue diversion in the near term but may not yield much, if any, additional revenue for public school operating over the longer term.

The chart below summarizes recent history, current law, and the Executive Request for BEST cash grants at \$129.0 million. Staff has combined uses (the bars) these with a relatively conservative staff forecast of revenue (the line). Because of unexpectedly high revenue in the last few years, the BEST program has substantial funds in reserve, which allow for a higher level of appropriations. However, *as reflected in the chart, over the longer term it is uncertain that cash grants can be sustained at \$129 million or that this initiative as proposed will yield any revenue for the State Public School Fund under the Governor's proposal.*

⁴ <https://www.cde.state.co.us/cdedepcom/requiredreports> - See School Finance Input Adequacy Study Report and School Finance Cost-Modeling Adequacy Study Report.

Uses of Public School Capital Construction Assistance Fund:
Actual, Current Law, Executive Request v. Revenue Projection



Impact of Staff-proposed Revenue Cap on Cash Grants & Public School Operating Revenue: Staff proposes a slightly different approach which focuses on total revenue to the PSCCAF and diverts more revenue for public school operating. Beyond this, *staff is also suggesting a more aggressive diversion of revenue than the Executive Request to assist with budget balancing.*

The table below is based on applying a \$150.0 million cap on annual new revenue to the PSCCAF and diverting the difference to the State Public School Fund. As shown, staff anticipates that this would generate about \$50.0 million in additional revenue for school finance and would limit cash grants to \$100.0-\$110.0 million, depending on funding needs for COPs. This figure could increase—or decrease—based on updated forecasts.

ESTIMATED FUNDING AVAILABLE FOR BEST IN FY 2025-26 WITH \$150M REVENUE CAP	
<i>FY 2024-25 revenue estimate</i>	
State Land Board	\$104,648,087
Permanent Fund Interest	30,000,000
Lottery	3,000,000
MJ Excise	47,700,000
Interest	15,500,000

ESTIMATED FUNDING AVAILABLE FOR BEST IN FY 2025-26 WITH \$150M REVENUE CAP	
Total Baseline New Revenue to PSCCAF	\$200,848,087
New Diversion to State Public School Fund	\$50,848,087
<i>Revenue for BEST Program</i>	
Remaining FY 25 new revenue (capped)	150,000,000
Available reserve (cash fund balance less prior year obligations)	44,674,444
Total available revenue for BEST	\$194,674,444
<i>BEST Expenses – FY 2025-26 Calculation</i>	
Administration	2,284,408
MJ excise to charters	19,345,800
COPs (if assume new issuances moving toward new \$75.0M cap)	66,123,990
Balance available for cash grants, including reserves	\$106,920,246

If a \$150.0 million cap is maintained, COPs increase to \$75.0 million, and diversions for charter schools are implemented consistent with current law, total funds available for cash grants are likely to decline further, as unobligated reserves are spent down. The chart below shows a simplified estimate of FY 2028-29 funds available, based on rough estimates of future revenue. As shown, under this scenario, cash grants could fall to as little as \$50.0 million per year.

FUTURE: CASH GRANTS IF NO RESERVE BALANCE FY 2028-29 ESTIMATE	
<i>FY 2027-28 revenue estimate</i>	
State Land Board	\$85,612,620
Permanent Fund Interest	33,729,587
Lottery	3,000,000
MJ Excise	53,000,000
Interest	6,500,000
Total	\$181,842,207
Diversion to State Public School Fund	31,842,207
New FY 25 BEST revenue (capped)	\$150,000,000
<i>BEST Expenses</i>	
Administration	2,500,000
Max MJ excise to charters (FY 29)	23,162,000
COPs	75,000,000
Balance for BEST cash grants	\$49,338,000

First Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

DRAFT
3/14/25

DRAFT

LLS NO. 25-0941.01 Megan McCall x4215

COMMITTEE BILL

Joint Budget Committee

BILL TOPIC: Public Sch Cap Constr Assistance Fund Revenue Cap

A BILL FOR AN ACT

101 **CONCERNING AN ANNUAL LIMITATION ON THE AMOUNT OF REVENUE**
102 **THAT THE STATE TREASURER CREDITS TO THE PUBLIC SCHOOL**
103 **CAPITAL CONSTRUCTION ASSISTANCE FUND, AND, IN**
104 **CONNECTION THEREWITH, REQUIRING MONEY ABOVE THE LIMIT**
105 **TO BE CREDITED TO THE STATE PUBLIC SCHOOL FUND.**

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 limits, beginning in state fiscal year 2025-26, the amount of revenue in a state fiscal year that the state

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

treasurer credits to the public school capital construction assistance fund (assistance fund) to \$150 million, adjusted annually for inflation, which amount must include either the first \$40 million or the entire amount of money that is attributable to revenue from the marijuana excise tax, whichever is less. The bill requires the state treasurer to credit to the state public school fund revenue that is in excess of the \$150 million cap that otherwise would be credited to the assistance fund.

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

2 **SECTION 1.** In Colorado Revised Statutes, 22-43.7-104, **amend**
3 (1) as follows:

4 **22-43.7-104. Public school capital construction assistance fund**
5 **- creation - crediting of money to fund - use of fund - emergency**
6 **reserve - creation - reserve account - creation and use - definition.**

7 (1) (a) The public school capital construction assistance fund is hereby
8 created in the state treasury. SUBJECT TO THE LIMITATION SET FORTH IN
9 SUBSECTION (1)(b)(I) OF THIS SECTION, the principal of the assistance fund
10 ~~shall consist~~ CONSISTS of all ~~moneys~~ MONEY transferred or credited to the
11 assistance fund pursuant to subsection (2) of this section. EXCEPT AS
12 OTHERWISE PROVIDED IN SUBSECTION (1)(b)(I) OF THIS SECTION, all
13 interest and income earned on the deposit and investment of ~~moneys~~
14 MONEY in the assistance fund shall be credited to the assistance fund and
15 shall not be transferred to the general fund or any other fund at the end of
16 any fiscal year.

17 (b) (I) BEGINNING IN STATE FISCAL YEAR 2025-26, THE TOTAL
18 AMOUNT OF REVENUE CREDITED IN THE STATE FISCAL YEAR TO THE
19 ASSISTANCE FUND PURSUANT TO THIS SECTION SHALL NOT EXCEED ONE
20 HUNDRED FIFTY MILLION DOLLARS, WHICH AMOUNT MUST BE ANNUALLY
21 ADJUSTED FOR INFLATION FOR EACH STATE FISCAL YEAR THEREAFTER AND
22 MUST INCLUDE THE LESSER OF THE FIRST FORTY MILLION DOLLARS OR ALL

1 THE MONEY RECEIVED FROM THE EXCISE TAX ON RETAIL MARIJUANA THAT
2 IS REQUIRED TO BE CREDITED TO THE ASSISTANCE FUND PURSUANT TO
3 SECTION 16 (5)(d) OF ARTICLE XVIII OF THE STATE CONSTITUTION. FOR
4 ANY STATE FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2025, THE
5 STATE TREASURER SHALL CREDIT TO THE STATE PUBLIC SCHOOL FUND
6 CREATED IN SECTION 22-54-114 (1) ANY AMOUNT OF REVENUE THAT
7 EXCEEDS IN THE STATE FISCAL YEAR ONE HUNDRED FIFTY MILLION
8 DOLLARS, AS ADJUSTED ANNUALLY FOR INFLATION FOR STATE FISCAL
9 YEARS COMMENCING ON OR AFTER JULY 1, 2026, THAT OTHERWISE WOULD
10 BE CREDITED TO THE ASSISTANCE FUND PURSUANT TO THIS SECTION. <{**For**
11 **the JBC's consideration, the cap on the amount of revenue that can be**
12 **credited to the assistance fund has been drafted to annually adjust for**
13 **inflation with inflation calculated (as defined in the next paragraph)**
14 **using the CPI for all items. Depending on the direction from the JBC,**
15 **adjusting the cap for inflation can be removed entirely or the timing for**
16 **the adjustment or the calculation for the adjustment can be modified.**>

17 (II) AS USED IN THIS SUBSECTION (1)(b), "INFLATION" MEANS THE
18 ANNUAL PERCENTAGE INCREASE IN THE UNITED STATES DEPARTMENT OF
19 LABOR'S BUREAU OF LABOR STATISTICS CONSUMER PRICE INDEX, OR A
20 SUCCESSOR INDEX, FOR DENVER-AURORA-LAKEWOOD FOR ALL ITEMS
21 PAID FOR BY URBAN CONSUMERS.

22 <{**All the following language, is existing law and no changes are**
23 **drafted but it's being included for the JBC's review if the JBC would**
24 **like to make changes to any allocated amounts that are diverted from**
25 **the assistance fund to the charter school facilities assistance account.**
26 **(Note: making changes in the bill to this diversion will require a**
27 **modified bill title.)**>

1 (d) (I) For the state fiscal year commencing July 1, 2018, the state
2 treasurer, as provided in section 39-28.8-305 (1)(a), shall credit to the
3 assistance fund the greater of the first forty million dollars received and
4 collected from the excise tax on retail marijuana imposed pursuant to part
5 3 of article 28.8 of title 39 or ninety percent of the money received and
6 collected from the tax. For the state fiscal year commencing July 1, 2019,
7 and for each state fiscal year thereafter except for the state fiscal year
8 commencing July 1, 2020, the state treasurer, as provided in section
9 39-28.8-305 (1)(a), shall annually credit to the assistance fund all of the
10 money received and collected from the excise tax on retail marijuana
11 imposed pursuant to part 3 of article 28.8 of title 39. For the state fiscal
12 year commencing July 1, 2020, the state treasurer, as provided in section
13 39-28.8-305 (1)(a), shall credit to the assistance fund the lesser of the first
14 forty million dollars received and collected from the excise tax on retail
15 marijuana imposed pursuant to part 3 of article 28.8 of title 39 or all of
16 the money received and collected from the tax. For state fiscal years
17 commencing before July 1, 2019, the state treasurer shall credit twelve
18 and five-tenths percent of the amount annually credited pursuant to this
19 subsection (2)(d) to the charter school facilities assistance account, which
20 account is created within the assistance fund. For each state fiscal year
21 commencing on or after July 1, 2019, the state treasurer shall credit to the
22 charter school facilities assistance account a percentage of the amount
23 credited pursuant to this subsection (2)(d) that is equal to the percentage
24 of pupil enrollment, as defined in section 22-54-103 (10), statewide
25 represented by pupils who were enrolled in charter schools for the prior
26 school year. The department of education shall notify the state treasurer
27 of the applicable percentage no later than June 1 of the immediately

1 preceding fiscal year. <{Since state fiscal year 2019-20, this is the
2 diversion of a portion of money from the assistance fund attributable
3 to marijuana excise tax revenue to the charter school facilities
4 assistance account. (Prior to that it was in an amount of 12.5% of the
5 amount credited to the assistance fund that is attributable to marijuana
6 excise tax revenue.)>

7 (II) In addition to the credit made to the charter school facilities
8 assistance account pursuant to subsection (2)(d)(I) of this section, the
9 state treasurer shall credit the following amounts to the charter school
10 facilities assistance account from the public school capital construction
11 assistance fund: <{The following amounts are in addition to the
12 allocated diversion provided in the previous paragraph and were put in
13 place by HB24-1448 and are not tied to money credited to the assistance
14 fund attributable to marijuana excise tax revenue.>

15 (A) For the state fiscal year commencing on July 1, 2024, eleven
16 million five hundred thousand dollars;

17 (B) For the state fiscal year commencing on July 1, 2025, twelve
18 million dollars;

19 (C) For the state fiscal year commencing on July 1, 2026, thirteen
20 million dollars;

21 (D) For the state fiscal year commencing on July 1, 2027, fourteen
22 million dollars; and

23 (E) For the state fiscal year commencing on July 1, 2028, fifteen
24 million dollars.

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

- 1 the support and maintenance of the departments of the state and state
- 2 institutions.



Joint Budget Committee Staff

Memorandum

To: Members of the Joint Budget Committee
From: Amanda Bickel, JBC Staff (303-866-4960)
Date: March 21, 2025
Department: Department of Education
Subject: Staff Initiated Repeal Ascent Program

Staff Initiated Repeal ASCENT Program

The JBC delayed action on this proposal when it was first brought to the JBC (March 5, 2025) and again in a March 18, 2025 comeback.

Original Recommendation

➔ Staff Initiated Repeal ASCENT Program [Legislation Required]

Request

The Department did not request this reduction; however, on January 8, 2025 the State Board of Education approved a proposal to pursue legislation that would eliminate the Accelerating Students Through Concurrent Enrollment (ASCENT) program as part of a larger restructuring measure associated with the Postsecondary Workforce Readiness report prepared pursuant to H.B. 24-1364 and H.B. 24-1393 (ASCENT).¹

Recommendation

- Staff recommends that the JBC sponsor legislation to eliminate the ASCENT program, providing savings of **\$20.8 million** from the State Education Fund in FY 2025-26. If the General Assembly prefers a phased approach (since students are already enrolling in the program for next year), it could reduce the rate reimbursement for the program in FY 2025-26 to \$7,104, the average for institution of higher education tuition, books and fees.

¹ PWR Study: https://www.cde.state.co.us/postsecondary/slalom_pwrfinancialstudy-december2024. Financial model details available on this website: <https://www.cde.state.co.us/cdedepcom/requiredreports.January9,2025> presentation to the State Board that resulted in State Board policy action: [https://go.boarddocs.com/co/cde/Board.nsf/files/DCFK3A4FDE3C/\\$file/01.25%20PWR%20Financial%20Study%20Presentation.pdf](https://go.boarddocs.com/co/cde/Board.nsf/files/DCFK3A4FDE3C/$file/01.25%20PWR%20Financial%20Study%20Presentation.pdf)

This would save **\$6.7 million in FY 2025-26**. It could then eliminate the program effective FY 2026-27.

- If the JBC and General Assembly wish to support a more robust set of postsecondary workforce readiness program supports, **at least \$5.0 to \$10 million of the savings that result from eliminating ASCENT should be set aside as a placeholder for other legislation to restructure the postsecondary workforce incentive system for school districts**. ASCENT is by far the largest component of existing funding for postsecondary workforce readiness, so if all related funding is removed, the General Assembly's ability to support these initiatives through a new funding structure will be much more limited.

Analysis

Background: Students participating in the ASCENT program remain in high school for a fifth year, even if they have met their high school's graduation requirements. Their local education provider receives a payment from the State at the extended high school rate. This payment is used by the local education provider to pay a participating student's postsecondary tuition and may also be used for other student-related costs, although data on these other expenditures has not been collected in the past.

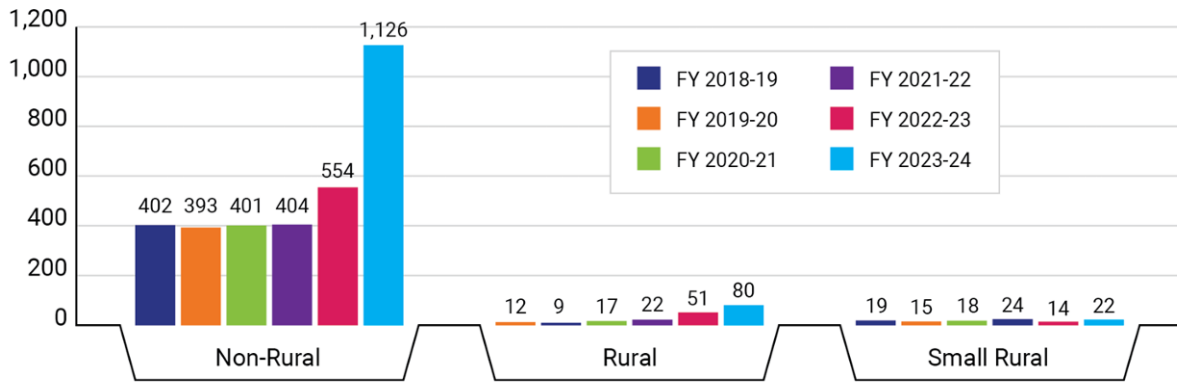
Program Costs:

- In FY 2021-22 and prior years, ASCENT was capped at 500 slots, a figure set in the Long Bill. Program growth was uncapped in H.B. 22-1390 (School Finance), resulting in a rapid increase in costs from **\$3.8 million in FY 2021-22** to \$17.1 million budgeted for FY 2024-25.
- In response, the JBC sponsored H.B. 24-1393, which capped program *enrollment* at the FY 2024-25 level and capped program *rates* at the FY 2023-24 level. Changes in H.B. 24-1448 eliminated the rate cap, although the enrollment cap (at FY 2024-25) remains in place.
- Enrollment for FY 2024-25 had been forecast at 1,666 during the 2024 legislative session, but school districts rapidly increased enrollment to 1,986 in FY 2024-25, requiring a \$2.0 million mid-year adjustment to fund the program in FY 2024-25.
- **ASCENT is anticipated to cost \$10,480 per student and serve just 1,968 students in FY 2025-26. The Legislative Council Staff forecast is that even with enrollment capped, the total program cost will increase to \$20,808,040 in FY 2025-26.**

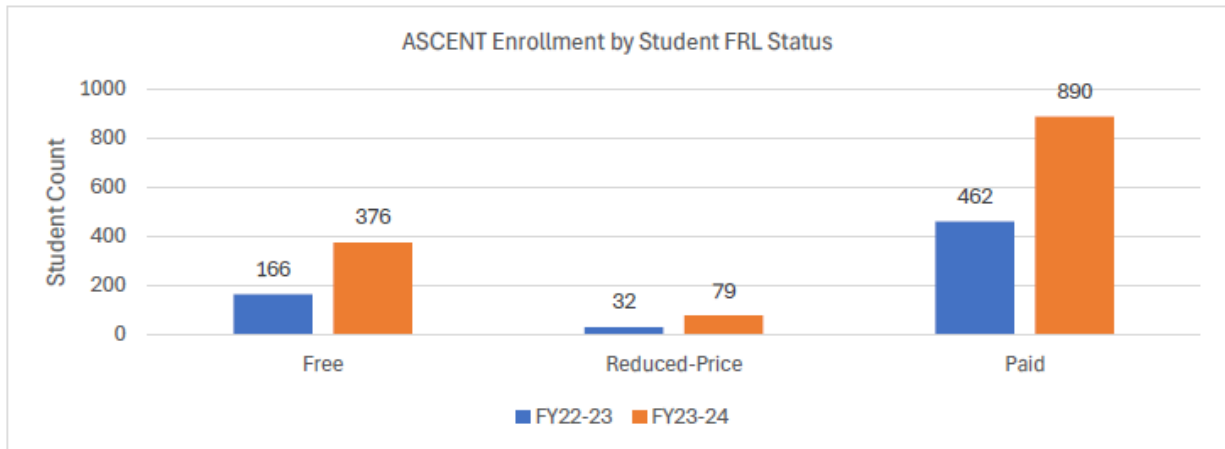
Other Program Concerns:

A study completed as required by the JBC's ASCENT bill, H.B. 24-1393, highlighted many of the issues JBC staff had raised earlier and added some new concerns. As reflected in the report, reasons for reevaluating the program included:

- Providing over \$10,000 per student for about 2,000 students located in a limited number of districts is fundamentally inequitable, particularly when compared with the approximately \$25 million allocated for other CDE funded postsecondary workforce readiness grants and incentive programs that serve 282,903 students.
- ASCENT primarily serves non-rural areas, and that is where enrollment has grown.

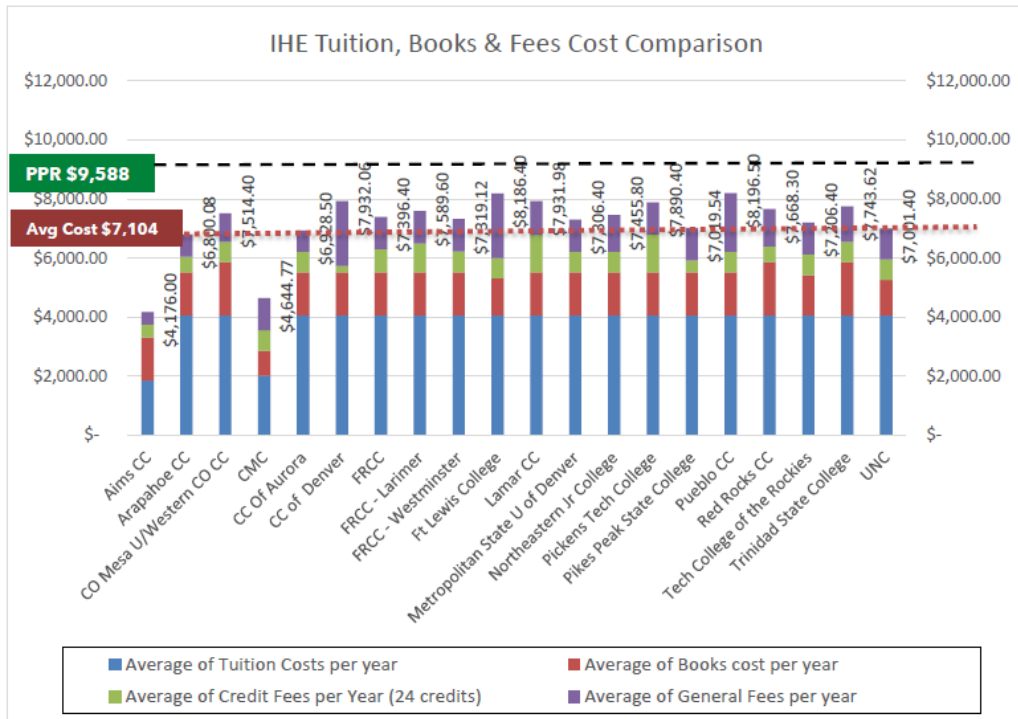


- Despite its financial investment, ASCENT lacks robust data demonstrating measurable outcomes.
- ASCENT does not have income-eligibility requirements. The vast majority of students are **not** eligible for free-and-reduced price meals (FRL). “Paid” in this chart denotes students ineligible for federal free-and-reduced price lunch.



- Funding provided per student for ASCENT significantly exceeds the outlays most school districts make for student tuition, books, and fees for ASCENT students enrolled at postsecondary institutions—and districts are not required to cover fees, textbooks, and material costs, though some choose to do so. As staff noted last year, the ASCENT rate was \$9,588 per student FTE in FY 2023-24, but even at a community college with high fees, such as the Community College of Denver, the cost for a full-time student to attend full

time (30 credit hours) in FY 2023-24 was \$6,062 for mandatory tuition and fees.



In addition to the above concerns, as JBC staff noted last year, a student who does qualify for free and reduced-price lunch may be eligible for a federal Pell grant *if* the student graduates from high school rather than participating in the ASCENT program. The maximum federal Pell grant for FY 2023-24 was \$7,395, which was sufficient to cover community college tuition and fees and some other costs. A student who has not graduated high school (such as those participating in ASCENT) cannot qualify for the Pell grant. ***State funding for the ASCENT program may therefore be substituting for federal and other sources of financial aid for some students.***

Possible Set-Aside for Separate Legislation

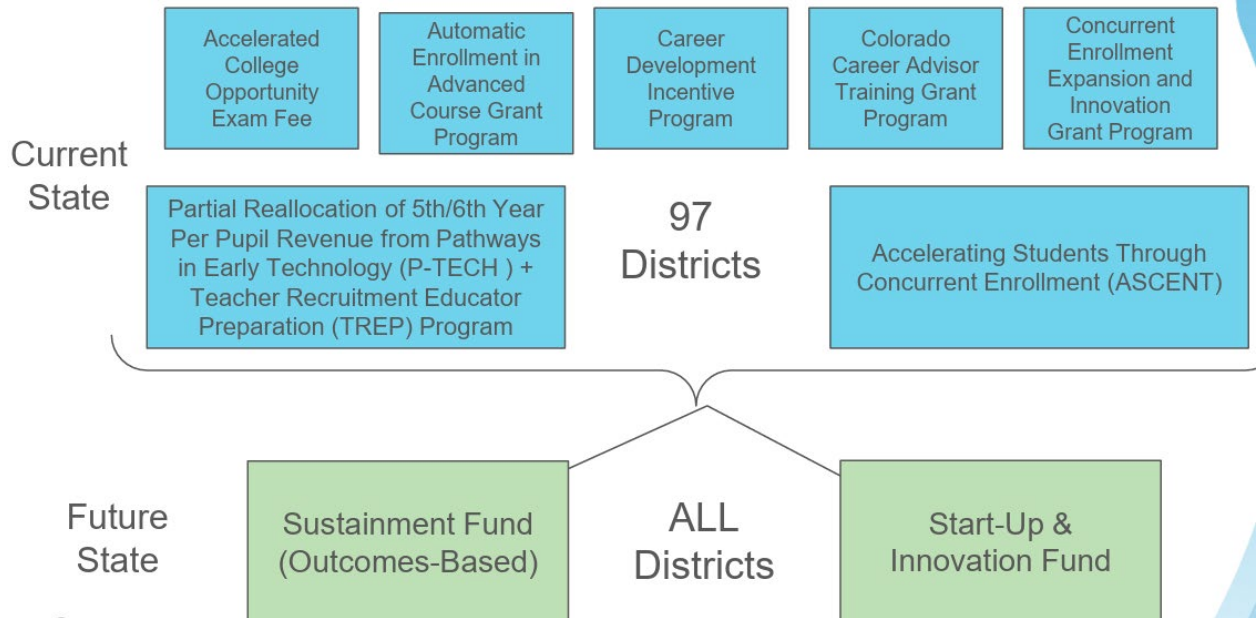
Based on the results of the study authorized in H.B. 24-1364, the State Board of Education has voted to proceed with its staff’s recommendation to pursue legislation to restructure the Postsecondary Workforce Readiness System. These recommendations, outlined in a presentation to the State Board of Education in January 2025², included:

- Establish a Unified Umbrella Big Three PWR Funding Source. As reflected in the chart below, the proposal involves eliminating most existing postsecondary workforce readiness

²[https://go.boarddocs.com/co/cde/Board.nsf/files/DCFK3A4FDE3C/\\$file/01.25%20PWR%20Financial%20Study%20Presentation.pdf](https://go.boarddocs.com/co/cde/Board.nsf/files/DCFK3A4FDE3C/$file/01.25%20PWR%20Financial%20Study%20Presentation.pdf)

programs, including ASCENT and the Career Development Incentive Program (CDIP) and replacing them with a start-up fund and an outcomes-based sustainment fund.

- Eliminate ASCENT, using it to help fund the new “unified umbrella”.
- Modify the School Counselor Corps Grant Program. This is the only other postsecondary workforce-related program with significant financial resources.



The estimated funding for the existing programs that would be consolidated, about \$35 million, is dominated by ASCENT. Staff notes that the figures are slightly outdated, but the scale is accurate. *JBC staff’s recommendations, discussed elsewhere in this packet, already eliminate over \$1.0 million of this funding, including funding for the Career Advisor Training Program and the Accelerated College Opportunity Exam Fee Grant Programs. If the JBC approves the staff recommendation to eliminate ASCENT, only about \$15.0 million will remain for a new “umbrella” program, unless the JBC wishes to set aside some of the savings from eliminating ASCENT.*

Program	Estimated Funding Available
Accelerated College Opportunity Exam Fee Grant Program	\$561,665
Accelerating Students through Concurrent Enrollment (ASCENT)	\$18,840,420
Auto Enrollment in Advanced Courses Grant (John W. Buckner)	\$246,276
Career Advisor Training Grant Program	\$500,000
Career Development Incentive Program (CDIP)	\$9,518,950
Concurrent Enrollment Expansion and Innovation Grant Program	\$1,476,948
Pathways in Technology Early College High School (P-TECH)*	\$1,106,352
Teacher Recruitment Education and Preparation (TREP)*	\$2,561,000
Total	\$34,811,611



Joint Budget Committee Staff

Memorandum

To: Members of the Joint Budget Committee
From: Amanda Bickel, JBC Staff (303-866-4960)
Date: March 21, 2025
Department: Legislative Department – ARPA Bill
Subject: Transfer to General Fund – Unused Legislative Appropriation.

The Legislative Branch's Controller, in consultation with legislative staff leadership, has determined that there are unused funds that were allocated for use of the General Assembly in H.B. 21-1329. These funds could be transferred back to the General Fund. This is money that is in the Affordable Housing and Home Ownership Fund, which is one of the funds created by the General Assembly related to money received under the American Rescue Plan Act (ARPA). The transfer could be incorporated the General Assembly's bill for transferring money to the General Fund or, potentially, in the forthcoming bill to make additional changes related to H.B. 24-1466 (ARPA refinance bill). **Staff recommends that \$200,000 be transferred from the Affordable Housing and Home Ownership Fund to the General Fund.**

Background: [House Bill 21-1329](#) (ARPA money to Invest in Affordable Housing) appropriated \$200,000 to the legislative department from money that originated as General Fund that was deposited in the Affordable Housing and Home Ownership Fund. This was for the facilitator that handled the "transformational task forces" that met during the 2021 interim. Despite the cash funds appropriation, money was actually expended for the facilitator directly from the General Fund (not the cash fund) in FY 2021-22. Since these funds are no longer needed, staff recommends transferring them back to the General Fund.



Joint Budget Committee Staff

Memorandum

To: Members of the Joint Budget Committee
From: Amanda Bickel and Alfredo Kemm, JBC Staff
Date: March 21, 2025
Department: Department of Local Affairs and Department of Public Safety
Subject: Staff Comeback – Updated Local Government Severance Tax Data, Finalize Digital Trunked Radio Decision

This memo includes the following items:

- Review of Department of Local Affairs R5 Severance Tax request and JBC action and Department of Public Safety R1 Digital Trunked Radio request and JBC action
- Impact of March 2025 forecast on Local Government Severance Tax Fund; OSPB March 17 updated Severance Tax Request
- Executive Branch response to option for changes to S.B. 24-174 (Sustainable Affordable Housing Assistance) to reduce previously-authorized funding from Local Government Severance Tax and Mineral Impact Funds

Staff seeks a final JBC decision on the funding mechanism for the Digital Trunked Radio System.

Local Government Severance Tax and Digital Trunked Radio

Requests and Action in Department of Local Affairs

- On February 19, 2025, the Committee discussed the Department of Local Affairs' R5 Severance Tax Transfer request during the Department of Local Affairs' Figure Setting presentation dated February 14. The official Department request was for a transfer of \$10.0 million from the Local Government Severance Tax Fund to the General Fund in FY 2025-26. The Staff recommendation, based on further consultation with the Department, was a \$10.0 million transfer to the General Fund in FY 2024-25 and a second \$10.0 million transfer in FY 2025-26. *As an alternative, Sen. Kirkmeyer moved to draft legislation to transfer \$15.0 million per year from the Local Government Severance Tax Fund to a fund supporting the statewide Digital Trunked Radio System (DTRS) for a period of ten years. The Committee approved the motion and sent the request to draft.*

- On March 13, 2025, OSPB submitted a comeback reiterating its request that the Committee transfer \$20.0M from the Local Government Severance Tax Fund to the General Fund and support DTRS with General Fund, in lieu of JBC action.
- On March 17, 2025, the Committee heard economic forecasts projecting \$0 severance tax revenues in FY 2024-25 due to a large ad valorem tax credit.
- Also on March 17, the Committee received a new severance tax balancing proposal from the Executive Branch intended to address the dramatic decline in severance tax revenue. In the Department of Local Affairs, the request proposes:
 - Transfer \$10.0 million from the Local Government Severance Tax Fund to the General Fund in FY 2024-25 (based on FY 2023-24 revenue) but do not transfer \$10.0 million General Fund in FY 2025-26.
 - Transfer/appropriate \$25.0 million General Fund to the Department of Local Affairs to backfill the severance tax funds lost due to the decline in severance tax revenue.

These proposals are addressed in this packet.

Requests and Action in Department of Public Safety

- On March 10, 2025, the Committee discussed Department of Public Safety’s request R1 as part of the Public Safety Figure Setting document dated March 7. The Department’s Request R1 was for ongoing annual General Fund support of \$15.0 million per year for the DTRS system. The staff recommendation was that the Committee consider funding the \$12.0 million contract through the 911 Services Enterprise, created in S.B. 24-139 (Creation of 911 Services Enterprise). *The Committee approved the staff recommendation and sent the proposed bill to draft.*
- On March 18, 2025, the Committee considered a Department comeback on the Public Safety R1 recommendation as part of a staff comeback presentation. Staff indicated that the Department did not believe funding DTRS through a 911 surcharge, as recommended by staff, was allowed under federal law. The Department continued to seek General Fund support. *The JBC delayed action, choosing neither to authorize General Fund or proceed with the proposed bill draft.*

Updated Information

In response to staff questions about the impact of the new severance tax forecast on the Local Government Severance Tax Fund the Department updated a table regarding the status of the money used to support local government energy impact grants. As reflected in this table, **although the decline in severance tax revenue will have a significant impact on local government energy impact grant funding, the program maintains sufficient reserves to weather volatility.** As a result:

- Despite the decline in revenue, the Department of Local Affairs anticipates that can transfer \$15.0 million per year for the DTRS system, sustain the loss of severance tax

interest revenue (pursuant to statewide request R1), and continue to provide at least two grant rounds per year (typically \$25.0 million each) in the coming years.

- The Department appears to believe it has sufficient resources to also transfer \$10.0 million to the General Fund in FY 2024-25.
- The Department does not appear to require a \$25.0 million General Fund transfer to backfill severance tax money.
- The Department does not appear to require (and actively opposes) any effort to “claw back” money transferred in S.B. 24-174.

Because of the uncertainty in severance tax revenue, any forecast of this type is subject to change.

Updated JBC Staff Recommendation

- **Staff believes the Committee’s earlier decision to fund DTRS with severance tax money is viable beginning in FY 2025-26, if this is still the JBC’s wish.** Staff acknowledges OSPB’s concern that the severance tax funding stream is volatile and the ability to fund over 10 years is uncertain. However, staff also understands DOLA would implement these transfers before making grants, so it is likely that funding will be sufficient annually. Staff notes that implementing the previous JBC vote will require a separate bill. (The current large transfer bill is solely for transfers to the General Fund.)
- **If the Committee chooses to fund DTRS with severance tax money, the recommended mechanism is a statutory transfer of \$15.0 million to the Public Safety Communications Trust Fund, created in Section 24-33.5-2510 (1), C.R.S., for 10 years.**
- Based on the Department’s analysis, **it appears that the request to also transfer \$10.0 million to the General Fund for FY 2024-25 is viable**, if the JBC wishes to also do that. *The JBC has not voted for this so far.*
- **Staff also recommends against the late Executive request to transfer \$25.0 million from the General Fund to the Local Government Severance Tax Fund** and does not believe claw-back from S.B. 24-174 is needed.
- Staff notes that local communities that count on direct distributions of severance tax funds will feel the impact of this in FY 2024-25; data from FY 2023-24 indicates that this program distributes funds throughout the State.

Projected Energy/Mineral Impact Funds Available Based on JBC Action & March OSPB Forecast				
	FY 2023-24 prelim	FY 2024-25 forecast	FY 2025-26 forecast	FY 2026-27 forecast
Total DOLA Mineral and Energy Impact Revenue				
OSPB Mar forecast - Severance Tax to DOLA	\$86.4	\$4.5	\$75.1	\$75.1

Projected Energy/Mineral Impact Funds Available Based on JBC Action & March OSPB Forecast				
	FY 2023-24 prelim	FY 2024-25 forecast	FY 2025-26 forecast	FY 2026-27 forecast
OSPB Mar forecast - FML to DOLA	40.2	34.4	47.3	47.3
Interest Income - Severance (non-exempt)	11.5	7.4	6.6	5.5
Interest Income - FML (TABOR exempt)	3.6	4.2	3.3	2.9
Total DOLA Mineral and Energy Impact Revenue	\$141.8	\$50.5	\$132.4	\$130.8
Administration from both sources (inc. indirect costs & transfers - DOLA actuals & estimates)				
Severance Tax DOLA admin, indirects, transfers	6.5	4.8	5.0	5.1
Mineral Impact DOLA admin, indirects, transfers	4.0	3.3	3.4	3.5
Total admin	\$10.4	\$8.1	\$8.4	\$8.6
Funding for Grants: Two Perspectives				
<i>View 1: New funds available for grants</i>				
Severance Tax - new funds less transfers				
Grants (70% of total to DOLA)	54.0	-1.7	47.6	47.4
Transfer to GF in HB24-1413	0.0	-25.0	0.0	0.0
Transfer in S.B. 24-174 (see note)	0.0	-15.0	0.0	0.0
DOLA R5 with FY 2024-25 addition	0.0	-10.0	0.0	0.0
Statewide R1 Interest Sweep	0.0	-7.4	-6.6	-2.7
New - Digital Trunk Radio System (DTRS)	0.0	0.0	-15.0	-15.0
Subtotal - Severance Tax Grants - new funds	54.0	-59.1	26.0	29.7
FML Grants	19.3	16.5	22.7	22.7
Money for grants available from new funds/draw-down reserves**	\$73.3	-\$42.6	\$48.7	\$52.4
<i>View 2: Grant Awards Announced in Fiscal Year - stabilized via reserves</i>				
Total grants announced in fiscal year	\$73.3	\$85.0	\$55.0	\$55.0
Funding for Direct Distributions***				
Direct Distrib-Severance (30%)	25.9	1.4	22.5	22.5
Direct Distrib-FML to local governments (50%)	19.3	16.5	22.7	22.7
Direct Distrib- FML to school districts	1.6	1.4	1.9	1.9
Total Direct Distributions	\$46.8	\$19.3	\$47.1	\$47.1
EOY End Balance Less Grant Obligations				
Total Unobligated Reserves	\$208.7	\$148.8	\$169.1	\$188.3
Committed but unobligated	94.1	94.1	94.1	94.1
EOY Less obligations and commitments	\$114.6	\$54.7	\$75.0	\$94.2

Projected Energy/Mineral Impact Funds Available Based on JBC Action & March OSPB Forecast

FY 2023-24 prelim	FY 2024-25 forecast	FY 2025-26 forecast	FY 2026-27 forecast
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*\$10.5 million from Severance Tax and \$4.5 million from FML funds was transferred under S.B. 24-174 for grants to local governments for a specific purpose. Because this is a type of use allowable for EIAF grants, this reduction is not included.

** The negative figure suggests that "new funds" will not support new grants. In order to have an award round, DOLA will lower its fund balance.

***Distributed in August following the fiscal year shown

DOLA distributions shown - Exclude FML bonus funds to Permanent Fund

Original Recommendation – Department of Local Affairs

→ R5 Severance Tax Transfer [Legislation Required]

Request

The request, as submitted, proposes to transfer \$10,000,000 from the Local Government Severance Tax Fund to the General Fund in FY 2025-26. This would require legislation. Most Severance Tax revenue is distributed equally between the Departments of Local Affairs and Natural Resources. The portion directed to the Department of Local Affairs is statutorily allocated between formula distributions (30.0 percent) and Energy/Mineral Impact Assistance Fund grants for local government infrastructure, land use planning, and other projects (70.0 percent). The Department indicates that the reduction would be applied to grants.

In subsequent communication with staff, the Department has indicated that it is prepared to support an additional transfer—in FY 2024-25—of \$10,000,000 from the Local Government Severance Tax Fund as a budget balancing measure.

Staff understands that any such transfers would be *in addition to* statewide request R1 which proposes to sweep interest revenue that is not TABOR exempt from select cash funds at year end. In updated estimates provided by the Governor’s Office, the impact of such interest-related reductions to the Local Government Severance Tax Fund would be a reduction of \$9,130,265 for FY2024-25 and \$6,278,325 for FY 2025-26 based on its January 2, 2025 estimates.

Recommendation

Staff recommends a \$20.0 million transfer (\$10.0 million in FY 2024-25 and \$10.0 million in FY 2025-26) as a budget balancing measure. More or less could be taken. Historically, the General Assembly has made large transfers and diversions from the Local Government Severance Tax Fund and the Local Government Mineral Impact Fund to help balance the state budget during recessions, often eliminating all local government grants for multiple years. However, since the state’s current problem is a structural budget deficit—rather than a recession—the proposed transfers should be viewed as temporary “soft landing” budget balancing measures, unless the

General Assembly wishes to make additional structural changes to the allocation of Severance Tax statewide. Such a change could, for example, redirect Local Government Severance Tax receipts that exceed a certain figure back to the General Fund.

Different from the current request, the Statewide R1 proposal to sweep interest earnings from the Local Government Severance Tax Fund will provide an ongoing change to state revenue and is thus a more effective long-term tool for balancing the budget. As recognized in that statewide request, interest earnings on the Local Government Severance Tax Fund are not exempt from TABOR and thus reduce the General Fund revenue the State is allowed to retain when the State is at its TABOR cap.

In FY 2024-25 and FY 2025-26, both Department Request R5 and Statewide Request R1 may be needed, and even greater Local Government Severance Tax Fund sweeps may be required, but the Committee should be mindful that these two proposals interact.

Analysis

Background – Local Government Severance Tax Fund

The Department of Local Affairs is responsible for distributing state revenues associated with mineral extraction for the benefit of local governments. This includes money from two major funding streams discussed below. While these streams are separate, the functions of the two funding sources are similar within this department. This includes:

- 50 percent of most¹ state **severance tax** revenue, levied pursuant to 39-29-101, et. seq., C.R.S., on oil, gas, and metallic minerals, based on the value of material extracted from privately and publicly owned lands; and
- 41.7 percent of most **federal mineral lease (FML)** revenues, the state’s share of rents and royalties from private sector mineral extraction on federal lands located in the state (“non-bonus” revenues). The Department also administers a 50 percent share of “bonus” revenues (initial payments from private entities for the right to extract oil, gas, or minerals on a parcel of land) that may be used when the regular revenue stream declines.

Severance Tax: State severance tax receipts are allocated to the Department pursuant to 39-29-108, C.R.S., and funding is allocated within the Department pursuant to Section 39-29-110, C.R.S.

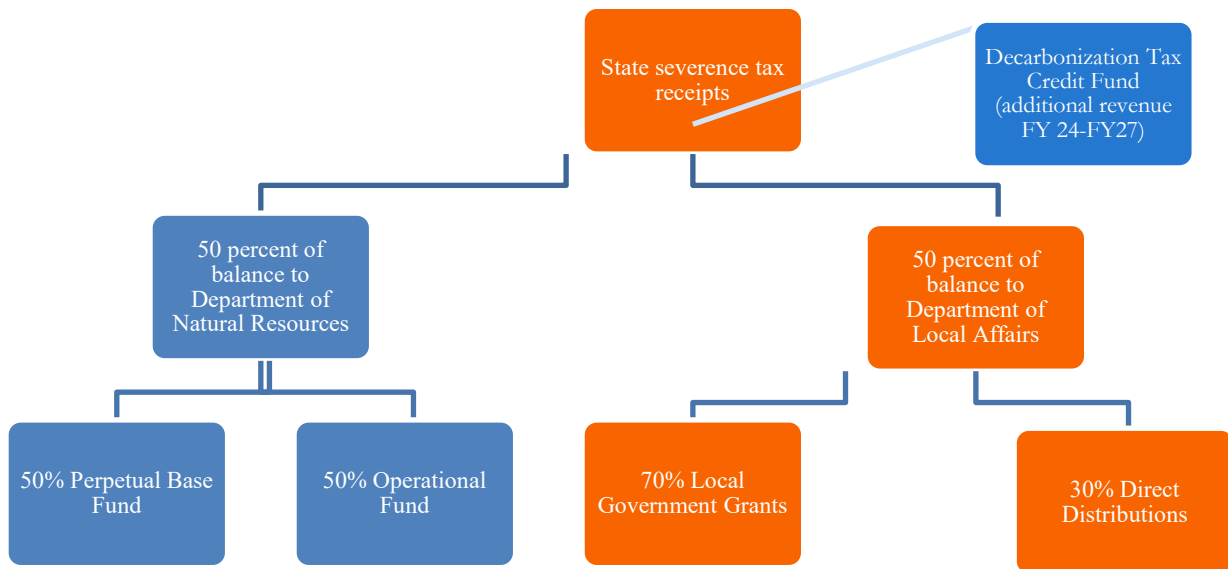
- *Local Affairs Grants and Loans (70.0 percent):* Local governments apply to the Department for the loans and grants at three different times during the year. DOLA is assisted by a 12-

¹ Pursuant to H.B. 23-1272, for FY 2023-24 through FY 2026-27 severance taxes are increased by reducing the credit against severance taxes for ad valorem taxes. The resulting increase in severance tax revenue (estimated at \$37.5 million for FY 2024-25) is directed to the Decarbonization Tax Credits Cash Fund. Because of this, the Local Affairs share of total revenue is less than 50.0 percent, but overall revenue is greater than it would otherwise be. There is also a diversion to the Just Transitions Cash Fund provided in H.B. 21-1312.

member Energy and Mineral Impact Assistance Advisory Committee in making funding decisions. The money must be used for the planning, construction, and maintenance of public facilities, and for the provision of public services.

- *Local Affairs Formula Allocations (30.0 percent):* Provided to local governments by August 31 of the following fiscal year based on the geographic location of energy industry employees, mine and well permits, and overall mineral production.

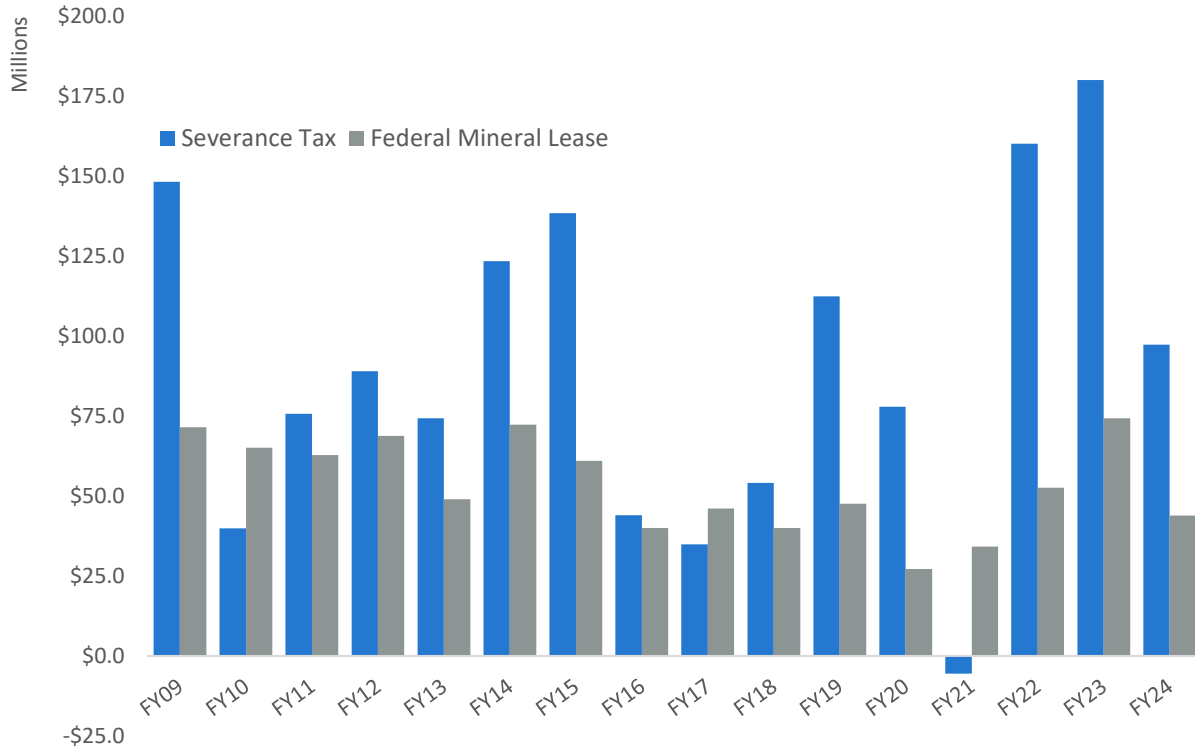
**Allocation of State Severance Tax Revenue
(Section 39-29-108, C.R.S.)**



Federal Mineral Lease Funds: In the Department, Severance Tax funds are used in a manner similar to another source of funds: federal mineral impact funds. Pursuant to 34-63-102, C.R.S. 41.7 percent of the State's share of private sector payments to the federal government for mineral and mineral fuel production on federal lands (referred to as federal mineral lease revenues “non-bonus” payments) is deposited to the Local Government Mineral Impact Fund on a quarterly basis. **Of the “non-bonus” mineral impact money managed by the Department of Local Affairs, just under half is allocated to grants and loans. This is combined with Local Government Severance Tax Funds to provide the funding source for the Department’s “Energy Impact Grants”, which are awarded based on the combined revenue for grants from both funding sources.** The balance of non-bonus federal mineral lease money managed by the Department is allocated based on statutory direct distribution formulas. Half of “bonus” revenue is also managed by the Department and available to support direct distributions to energy impacted communities when funds for direct distributions decline substantially.

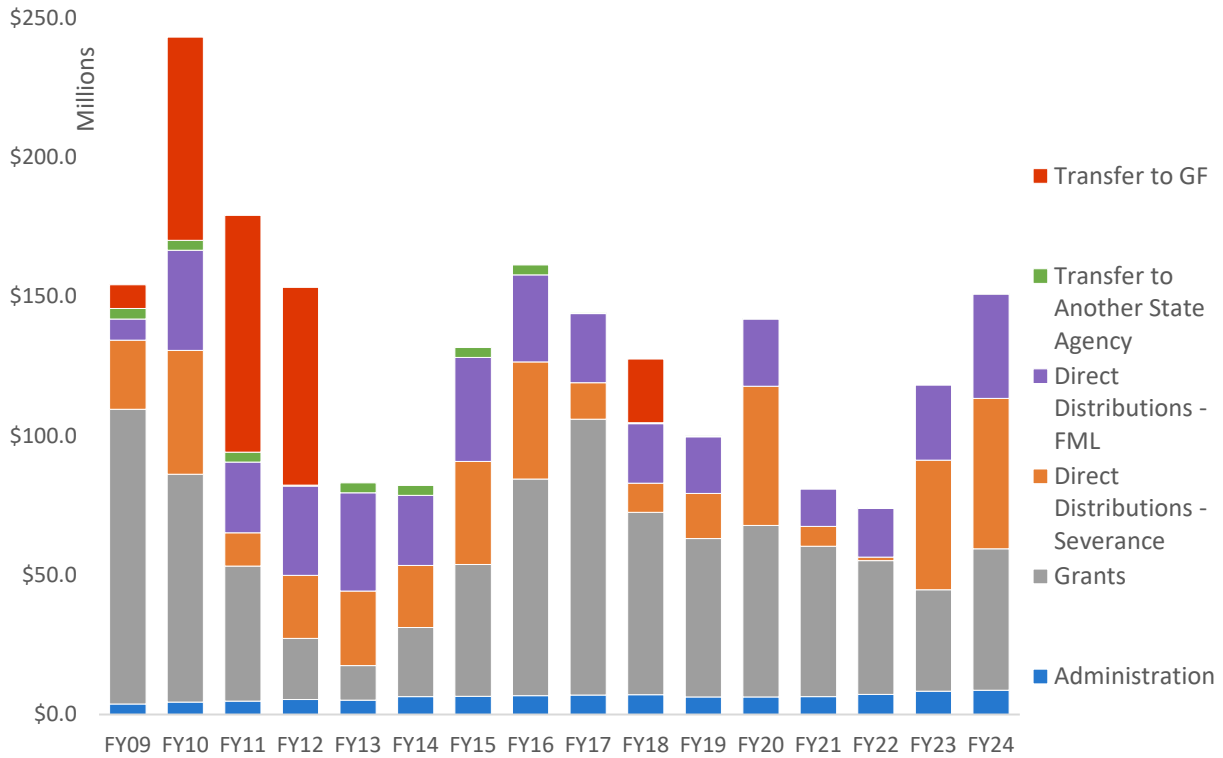
Severance tax and federal mineral lease revenues are volatile funding sources, as reflected in the chart below.

Severance Tax & Mineral Lease Revenue to the Department of Local Affairs



Funds that could be used for energy impact grants have also been swept to the General Fund on many occasions, primarily during recessions. Between FY 2006-07 and FY 2024-25, \$228.6 million was transferred from the Local Government Severance Tax Fund to the General Fund and \$68.6 million was transferred from the Local Government Mineral Impact to the General Fund.

Use of DOLA's Energy Impact Funds



Projected Impact of the Request on Mineral and Energy Impact Grants

PROJECTED ENERGY/MINERAL IMPACT FUNDS AVAILABLE IF DOLA R5 AND STATEWIDE R1 ARE APPROVED				
	FY 2023-24 PRELIM	FY 2024-25 FORECAST	FY 2025-26 FORECAST	FY 2026-27 FORECAST
Total DOLA Mineral and Energy Impact Revenue				
OSPB Dec forecast - Severance Tax to DOLA	\$86.4	\$79.7	\$88.1	\$83.1
OSPB Dec forecast - FML to DOLA	40.2	38.6	44.2	45.7
Interest Income - Severance (non-exempt)	11.5	9.1	6.3	8.5
Interest Income - FML (TABOR exempt)	3.6	4.2	3.3	2.9
Total DOLA Mineral and Energy Impact Revenue	\$141.8	\$131.6	\$141.9	\$140.2
Administration from both sources (including indirect costs & transfers - DOLA actuals & estimates)				
Severance Tax DOLA admin, indirects, transfers	6.5	4.8	5.0	5.1
Mineral Impact DOLA admin, indirects, transfers	4.0	3.3	3.4	3.5
Total admin	\$10.4	\$8.1	\$8.4	\$8.6
Funding for Grants: Two Perspectives				
<i>View 1: New funds available for grants</i>				

PROJECTED ENERGY/MINERAL IMPACT FUNDS AVAILABLE IF DOLA R5 AND STATEWIDE R1 ARE APPROVED				
	FY 2023-24 PRELIM	FY 2024-25 FORECAST	FY 2025-26 FORECAST	FY 2026-27 FORECAST
Severance Tax - new funds less transfers				
Grants (70% of total to DOLA)	54.0	50.9	56.7	53.0
Transfer to GF in HB24-1413	0.0	-25.0	0.0	0.0
Transfer in S.B. 24-174 (see note)	0	*	0.0	0.0
DOLA R5 with FY 2024-25 addition	0.0	-10.0	-10.0	0.0
Statewide R1 Interest Sweep**	0.0	-9.1	-6.3	-4.3
Subtotal - Severance Tax Grants - new funds	54.0	6.8	40.4	48.8
FML Grants	19.3	18.5	21.2	21.9
Money for grants available from <u>new</u> funds	\$73.3	\$25.3	\$61.6	\$70.7
<i>View 2: Grant Awards <u>Announced</u> in Fiscal Year - stabilized via reserves</i>				
Local Government Severance Tax Grants		\$59.9	\$38.9	\$56.9
Local Government Mineral Impact Grants		30.4	15.4	22.4
Total grants <u>announced</u> in fiscal year	\$73.3	\$90.3	\$54.3	\$79.3
Funding for Direct Distributions***				
Direct Distrib-Severance (30%)	25.9	23.9	26.4	24.9
Direct Distrib-FML to local governments (50%)	19.3	18.5	21.2	21.9
Direct Distrib- FML to school districts	1.6	1.6	1.8	1.9
Total Direct Distributions	\$46.8	\$44.0	\$49.4	\$48.7
EOY End Balance Less Grant Obligations				
Severance Tax	\$161.2	\$123.2	\$129.7	\$148.3
Mineral Impact	32.3	21.3	24.5	54.2
Total Unobligated Reserves	\$193.5	\$144.5	\$154.1	\$202.5
*\$10.5 million from Severance Tax and \$4.5 million from FML funds was transferred under S.B. 24-174 for grants to local governments for a specific purpose. Because this is a type of use allowable for EIAF grants, this reduction is not included.				
**Based on communication with the Department, Statewide R1 reductions would also be from the grants				
***Distributed in August <i>following</i> the fiscal year shown				
DOLA distributions shown - Exclude FML bonus funds to Permanent Fund				

Staff notes that Severance Tax forecast figures have continued to decline in recent economic forecasts. **Depending upon the March 2025 forecast, the figures above could decline further. If necessary, staff will bring a revised recommendation at that time.**



MEMORANDUM

To: [Andrea Uhl](#), JBC Staff
[Amanda Bickel](#), JBC Staff

Cc:

From: DOLA¹
[Geoff Alexander - DOLA](#)

Date: Mar 18, 2025

Re: Background and Status of SB24-174_March 2025

Summary

- DOLA and the Governor's Office remain committed to finding a long-term solution for the Digital Trunk Radio System (DTRS). However, in the strongest possible terms, we do not recommend using any dollars appropriated to the Housing Needs Planning Technical Assistance Fund (HPTA) for the purposes of SB24-174 implementation.
- Public surveys consistently show that housing costs and availability are a top concern for Colorado residents. Jeopardizing our ability to plan and construct appropriate housing stock for our communities would not demonstrate that we are being responsive to the concerns and needs of Coloradans.
- The unobligated balance of HPTA is both intentional and designed to maximize program outcomes. In particular, DOLA has launched the grant program (**accepting applications now**) on an expedited timeline to award as many local governments as possible who are ready to begin work. Staff is aware of more than 50 local governments who plan to apply this round or in the June round. Funds are expected to be contracted starting in May and in August for Round 2.
- We have heard from local governments that one of their biggest incentives to implement the bill is the funding opportunities that come with it; we worry that taking money away will create a lot of frustration amongst local governments.
- Removing funding will create cascading impacts to other programs, including HB24-1313, HB24-1152, HB24-1304, Prop 123, and others.
- Removing funding will result in significant DOLA layoffs and impact team members that contribute to the implementation of the other land use laws passed in 2024, as well as canceling contracts with vendors on work already underway.

¹ Several DOLA staff contributed to this memo. [Geoff Alexander - DOLA](#) is the point of contact but program experts and Division of Local Government leadership are available to answer any and all questions.





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Financial Summary and Timeline of Program Spending

Financial Summary (as of 3/18/2025):

- Actual Expenses: \$744,793.39
- Encumbered: \$523,124.36
- Unobligated: \$13,732,082.25
 - In addition to staffing costs, anticipated grant spending is summarized below. DOLA anticipates being oversubscribed with applications compared to available grant funds.

Housing Planning Grant Program (HPLN) anticipated FY award schedule:

- FY25-26 - 80 awards \$8M
- FY26-27 - 40 awards \$4M
- FY27-28 - all remaining funds if not fully spent

The number of awards and dollar amounts are subject to change and are dependent on the applications received. For example, staff are encouraging regional housing needs assessments, because this approach is more cost-effective for the program and more effective for local governments to partner where they share housing data and issues. More regional housing needs assessments could result in fewer grants but at higher amounts. In this case, each partnering local government will need to approve their involvement and matching funds before submitting a group application, so they will be more likely to submit in the second or third funding round as opposed to the first one.

Anticipated Impact

Clawing back the SB24-174 funding would result in several devastating impacts, including:

1. Creates an unfunded mandate by removing the funding dedicated to supporting local compliance,
2. Smart housing investments cannot be achieved without good data, technical expertise, and active community input. Removing these funds would eliminate housing needs assessments (HNAs) and action plans, as well as required comprehensive planning for water supply and strategic growth.
3. Over 50 communities have already indicated SB24-174 will support their future decision-making and planning for housing development. A loss of funding will set their timeline back for affordable housing development (as they will need time to find new resources).
4. DOLA is required by statute to support and review local compliance with the law (both the state's requirements, such as the statewide housing needs assessment, and the local government requirements to adopt HNAs, action plans, and certain comprehensive planning elements). A full clawback will result in staff layoffs resulting in DOLA being unable to comply with statute.





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5. SB24-174 is part of a comprehensive strategy to support local communities. A change to funding has broader impacts than the bill itself. It will impact other programs such as HB24-1152 (ADU bill) and HB24-1313 (TOC bill), Prop 123 compliance (rural resort communities that use HNAs to petition for higher AMLs), and others.

The Housing Needs Planning Technical Assistance Fund remains the only source for local governments to complete the requirements in SB24-174. DOLA staff are concerned that pulling the funding for this program could result in a bolstered challenge by local governments, calling it an unfunded mandate with a costly local impact and an unachievable timeline.

Many communities are prioritizing this work not just because it is required by SB24-174, but because affordable housing is such an urgent issue. Local governments and community partner organizations need these housing planning funds to generate effective partnerships and create data-driven plans and programs that will address the specific needs of each community. **We expect these funds to be oversubscribed.** Removing planning funding for this work will diminish local leaderships' efforts, likely resulting in fewer affordable housing projects getting built.

Significantly, recalling the funding would result in DOLA staff layoffs (9.1 FTE provided in this bill) and the inability of staff to support local compliance with the law, as well as remaining statutory requirements for DOLA to ensure compliance, resulting in violation of state law. This includes the statewide housing needs assessment, the statewide strategic growth report, and the Natural Land and Agricultural Interjurisdictional Opportunities Report that DOLA has been directed to complete. **Cutting funding would result in removing DOLA's ability to provide technical assistance, review required local assessments and plans, provide comments and advice, certify local governments as compliant, and report on local progress. A portion of this funding supports most of the OIT work contracted to provide a consolidated, online portal needed to support multiple land use initiatives, including HB24-1313 (TOC), HB24-1152 (ADU), HB24-1304 (Parking), HB24-1007 (Occupancy).**

These funds are also already under contract to assist the state to produce deliverables across these bills. Removing these funds would require DOLA to cancel its contracts with these two vendors, creating possible legal challenges and reputational damage for the department.

Removing funding will create cascading impacts beyond the required housing needs assessments and plans, including:

- 1) SB24-174 directed certain state agencies to consider compliance with this law when making funding decisions; without these funds, more communities will be at risk for reduced funding from other state grant programs due to lack of compliance with this law.
- 2) Communities opted into Prop 123 may rely on these funds to support housing needs assessments and action plans, which several agencies require to compete well for affordable housing funding. Additionally, rural resort communities rely on housing needs





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assessments to support a petition to submit projects with higher AMIs in their requests for Prop 123 funding.





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SB24-174 – Sustainable Affordable Housing Planning

Completed

By December 31, 2024, DOLA must develop methodologies for conducting statewide, regional and local housing needs assessments. We must engage targeted outreach with focus groups for historically under considered and disproportionately impacted stakeholders. Also, the Director shall develop guidance for displacement risk assessments.

By January 1, 2025 and every year thereafter, report on assistance requested by local governments and if funding is adequate.

Future - To Be Completed

By June 30, 2025 DOLA needs to develop standard affordability standards directory, long-term affordability standards, and displacement risk mitigation.

By June 30, 2025, DOLA shall adopt reasonable criteria for the designation of neighborhood centers.

By July 1, 2025, water elements must be included in master plans.

By October 31, 2025, submit a Statewide Strategic Growth report to General Assembly.

By December 31, 2025, in conjunction with Department of Ag, Parks and Wildlife, Outdoor Recreation and Tourism Office, develop and publish the “Natural Lands and Agriculture Interjurisdictional Opportunities Report”.

By December 31, 2026, each local government shall conduct and publish a housing needs assessment and update every six (6) years.

By December 31, 2026, grant award criteria must be updated by all agencies to prioritize for neighborhood centers.

November 30, 2027 and every six years thereafter, conduct a statewide housing needs assessment.

By December 1, 2027, any grant program administered by the Department, the Colorado Energy Office, the Office of Economic Development, the Department of Transportation, the Department of Natural Resources, the Department of Public Health and Environment, or the Department of Personnel and Administration that awards grants to counties and municipalities for the primary purpose of supporting land use or housing, excluding land use planning or housing pursuant to Article 32 or Title 29, must, so long as doing so is not inconsistent with federal law or the state constitution, including prioritization criteria that consider several factors in statute.





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January 1, 2028, and every six years thereafter, all local governments shall make a housing action plan.





Joint Budget Committee Staff

Memorandum

To: Joint Budget Committee Members
From: Kelly Shen, JBC Staff (303-866-5434)
Date: Friday, March 21, 2025
Subject: [Footnote update in Department of Natural Resources](#)

This memo includes minor adjustments to a footnote in the Department of Natural Resources. Below is the currently approved footnote, with proposed edits in **bold**.

N Department of Natural Resources, Division of Parks and Wildlife, Colorado Parks and Wildlife Operations, Wildlife Operations – It is the General Assembly’s intent that the portion of these funds that are intended to be appropriated for the implementation of Proposition 114 not be spent on any future wolf reintroduction unless and until ~~full and complete implementation of~~ **full and complete implementation of** all state funded preventative measures discussed by the Parks and Wildlife Commission as part of its denial of a citizen petition to ~~halt~~ **halt** wolf reintroduction during its January 8, 2025, meeting **are implemented to the highest degree possible to assist owners of livestock in preventing and resolving conflicts between gray wolves and livestock**. These measures specifically include, but are not limited to, placement of an **appropriate** number of trained range riders in all the areas where wolves are physically located **to assist owners of livestock in preventing and resolving conflicts between gray wolves and livestock**, development and implementation of ~~a~~ **a** depredation response operation **teams proximate to such areas**, deployment of additional nonlethal conflict techniques, and implementation of site assessment and **collaboration with the Colorado Department of Agriculture on** carcass management programs to minimize attractants.