MEMORANDUM

TO Joint Budget Committee Members
FROM JBC Staff
DATE May 10, 2021
SUBJECT Potential Legislation

This packet includes bill drafts and related memos for the Committee’s consideration. Each individual item has page numbers but also a packet page number to help navigate the whole document. The page numbers below refer to the packet page number.

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A BILL FOR AN ACT

Concerning the distribution money received under the federal "American Rescue Plan Act of 2021" for home- and community-based services, and, in connection therewith, making an appropriation.

Bill Summary

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

Joint Budget Committee. The bill directs the department of health care policy and financing (department) to develop and implement
a plan (spending plan) for using enhanced, one-time federal matching money received pursuant to the "American Rescue Plan Act of 2021" (federal act) to enhance, expand, and strengthen Medicaid-eligible home- and community-based services for older adults and people with disabilities.

The department shall develop and implement the spending plan considering feedback from providers, medical assistance recipients, and advocates consistent with federal guidance on allowable uses of the federal act funding. Money from the federal act may be used for home- and community-based services, as defined in the federal act, including home health services, personal care services, PACE services, waiver services, case management services, and rehabilitative services. The department must develop and implement a spending plan in accordance with federal act guidance. The bill specifies possible components of the spending plan.

As soon as practicable after federal guidance is received, the department shall submit the proposed spending plan to the joint budget committee of the general assembly for approval. The joint budget committee may reject or approve the plan. If the plan is rejected, the department shall submit a new spending plan as soon as possible.

The bill appropriates approximately $225 million from the general fund to a cash fund created in the bill. The money in the cash fund is appropriated to the state department for the fiscal year commencing on July 1, 2021, for expenditures identified in the spending plan approved by the joint budget committee; except that the spending authority expires if a supplemental appropriation bill is enacted. During the next legislative session, the joint budget committee shall introduce a supplemental appropriation bill for the amount of the expenditures authorized. For fiscal years commencing on and after July 1, 2021, the general assembly may also appropriate money from the fund for purposes authorized under the federal act. Money in the fund may be used for the department's reasonable and necessary administrative expenses.

The bill requires the department to submit expenditure reports with additional information specified in the bill concerning the use of the money received pursuant to the federal act.

The bill appropriates money to the department to administer provisions of the bill.

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

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

PART 17
COLORADO MEDICAL ASSISTANCE PROGRAM

REQUIREMENTS FOR DISBURSEMENT OF

FEDERAL FUNDS UNDER THE

FEDERAL "AMERICAN RESCUE PLAN ACT OF 2021"

25.5-6-1701. Legislative declaration. (1) (a) The General Assembly finds and declares that:

(I) Colorado has a long-standing commitment to serving older adults and people with disabilities through home- and community-based services that enable them to stay in their homes in their communities; and

(II) The disproportionate impact of the COVID-19 pandemic on older adults and people with disabilities has heightened focus on the need for increasing the availability of home- and community-based services.

(b) Therefore, the General Assembly declares that Colorado is committed to maximizing the impact of the one-time, ten-percentage-point increase in the federal matching rate for Medicaid home- and community-based services, as outlined in section 9817 of the Federal "American Rescue Plan Act of 2021", to implement or supplement the implementation of one or more activities to enhance, expand, and strengthen Medicaid-funded home- and community-based services.

25.5-6-1702. Definitions. As used in this part 17, unless the context otherwise requires:


(2) "Home- and community-based services" means any of
THE FOLLOWING:

(a) Home health-care services authorized pursuant to paragraph (7) of section 1905(a) of the "Social Security Act", 42 U.S.C. 1396d(a);

(b) Personal care services authorized pursuant to paragraph (24) of section 1905(a) of the "Social Security Act", 42 U.S.C. 1396d(a);

(c) PACE services authorized pursuant to paragraph (26) of section 1905(a) of the "Social Security Act", 42 U.S.C. 1396d(a);

(d) Home- and community-based services authorized pursuant to subsections (b), (c), (i), (j), and (k) of section 1915 of the "Social Security Act", 42 U.S.C. 1396n; services authorized pursuant to a waiver under section 1115 of the "Social Security Act", 42 U.S.C. 1315; and services through coverage authorized under section 1937 of the "Social Security Act", 42 U.S.C. 1396u-7;

(e) Case management services authorized under section 1905(a)(19) of the "Social Security Act", 42 U.S.C. 1396d(a)(19), and section 1915(g) of the "Social Security Act", 42 U.S.C. 1396n(g);

(f) Rehabilitative services, including those related to behavioral health, described in section 1905(a)(13) of the "Social Security Act", 42 U.S.C. 1396d(a)(13); and

(g) Such other services specified by the United States secretary of health and human services.

(3) "Social Security Act" means the federal "Social Security Act", as amended.
25.5-6-1703. Development of spending plan. (1) In accordance with federal guidance issued by the federal centers for medicare and medicaid services regarding the implementation of section 9817 of the "American Rescue Plan Act", the state department shall develop and implement a plan for using the enhanced funding, which plan may include but is not limited to the following components:

(a) Consideration of methods to maximize federal financial participation;

(b) Incorporation of feedback from medical assistance recipients, advocates, and providers for the services for which the "American Rescue Plan Act" provides additional federal financial participation;

(c) Expedition of the response and recovery for medical assistance recipients, providers, and other relevant organizations most significantly impacted by the COVID-19 pandemic. Response and recovery efforts may include but are not limited to:

(I) Provider rate increases to support organizations and the direct-care workers impacted by COVID-19;

(II) One-time payments to support infection control; and

(III) Tribal grants to increase access to and use of home- and community-based services on tribal lands;

(d) Advancement and acceleration of existing and newly identified system reform efforts. Advancement and acceleration efforts may include but are not limited to:

(I) Support for local organizations and stakeholders to
PLAN AND PREPARE FOR THE IMPLEMENTATION OF CASE MANAGEMENT REDESIGN EFFORTS;

(II) ANALYSIS AND DEVELOPMENT OF RECOMMENDATIONS TO BETTER STABILIZE EXISTING RURAL PROVIDERS AND TO EXPAND PROVIDER ACCESS IN RURAL COMMUNITIES;

(III) ANALYSIS AND DEVELOPMENT OF RECOMMENDATIONS FOR NEW MODELS OF CARE FOR INVESTMENT AND INNOVATION;

(IV) DEVELOPMENT OF PAY FOR PERFORMANCE PROGRAMS;

(V) IMPROVEMENT OF PROVIDER CERTIFICATION OVERSIGHT;

(VI) DEVELOPMENT OF ACUITY TOOLS FOR LONG-TERM HOME HEALTH;

(VII) DEVELOPMENT OF TRAINING TO ALIGN WITH 988 MOBILE DISPATCH;

(VIII) ANALYSIS AND DEVELOPMENT OF RECOMMENDATIONS FOR IMPLEMENTING BEHAVIORAL HEALTH PEER SUPPORTS FOR DAY SERVICES SERVING PEOPLE EXPERIENCING HOMELESSNESS;

(IX) DEVELOPMENT OF TRANSITION SUPPORT FOR BEHAVIORAL SERVICES;

(X) PROVIDER CAPACITY-BUILDING TO SERVE PEOPLE WITH HIGH-INTENSITY NEEDS;

(XI) DEVELOPMENT OF PROVIDER CULTURAL AND DISABILITY COMPETENCY TRAINING; AND

(XII) THE PROGRAMMATIC EXPANSION FOR HOME- AND COMMUNITY-BASED SERVICES THROUGH THE COMMUNITY FIRST CHOICE OPTION, SECTION 1915(k) OF THE "SOCIAL SECURITY ACT", 42 U.S.C. 1396n, IF THE "AMERICAN RESCUE PLAN ACT" FUNDING IS ABLE TO BE DISBURSED OVER THE PERIOD OF THREE YEARS OR LONGER AFTER THE
EFFECTIVE DATE OF THIS PART 17;

(e) INVESTMENT IN INFRASTRUCTURE AND TECHNOLOGY INNOVATION THAT HAS A LONG-TERM BENEFIT TO THE SYSTEM AND THE PEOPLE OF COLORADO, INCLUDING INTEGRATION WITH OTHER STATEWIDE AND LOCAL EFFORTS. INVESTMENTS MAY INCLUDE BUT ARE NOT LIMITED TO:

(I) COMPREHENSIVE TRAINING FOR CASE MANAGERS AND PROVIDERS;

(II) SYSTEM ENHANCEMENTS TO SUPPORT STREAMLINED ELIGIBILITY;

(III) MEMBER AND FAMILY MATERIAL ON CASE MANAGEMENT, CARE COORDINATION, AND HOME- AND COMMUNITY-BASED SERVICES;

(IV) EXPANDING RECIPIENT ACCESS TO TECHNOLOGY AND TECHNOLOGY LITERACY TRAINING;

(V) CAPITAL FUNDING FOR IT INFRASTRUCTURE TO PURCHASE DEVICES TO SUPPORT THE IMPLEMENTATION OF THE CARE AND CASE MANAGEMENT TOOL; AND

(VI) TELEMEDICINE AND TELEHEALTH ONE-TIME PAYMENTS TO SUPPORT EQUIPMENT FOR SERVICE DELIVERY; AND

(f) INVESTMENT, EXPANSION, AND STABILIZATION OF THE DIRECT-CARE WORKFORCE. EFFORTS MAY INCLUDE BUT ARE NOT LIMITED TO:

(I) THE ANALYSIS OF NATIONWIDE EFFORTS TO STRENGTHEN THE DIRECT-CARE WORKFORCE;

(II) DEVELOPMENT OF A STRATEGIC PLAN TO STABILIZE THE DIRECT-CARE WORKFORCE, INCLUDING PLANS FOR RURAL SUSTAINABILITY;

(III) CONSIDERATION OF DIRECT-CARE WORKER WAGE
SUSTAINABILITY THROUGH INCREASED RATES AND POTENTIAL WAGE PASS-THROUGH PROGRAMS;

(IV) DEVELOPMENT OF TRAINING PROGRAMS FOCUSING ON ADDITIONAL CAREER PATHWAYS; AND

(V) CREATION OF STRUCTURE AROUND RECRUITMENT, RETENTION, AND PUBLIC AWARENESS OF DIRECT-CARE WORK.

(2) THE STATE DEPARTMENT SHALL CONTINUE TO ENGAGE STAKEHOLDERS FOR INPUT CONCERNING PRIORITIZATION OF THE USE OF THE ENHANCED FUNDING FROM THE "AMERICAN RESCUE PLAN ACT".

25.5-6-1704. Spending plan - approval by joint budget committee - reporting. (1) (a) AS SOON AS PRACTICABLE AFTER RECEIVING FEDERAL GUIDANCE, THE STATE DEPARTMENT SHALL SUBMIT A PROPOSED SPENDING PLAN FOR EXPENDITURES PURSUANT TO THIS PART 17 TO THE JOINT BUDGET COMMITTEE FOR THE COMMITTEE'S REJECTION OR APPROVAL. IF A PROPOSED SPENDING PLAN IS REJECTED, THE STATE DEPARTMENT SHALL RESUBMIT A NEW PLAN AS SOON AS POSSIBLE.

(b) THE STATE DEPARTMENT SHALL IDENTIFY IN THE PLAN THE DATA, RESEARCH, AND EVIDENCE USED TO DETERMINE THE SPENDING PLAN IN A MANNER CONSISTENT WITH THE INSTRUCTIONS PUBLISHED BY THE OFFICE OF STATE PLANNING AND BUDGETING PURSUANT TO SECTION 24-37-302 (1)(a).

(c) THE SPENDING PLAN MUST INCORPORATE ANY AVAILABLE FEDERAL FUNDS.

(d) THE STATE DEPARTMENT SHALL NOT INCLUDE PROVISIONS IN THE SPENDING PLAN OR IMPLEMENT PROVISIONS OF THE SPENDING PLAN THAT ARE NOT ELIGIBLE FOR FUNDING PURSUANT TO FEDERAL GUIDANCE RELATING TO THE "AMERICAN RESCUE PLAN ACT".
25.5-6-1705. Home- and community-based services improvement fund - creation - transfer - expenditures. (1) The home-and community-based services improvement fund, referred to in this section as the "fund", is created in the state treasury. The fund consists of money transferred to the fund pursuant to subsection (2) of this section.

(2) (a) On the effective date of this Part 17, the state treasurer shall transfer two hundred twenty-five million seven hundred thirty-five thousand fifteen dollars from the general fund to the fund.

(b) (I) If the general fund savings due to the enhanced federal match under Section 9817 of the "American Rescue Plan
"ACT" IS GREATER THAN THE AMOUNT TRANSFERRED TO THE FUND UNDER SUBSECTION (2)(a) OF THIS SECTION, THEN THE STATE DEPARTMENT SHALL NOTIFY THE STATE TREASURER OF THE AMOUNT BY WHICH THE SAVINGS EXCEEDED THE TRANSFER. THE STATE TREASURER SHALL TRANSFER THIS AMOUNT OF MONEY FROM THE GENERAL FUND TO THE FUND.

(II) IF THE GENERAL FUND SAVINGS DUE TO THE ENHANCED FEDERAL MATCH UNDER SECTION 9817 OF THE "AMERICAN RESCUE PLAN ACT" IS LESS THAN THE AMOUNT TRANSFERRED TO THE FUND UNDER SUBSECTION (2)(a) OF THIS SECTION, THEN THE STATE DEPARTMENT SHALL NOTIFY THE STATE TREASURER OF AMOUNT BY WHICH THE TRANSFER EXCEEDS THE SAVINGS. THE STATE TREASURER SHALL TRANSFER THIS AMOUNT OF MONEY FROM TO THE FUND TO THE GENERAL FUND.

(3) THE STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE FUND.

(4) (a) MONEY IN THE FUND IS APPROPRIATED TO THE STATE DEPARTMENT FOR THE FISCAL YEAR COMMENCING ON JULY 1, 2021, FOR THE EXPENDITURES IDENTIFIED IN THE SPENDING PLAN APPROVED BY THE JOINT BUDGET COMMITTEE PURSUANT TO SECTION 25.5-6-1704; EXCEPT THAT THE SPENDING AUTHORITY CONFERRED BY THIS SUBSECTION (4)(a) EXPires IF A SUPPLEMENTAL APPROPRIATION BILL THAT APPROPRIATES MONEY FROM THE FUND TO THE STATE DEPARTMENT IS ENACTED.

(b) DURING THE NEXT LEGISLATIVE SESSION, THE JOINT BUDGET COMMITTEE SHALL INTRODUCE A SUPPLEMENTAL APPROPRIATION WITH THE SPECIFIC EXPENDITURES AUTHORIZED UNDER SUBSECTION (4)(a) OF THIS SECTION

(5) FOR FISCAL YEARS COMMENCING ON AND AFTER JULY 1, 2021,
MONEY IN THE FUND IS SUBJECT TO ANNUAL APPROPRIATION TO ENHANCE,
EXPAND, AND STRENGTHEN MEDICAID HOME- AND COMMUNITY-BASED
SERVICES PURSUANT TO SECTION 9817 OF THE "AMERICAN RESCUE PLAN
Act".

(6) THE STATE DEPARTMENT MAY USE THE MONEY IN THE FUND
FOR REASONABLE AND NECESSARY ADMINISTRATIVE COSTS ASSOCIATED
WITH IMPLEMENTING THIS PART 17.

SECTION 2. Safety clause. The general assembly hereby finds,
determines, and declares that this act is necessary for the immediate
preservation of the public peace, health, or safety.
Joint Budget Committee

BILL TOPIC: "Child Find Responsibilities"

A BILL FOR AN ACT

Concerning measures related to clarifying federal "Individuals with Disabilities Education Act" child find responsibilities between state agencies, and, in connection therewith, making an appropriation.

Bill Summary

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

Joint Budget Committee. Part C of child find, part of the federal "Individuals with Disabilities Education Act", requires states to find, identify, locate, evaluate, and serve children with disabilities from birth

Capital letters or bold & italic numbers indicate new material to be added to existing statute. Dashes through the words indicate deletions from existing statute.
through 2 years of age.

The bill transfers the responsibility of performing part C child find from the department of education to the department of human services on July 1, 2022; except that, on and after May 1, 2022, the department of human services shall administer the referral intake process for part C child find evaluations.

The bill requires the department of education and the department of human services to enter into an interagency operating agreement concerning the coordination of transitions of children from part C child find to part B child find.

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

SECTION 1. In Colorado Revised Statutes, 22-20-103, amend (4), (11), (12)(a), (16), and (23); and repeal (8.5) as follows:

22-20-103. Definitions. As used in this part 1, unless the context otherwise requires:

(4) "Child find" means the program component of the IDEA that requires states to find, identify, locate, evaluate, and serve all children with disabilities, from birth to twenty-one years of age. Specific responsibilities for child find are described in section 22-20-118. Child find includes:

(a) Part C child find, which means ADMINISTERED BY THE DEPARTMENT OF HUMAN SERVICES, is the program component of IDEA that requires states to find, identify, locate, evaluate, and serve children with disabilities from birth through two years of age; and

(b) Part B child find, which means ADMINISTERED BY THE DEPARTMENT, IS the program component of IDEA that requires states to find, identify, locate, evaluate, and serve children with disabilities from three to twenty-one years of age.

(8.5) "Early intervention services" means the services and supports specified in section 27-10.5-102 (12), C.R.S., provided to
(11) "Evaluation" means,
(a) For purposes of part C child find, procedures used to determine a child's initial and continuing eligibility for part C child find, including but not limited to:
(I) Determining the status of the child in each of the developmental areas;
(II) Identifying the child's unique strengths and needs;
(III) Identifying any early intervention services that might serve the child's needs; and
(IV) Identifying priorities and concerns of the family and resources to which the family has access;
(b) for the purposes of part B child find, procedures used under IDEA for children with disabilities to determine whether a child has a disability and the nature and extent of special education and related services that the child will need.

(12) "Exceptional child" means:
(a) A child defined in subsection (5) of this section as a child with a disability. An administrative unit shall serve every child with a disability from three to twenty-one years of age, and may serve children with disabilities from birth through two years of age.

(16) "Individualized family service plan" or "IFSP" means a written statement developed by an entity representing the Department of Human Services for a child from birth through two years of age with a disability, which statement is developed, reviewed, and revised in accordance with part C child find of IDEA and with rules promulgated by the department of human services.
(23) "Special education services" or "special education programs" means the services or programs provided to a child with a disability in conformity with the child's IEP or IFSP.

SECTION 2. In Colorado Revised Statutes, 22-20-104, amend (1)(a) introductory portion and (1)(a)(III) as follows:

22-20-104. Administration - advisory committee - rules.
(1) (a) The department shall administer this part. shall be administered by the department. Administration of this part shall include the recommendation to the state board of reasonable rules necessary to implement this part, including but not limited to:

(III) Procedures regarding the identification of children with disabilities including but not limited to part C child find and part B child find activities described in section 22-20-118 PURSUANT TO PART B CHILD FIND;

SECTION 3. In Colorado Revised Statutes, 22-20-114, repeal (1)(a.5)(II) as follows:

22-20-114. Funding of programs - legislative declaration.
(1) Subject to the provisions of subsection (3) of this section, for the 2005-06 budget year and each budget year thereafter, the total amount appropriated to the department for the payment of costs incurred by administrative units for the provision of special education programs shall be distributed to each administrative unit that provides educational services for children with disabilities as follows:

(a.5) (II) (A) For the 2008-09 budget year and for each budget year thereafter, a portion calculated pursuant to sub-subparagraph (B) or (C) of this sub-subparagraph (II) of the total amount of state funds appropriated for the payment of costs incurred by administrative units for
the provision of special education programs, to offset the costs incurred
by administrative units in conducting child find activities under part C of
IDEA pursuant to section 22-20-118 for children who are less than three
years of age. For the 2008-09 budget year, the department shall allocate
said moneys among administrative units based on the number of children
less than three years of age who were evaluated in each administrative
unit during the 2005-06 budget year and who are or may be eligible for
early intervention services under part C of IDEA. For the 2009-10 budget
year and for each budget year thereafter, the department shall allocate
said moneys among administrative units based on the number of children
less than three years of age who were evaluated in each administrative
unit during the preceding budget year and who are or may be eligible for
early intervention services under part C of IDEA:

(B) For the 2008-09 budget year, the portion of the appropriation
allocated pursuant to sub-subparagraph (A) of this subparagraph (II) shall
be calculated as follows:

(The dollar amount allocated per child less than three years
of age who was evaluated in the 2005-06 budget year) x
(the lesser of the rate of inflation, as defined in section
22-55-102 (7), or the percentage change in the total state
funds appropriated for the provision of special education
services over the preceding budget year) x (the total
number of children less than three years of age who were
evaluated under part C of IDEA by administrative units in
the 2005-06 budget year):

(C) For the 2009-10 budget year and for each budget year
thereafter, the portion of the appropriation allocated pursuant to
sub-subparagraph (A) of this subparagraph (II) shall be calculated as follows:

(The dollar amount allocated per child less than three years of age who was evaluated under part C of IDEA in the preceding budget year) \times (the lesser of the rate of inflation, as defined in section 22-55-102 (7), or the percentage change in the total state funds appropriated for the provision of special education services over the preceding budget year) \times (the total number of children less than three years of age who were evaluated under part C of IDEA by administrative units in the preceding budget year).

SECTION 4. In Colorado Revised Statutes, 22-20-114, add (1)(a.7) as follows:

22-20-114. Funding of programs - legislative declaration - repeal. (1) Subject to the provisions of subsection (3) of this section, for the 2005-06 budget year and each budget year thereafter, the total amount appropriated to the department for the payment of costs incurred by administrative units for the provision of special education programs shall be distributed to each administrative unit that provides educational services for children with disabilities as follows:

(a.7) (I) ANY APPROPRIATION FOR THE 2021-22 BUDGET YEAR TO THE DEPARTMENT OF HUMAN SERVICES FOR PART C EARLY INTERVENTION EVALUATION ACTIVITIES THAT IS IN ADDITION TO AN APPROPRIATION PURSUANT TO SENATE BILL 21-205, ENACTED IN 2021, FOR FISCAL YEAR 2021-22, AND IN ADDITION TO AN APPROPRIATION PURSUANT TO HOUSE BILL 18-1333, ENACTED IN 2018, MUST BE ALLOCATED TO THE DEPARTMENT OF EDUCATION TO REIMBURSE ADMINISTRATIVE UNITS FOR
5.7.21

THEIR PROPORTIONATE SHARE OF UNFUNDED COSTS OF PART C
EVALUATIONS DURING THE 2021-22 STATE FISCAL YEAR.

(II) THIS SUBSECTION (1)(a.7) IS REPEALED, EFFECTIVE JULY 1,
2023.

SECTION 5. In Colorado Revised Statutes, add 22-20-118.5 as
follows:

22-20-118.5. Child find - responsibilities - interagency
operating agreements. (1) AS OF JULY 1, 2022, THE DEPARTMENT OF
HUMAN SERVICES SHALL ADMINISTER PART C CHILD FIND PURSUANT TO
PART 7 OF ARTICLE 10.5 OF TITLE 27; EXCEPT THAT, ON AND AFTER MAY
1, 2022, THE DEPARTMENT OF HUMAN SERVICES SHALL ADMINISTER THE
REFERRAL INTAKE PROCESS FOR PART C CHILD FIND EVALUATIONS.

(2) ON OR BEFORE JULY 1, 2022, THE DEPARTMENT SHALL
ESTABLISH A STATE-LEVEL INTERAGENCY OPERATING AGREEMENT,
REFERRED TO IN THIS SECTION AS THE "AGREEMENT", WITH THE
DEPARTMENT OF HUMAN SERVICES CONCERNING THE COORDINATION OF
TRANSITIONS OF CHILDREN FROM PART C CHILD FIND TO PART B CHILD
FIND. IN DEVELOPING THE AGREEMENT, THE DEPARTMENT AND THE
DEPARTMENT OF HUMAN SERVICES SHALL INVOLVE STAKEHOLDER
PARTICIPATION, INCLUDING REPRESENTATIVES FROM ADMINISTRATIVE
UNITS AND PART C ENTITIES. THE AGREEMENT MUST ALSO INCLUDE:

(a) THE DEFINITION OF A CHILD WHO IS POTENTIALLY ELIGIBLE FOR
PART B;

(b) THE PROCESSES FOR A PARENT OF A CHILD TO OPT OUT OF
REQUIRED NOTIFICATIONS;

(c) THE REQUIRED NOTIFICATION CONCERNING A CHILD WHO IS
POTENTIALLY ELIGIBLE FOR PART B;
(d) A process for resolving disputes between an administrative unit and a Part C entity concerning the satisfaction of agreement requirements, including remedies and sanctions;

(e) A process for resolving disputes between the department and the Department of Human Services concerning systemic and statewide issues related to agreement requirements;

(f) The development and delivery of standardized communication materials for a parent of a child who is potentially eligible for Part B, including information concerning eligibility, referral, evaluation, and service delivery;

(g) The development and delivery of standardized training for Part C and Part B providers, including information concerning eligibility, referral, evaluation, and service delivery for the programs;

(h) The process for transferring a child's assessment, IFSP, and other necessary information to an administrative unit for consideration of a Part B evaluation and eligibility determination, if a parent has provided written consent;

(i) Processes to ensure timely notification to the administrative unit if a child is potentially eligible for Part B. At a minimum, timely notification must occur not later than when a child is two years and six months of age; except that timely notification must occur not later than when a child is two years and three months of age if a child has a low incidence
DIAGNOSIS INCLUDING, BUT NOT LIMITED TO, VISUAL IMPAIRMENT,
INCLUDING BLINDNESS; HEARING IMPAIRMENT, INCLUDING DEAFNESS; OR
DEAF-BLIND.

(II) IF A CHILD IS DETERMINED TO BE ELIGIBLE FOR PART C WHEN
THE CHILD IS OLDER THAN THE AGES DESCRIBED IN SUBSECTION (2)(i)(I)
OF THIS SECTION, TIMELY NOTIFICATION MUST OCCUR NOT LATER THAN
TEN BUSINESS DAYS AFTER THE ELIGIBILITY DETERMINATION.

(j) A PROCESS FOR INCLUDING AN ADMINISTRATIVE UNIT
REPRESENTATIVE IN A TRANSITION CONFERENCE FOR A CHILD WHO
TRANSITIONS FROM PART C TO PART B;

(k) A PROCESS FOR INCLUDING AN EARLY INTERVENTION SERVICES
PROVIDER IN THE DEVELOPMENT OF AN IEP, IF REQUESTED BY THE PARENT
OF THE CHILD; AND

(l) A PROCESS FOR TIMELY TRANSFERRING DATA THAT IS REQUIRED
BY LAW BETWEEN THE DEPARTMENT AND THE DEPARTMENT OF HUMAN
SERVICES.

(3) THE DEPARTMENT AND THE DEPARTMENT OF HUMAN SERVICES
SHALL REVIEW AND REVISE THE AGREEMENT TO ACCOUNT FOR ANY
CHANGES TO STATE OR FEDERAL LAW, AS NECESSARY. AT A MINIMUM, THE
AGREEMENT MUST BE REVIEWED ONCE EVERY FIVE YEARS. IN THE REVIEW
AND REVISION OF THE AGREEMENT, THE DEPARTMENT AND THE
DEPARTMENT OF HUMAN SERVICES SHALL INVOLVE STAKEHOLDER
PARTICIPATION, INCLUDING REPRESENTATIVES FROM ADMINISTRATIVE
UNITS AND PART C ENTITIES.

SECTION 6. In Colorado Revised Statutes, 27-10.5-103, amend
(1) introductory portion and (1)(b) as follows:

27-10.5-103. Duties of the executive director - rules -
definition. (1) In order to implement the provisions of this article, the executive director shall carry out the following duties, subject to available appropriations:

(b) Conduct appropriate part C child find activities as described in section 27-10.5-704. Part C child find activities conducted by the department shall include, but need not be limited to, EARLY INTERVENTION EVALUATIONS, case management, referral, transitions, referrals to public education systems or other community resources, implementation of state-level interagency operating agreements, and public education outreach and awareness of early intervention evaluations and services.

SECTION 7. In Colorado Revised Statutes, 27-10.5-702, amend (17) and (18) as follows:

27-10.5-702. Definitions. As used in this part 7, unless the context otherwise requires:

(17) "Qualified early intervention service provider" or "qualified provider" means a person or agency, as defined by the department by rule in accordance with part C, who provides early intervention services or EARLY INTERVENTION EVALUATIONS and is listed on the registry of early intervention service providers pursuant to section 27-10.5-708 (1)(a). In the event of a shortage of qualified early intervention evaluators, the department may contract with an administrative unit to conduct early intervention evaluations if a contract is entered between the department and the administrative unit, including written consent of the director of special education, with conditions for conducting and completing the evaluations, including identification of staff,
COSTS FOR SERVICES, TIMELINES FOR CONTRACT COMPLETION, AND ANY OTHER CONTRACT ELEMENTS.

(18) "Service coordination" means the activities carried out by a service coordinator to COORDINATE EVALUATION AND INTAKE ACTIVITIES, assist, and enable an eligible child and the eligible child's family to receive the rights, procedural safeguards, and services that are authorized to be provided under the early intervention program.

SECTION 8. In Colorado Revised Statutes, 27-10.5-703, amend (3) introductory portion, (3)(c), and (3)(d) as follows:

27-10.5-703. Early intervention services - administration - duties of department - rules. (3) In administering early intervention services, the department shall have and perform the following duties:

(c) To ensure eligibility determination for a child with disabilities from birth through two years of age, based in part on information received concerning the screening and evaluation; performed by an entity that conducts early intervention evaluations;

(d) To ensure that an individualized family service plan is developed for infants and toddlers from birth through two years of age who are eligible for early intervention services. The IFSP must be developed in compliance with part C requirements, and in coordination with part C child find evaluations or early intervention evaluations where applicable; including the mandatory IFSP meeting at which the family receives information concerning the results of the INITIAL EARLY INTERVENTION evaluation. The initial IFSP must be developed in collaboration with a representative from the entity that participated in the child's evaluation. The representative shall participate in the initial meeting for the development of the child's
SECTION 9. In Colorado Revised Statutes, amend 27-10.5-704 as follows:

27-10.5-704. Child find - responsibilities - interagency operating agreements - rules. (1) The department shall have the following responsibilities and duties for children from birth through two years of age who are referred for early intervention services:

(a) To develop and implement, in coordination with community centered boards, CERTIFIED EARLY INTERVENTION SERVICE BROKERS, service agencies, governmental units, and the departments of education, public health and environment, and health care policy and financing, a statewide plan for public education, outreach, and awareness efforts related to child find and the availability of early intervention services;

(b) To ensure that referrals from the community are accepted and families are assisted in connecting with the appropriate agency for intake and case management services;

(c) To ensure that intake and case management services are provided after a referral has been made by working with community centered boards as the single entry point for a family into the developmental disabilities system, as described in section 27-10.5-102 (3); and

(d) To work with community centered boards, administrative units, and the department of education to assist a child with disabilities as he or she transitions from the developmental disabilities system into the public education system at no later than three years of age as required by IDEA.

(2) (c) To facilitate the implementation of early intervention
evaluations that are the responsibility of the department pursuant to this
part 7 and to implement an effective and collaborative system of early
intervention services, the department shall enter into any necessary
interagency operating agreements at the state level and the local level;
AND

(3) (d) To facilitate the implementation of part C child find and
eyearly intervention evaluations, and the use of medicaid funds, the
department and entities that conduct early intervention evaluations may,
when appropriate, share information with the department of education,
the department of health care policy and financing, or other entities that
conduct early intervention evaluations, or that offer child find services
pursuant to section 22-20-118; so long as each department or local agency
acts in compliance with the federal "Health Insurance Portability and
the federal "Family Educational Rights and Privacy Act of
1974", 20 U.S.C. sec. 1232g, AS AMENDED, AND ALL FEDERAL
REGULATIONS AND APPLICABLE GUIDELINES ADOPTED THERETO.

SECTION 10. In Colorado Revised Statutes, 27-10.5-704, add
(4) and (5) as follows:

27-10.5-704. Child find - responsibilities - interagency
operating agreements - rules. (4) As of July 1, 2022, the department
of human services shall administer part C child find pursuant to
this part 7; except that, on and after May 1, 2022, the
department of human services shall administer the referral
intake process for part C child find evaluations.

(5) On or before July 1, 2022, the department shall
establish a state-level interagency operating agreement,
REFERRED TO IN THIS SECTION AS THE "AGREEMENT", WITH THE
DEPARTMENT OF HUMAN SERVICES CONCERNING THE COORDINATION OF
TRANSITIONS OF CHILDREN FROM PART C CHILD FIND TO PART B CHILD
FIND. IN DEVELOPING THE AGREEMENT, THE DEPARTMENT AND THE
DEPARTMENT OF HUMAN SERVICES SHALL INVOLVE STAKEHOLDER
PARTICIPATION, INCLUDING REPRESENTATIVES FROM ADMINISTRATIVE
UNITS AND PART C ENTITIES. THE AGREEMENT MUST ALSO INCLUDE:

(a) THE DEFINITION OF A CHILD WHO IS POTENTIALLY ELIGIBLE FOR
PART B;

(b) THE PROCESSES FOR A PARENT OF A CHILD TO OPT OUT OF
REQUIRED NOTIFICATIONS;

(c) THE REQUIRED NOTIFICATION CONCERNING A CHILD WHO IS
POTENTIALLY ELIGIBLE FOR PART B;

(d) A PROCESS FOR RESOLVING DISPUTES BETWEEN AN
ADMINISTRATIVE UNIT AND A PART C ENTITY CONCERNING THE
SATISFACTION OF AGREEMENT REQUIREMENTS, INCLUDING REMEDIES AND
SANCTIONS;

(e) A PROCESS FOR RESOLVING DISPUTES BETWEEN THE
DEPARTMENT AND THE DEPARTMENT OF HUMAN SERVICES CONCERNING
SYSTEMIC AND STATEWIDE ISSUES RELATED TO AGREEMENT
REQUIREMENTS;

(f) THE DEVELOPMENT AND DELIVERY OF STANDARDIZED
COMMUNICATION MATERIALS FOR A PARENT OF A CHILD WHO IS
POTENTIALLY ELIGIBLE FOR PART B, INCLUDING INFORMATION
CONCERNING ELIGIBILITY, REFERRAL, EVALUATION, AND SERVICE
DELIVERY;

(g) THE DEVELOPMENT AND DELIVERY OF STANDARDIZED
TRAINING FOR PART C AND PART B PROVIDERS, INCLUDING INFORMATION
CONCERNING ELIGIBILITY, REFERRAL, EVALUATION, AND SERVICE
DELIVERY FOR THE PROGRAMS;

(h) THE PROCESS FOR TRANSFERRING A CHILD'S ASSESSMENT,
IFSP, AND OTHER NECESSARY INFORMATION TO AN ADMINISTRATIVE UNIT
FOR CONSIDERATION OF A PART B EVALUATION AND ELIGIBILITY
DETERMINATION, IF A PARENT HAS PROVIDED WRITTEN CONSENT;

(i) (I) PROCESSES TO ENSURE TIMELY NOTIFICATION TO THE
ADMINISTRATIVE UNIT IF A CHILD IS POTENTIALLY ELIGIBLE FOR PART B.
AT A MINIMUM, TIMELY NOTIFICATION MUST OCCUR NOT LATER THAN
WHEN A CHILD IS TWO YEARS AND SIX MONTHS OF AGE; EXCEPT THAT
TIMELY NOTIFICATION MUST OCCUR NOT LATER THAN WHEN A CHILD IS
TWO YEARS AND THREE MONTHS OF AGE IF A CHILD HAS A LOW INCIDENCE
DIAGNOSIS INCLUDING, BUT NOT LIMITED TO, VISUAL IMPAIRMENT,
INCLUDING BLINDNESS; HEARING IMPAIRMENT, INCLUDING DEAFNESS; OR
DEAF-BLIND.

(II) IF A CHILD IS DETERMINED TO BE ELIGIBLE FOR PART C WHEN
THE CHILD IS OLDER THAN THE AGES DESCRIBED IN SUBSECTION (5)(i)(I)
OF THIS SECTION, TIMELY NOTIFICATION MUST OCCUR NOT LATER THAN
TEN BUSINESS DAYS AFTER THE ELIGIBILITY DETERMINATION.

(j) A PROCESS FOR INCLUDING AN ADMINISTRATIVE UNIT
REPRESENTATIVE IN A TRANSITION CONFERENCE FOR A CHILD WHO
TRANSITIONS FROM PART C TO PART B;

(k) A PROCESS FOR INCLUDING AN EARLY INTERVENTION SERVICES
PROVIDER IN THE DEVELOPMENT OF AN IEP, IF REQUESTED BY THE PARENT
OF THE CHILD; AND

(l) A PROCESS FOR TIMELY TRANSFERRING DATA THAT IS
REQUIRED BY LAW BETWEEN THE DEPARTMENT AND THE DEPARTMENT OF HUMAN SERVICES.

(6) The department and the Department of Human Services shall review and revise the agreement to account for any changes to state or federal law, as necessary. At a minimum, the agreement must be reviewed once every five years. In the review and revision of the agreement, the Department and the Department of Human Services shall involve stakeholder participation, including representatives from administrative units and Part C entities.

SECTION 11. In Colorado Revised Statutes, 27-10.5-707, repeal (1)(a) follows:

27-10.5-707. Cooperation among state agencies - implementing coordinated payment system - revisions to rules. (1) The departments of education, health care policy and financing, and public health and environment shall cooperate with the department to implement the provisions of this part 7 and each department shall:

(a) Assign a representative in accordance with part C child find to advise and assist the department in the development and implementation of the early intervention services system;

SECTION 12. In Colorado Revised Statutes, 27-10.5-707, add (3) as follows:

27-10.5-707. Cooperation among state agencies - implementing coordinated payment system - revisions to rules - repeal. (3) (a) Any appropriation for the 2021-22 budget year to the Department of Human Services for Part C responsibilities that is in addition to an appropriation pursuant to House Bill 18-1333, enacted in 2018,
MUST BE ALLOCATED TO THE DEPARTMENT OF EDUCATION TO REIMBURSE ADMINISTRATIVE UNITS FOR THEIR PROPORTIONATE SHARE OF UNFUNDED COSTS OF PART C EVALUATIONS DURING THE 2021-22 STATE FISCAL YEAR.

(b) This subsection (3) is repealed, effective July 1, 2023.

SECTION 13. In Colorado Revised Statutes, repeal 22-20-118 and 27-10.5-703.5.

SECTION 14. Appropriation. (1) For the 2021-22 state fiscal year, $8,266,779 is appropriated to the department of human services for use by the office of early childhood. This appropriation is from the general fund and is based on an assumption that the office will require an additional 1.0 FTE. To implement this act, the office may use this appropriation for early intervention evaluations.

(2) For the 2021-22 state fiscal year, $6,888,983 is appropriated to the department of education. This appropriation is from reappropriated funds received from the department of human services under subsection (1) of this section. To implement this act, the department of education may use this appropriation for the proportion of part C early intervention activities conducted by administrative units.

SECTION 15. Effective date. This act takes effect July 1, 2022; except that sections 4, 5, 10, and 12 take effective upon passage.

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

TO: Members of the Joint Budget Committee
FROM: Craig Harper and Robin J. Smart, JBC Staff (303-866-3481 and 303-866-4955)
DATE: May 10, 2021
SUBJECT: Concerning a sustainable model that is not embedded in the child welfare system for serving facility students, and, in connection therewith, making an appropriation (LLS 21-0828.02)

LLS 21-0828.02 creates a work group that is tasked with developing a sustainable model that will provide educational services to students in or at risk of out-of-home placement and children and youth who are at risk of educational failure due to challenging behavior, mental or behavioral health needs, or disabilities, regardless of the child's or youth's eligibility for special education services. The bill also directs the Department of Education to provide supplemental payments to facility schools in FY 2021-22, only.

Responding to a historic and projected future decline in facility school capacity, partially resulting from the closure of residential child care facilities, the Committee originally approved this bill as part of the child welfare legislation package. To ensure a more focused bill title, the Committee then approved extracting this language into a separate bill focused specifically improving capacity to serve these students.

The bill includes an appropriation of $6.2 million General Fund to the Department of Education using funds that the Committee set aside as a placeholder. The appropriations include:

- $500,000 for the Department to contract for work associated with the facilitation of the work group, compilation of the required report, and a financial analysis of the existing facility schools system; and
- $5.7 million for supplemental payments to facility schools approved by the Department as of October 1, 2021. The goal of the supplemental payments is to maintain as much of the existing capacity in the facility school system as possible while the work group develops the new model. The bill charges the Department with determining the allocation of the supplemental funds.

BACKGROUND INFORMATION

Facility schools provide educational services to students who are placed in residential, day treatment, or hospital settings. Placing agencies include, but are not limited to county human services departments, the Division of Youth Services, mental health providers, and school districts.

- The current FY 2021-22 appropriation to the Department of Education for the facility schools program is $17,365,125 cash funds from the state education fund.
- Under current law, as adjusted by S.B. 13-260, facility schools receive statewide base per pupil funding amount times 1.73; this amount is translated into a daily rate, and each facility school receives a daily rate for each child in attendance for up to 235 days each school year. For FY 2021-22, this calculation requires $12,500 per student FTE, equating to $53.19 per student day.

The Department estimates that approximately 1,600 children and youth per day require the delivery of educational services and supports in residential or day treatment facilities, hospital settings, home-bound environments, or other specially designed district programs due to physical, behavioral, mental
health, or special education service needs that exceed the services and supports available in some educational settings in the state of Colorado. Insufficient capacity in facility schools may result in out-of-state placements for students, separating students from families and communities, and often imposing extraordinary costs on school districts and counties to pay for those out-of-state placements and services. In other cases, students may be served in homebound situations for extended periods of time while awaiting placement.

While facility schools located in residential facilities serve students placed in the associated residential facility, they may also serve students who are receiving day treatment services (and some facility schools only provide day programs). Historically, many facility schools have operated at a net loss, requiring providers to cover those losses with revenue generated by a residential daily rate or other revenue sources. Due to changes in the child welfare system, residential provider capacity has decreased by 30 percent in the past five years. Partly as a result of those changes, the number of facility schools operating in Colorado has continued to decrease (see chart below), reducing the capacity to serve a population of particularly vulnerable students.
A BILL FOR AN ACT

Concerning a sustainable model that is not embedded in the child welfare system for serving facility students, and, in connection therewith, making an appropriation.

Bill Summary

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

Joint Budget Committee. The bill creates a work group that is tasked with developing a sustainable model that is not embedded in the child welfare system to better serve students. The bill outlines membership in the work group, duties of the work group, and reporting requirements for the work group and commissioner of education.

Capital letters or bold & italic numbers indicate new material to be added to existing statute. Dashes through the words indicate deletions from existing statute.
The bill requires, in state fiscal year 2021-22 only, and within available appropriations, that the department of education distribute supplemental payments to facility schools approved by the department as of October 1, 2021. The supplemental payments must be above and beyond the current daily per pupil revenue rate as established for the 2021-22 state fiscal year.

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

SECTION 1. Legislative declaration. (1) The general assembly finds and declares that:

(a) Approximately 1,600 children and youth per day require the delivery of educational services and supports in residential or day treatment facilities, hospital settings, home-bound environments, or other specially designed district programs due to physical, behavioral, mental health, or special education service needs that exceed the services and supports available in some educational settings in the state of Colorado;

(b) Facility schools are currently operated by residential child care, day treatment, and hospital providers whose overall capacity has decreased by thirty percent in the past five years due to provider closures and reforms in the child welfare system that limit the number of placements in a residential facility;

(c) Insufficient capacity in facility schools may result in out-of-state placements for students, separating students from families and communities, and often imposing extraordinary costs on school districts and counties to pay for those out-of-state placements and services; and

(d) The educational placement costs are borne directly by the placing entity, thereby negatively impacting available resources to provide services and supports to all children and youth.
(2) The general assembly therefore resolves and declares that addressing the educational, physical, behavioral, and mental health needs of children and youth who need advanced services requires:

(a) The development of a comprehensive continuum of educational settings to support the educational, physical, behavioral, and mental health needs of these children and youth;

(b) The provision of adequate educational options that include, but are not limited to, eligible and approved facility schools as described in part 4 of article 2 of title 22, school districts, boards of cooperative services, multi-district cooperatives, multi-agency partnerships, and the division of youth services; and

(c) Ensuring the development of a sustainable funding structure that supports a high-quality educational continuum intended to meet the educational needs of children and youth requiring advanced services.

SECTION 2. In Colorado Revised Statutes, 22-2-402, add (3.3), (3.8), and (9) as follows:

22-2-402. Definitions. As used in this part 4, unless the context otherwise requires:

(3.3) "FACILITY STUDENT", AS USED IN SECTION 22-2-407.5, MEANS A STUDENT WHO IS IN AN APPROVED FACILITY SCHOOL, ELIGIBLE FACILITY SCHOOL, OR SCHOOL DISTRICT SETTING, AND WHO IS RECEIVING OR REQUIRES SPECIALIZED SERVICES, AND WHOSE EDUCATIONAL NEEDS MAY BE BEYOND THE DELIVERY CAPACITY OF THE STUDENT'S CURRENT EDUCATIONAL SETTING.

(3.8) "MODEL" MEANS THE SUSTAINABLE EDUCATIONAL CONTINUUM DESIGNED TO MEET THE EDUCATIONAL NEEDS OF FACILITY STUDENTS IN THE TARGET POPULATION AS DEFINED BY THE WORK GROUP
PURSUANT TO SECTION 22-2-407.5.

(9) "WORK GROUP" MEANS THE WORK GROUP CREATED AND CONVENED PURSUANT TO SECTION 22-2-407.5.

SECTION 3. In Colorado Revised Statutes, add 22-2-407.5 as follows:

22-2-407.5. Facility schools - sustainable model of education for facility students - work group - created - membership - duties - reporting requirements - funding. (1) (a) ON OR BEFORE JULY 1, 2021, THE DEPARTMENT SHALL CONVENE A WORK GROUP OF THE STAKEHOLDERS DESCRIBED IN SUBSECTION (1)(b) OF THIS SECTION. THE PURPOSE OF THE WORK GROUP IS TO DEVELOP AND IMPLEMENT A SUSTAINABLE MODEL WITH CAPACITY TO MEET THE EDUCATIONAL NEEDS OF CHILDREN AND YOUTH IN OR AT RISK OF OUT-OF-HOME PLACEMENT AND CHILDREN AND YOUTH WHO ARE AT RISK OF EDUCATIONAL FAILURE DUE TO CHALLENGING BEHAVIOR, MENTAL OR BEHAVIORAL HEALTH NEEDS, OR DISABILITIES, REGARDLESS OF THE CHILD'S OR YOUTH'S ELIGIBILITY FOR SPECIAL EDUCATION SERVICES.

(b) THE WORK GROUP SHALL OBTAIN INPUT FROM PARENTS AND STUDENTS WHO REFLECT THE DIVERSITY OF THE STATE WITH REGARD TO RACE, ETHNICITY, IMMIGRATION STATUS, INCOME, AND DISABILITY. THE WORK GROUP MUST INCLUDE REPRESENTATIVES FROM THE FOLLOWING ENTITIES:

(I) SCHOOL DISTRICTS;

(II) BOARDS OF COOPERATIVE SERVICES;

(III) SPECIAL EDUCATION DIRECTORS;

(IV) FACILITY SCHOOLS AND FACILITY SCHOOL BOARD MEMBERS;

(V) THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING;
(VI) The Department of Education;
(VII) The Department of Human Services, including the Division of Youth Services; and
(VIII) County departments of human or social services.

(2) The work group shall:
(a) Define the target population of facility students;
(b) Analyze data to determine the educational needs of students in the target population;
(c) Analyze cost data for providing educational services to students in the target population;
(d) Evaluate existing capacity within the state, including, but not limited to, the location and number of desks in each facility school and other programs that currently serve students in the target population in Colorado;
(e) Evaluate other effective evidence-based options that currently exist in Colorado or in other states and that may be incorporated into the model to ensure the necessary capacity to serve students in the target population in the state;
(f) Identify barriers and develop solutions to address the development of additional capacity in educational programs in meeting the needs of students in the target population;
(g) Identify and analyze:
(I) The state's current capacity to provide appropriate instruction, support, and services to students in the target population;
(II) The current funding methodology for facility schools;
(III) The federal, state, local, and other sources of funding available to support the current educational options for serving students in the target population, including the restrictions on use of each type of funding;

(IV) The capacity and funding necessary to adequately serve and support students in the target population who will receive educational services through the model developed pursuant to this section; and

(V) The funding methodology and necessary resources to ensure long-term viability.

(h) Identify the outcomes that are to be evaluated pursuant to subsection (3) of this section; and

(i) Develop short-term strategies to address the lost capacity in facility schools.

(3) The educational options for the model must clearly define the roles of the Department of Education, the Department of Human Services, the Department of Health Care Policy and Financing, and the Department of Public Health and Environment in the model’s continuum, which includes, but is not limited to, residential treatment, day treatment, and hospitals. The model must include a means by which to evaluate appropriate outcomes of the target population served in the continuum.

(4) (a) After analyzing the data required pursuant to subsection (2) of this section, and no later than October 1, 2022, the work group shall develop the model through which educational services will be made available to the target population. On or before October 1, 2022, the work group shall
DEVELOP THE IMPLEMENTATION PLAN, INCLUDING THE DEADLINES FOR IDENTIFIED DELIVERABLES WITHIN THE PLAN TO ENSURE THAT IMPLEMENTATION OF THE MODEL CAN BEGIN ON OR BEFORE JULY 1, 2023, AND BE FULLY IMPLEMENTED ON OR BEFORE JULY 1, 2027. ADDITIONALLY, THE WORK GROUP SHALL DEVELOP A REPORT IDENTIFYING ANY NECESSARY STATUTORY CHANGES FOR FULL IMPLEMENTATION OF THE MODEL, AS WELL AS ANY FISCAL IMPACT OF THE MODEL’S IMPLEMENTATION.

(b) THE WORK GROUP SHALL SUBMIT THE INFORMATION REQUIRED BY THIS SUBSECTION (4) TO THE DEPARTMENT ON OR BEFORE OCTOBER 1, 2022. ON OR BEFORE NOVEMBER 1, 2022, THE DEPARTMENT SHALL SUBMIT A WRITTEN REPORT SUMMARIZING THE WORK GROUP’S WORK, AS REQUIRED PURSUANT TO THIS SUBSECTION (4), TO THE JOINT BUDGET COMMITTEE.

(c) THE DEPARTMENT MAY CONTRACT WITH AN INDEPENDENT FACILITATOR TO SUPPORT THE WORK GROUP AND WRITE THE REPORT REQUIRED PURSUANT TO THIS SUBSECTION (4), AND AN INDEPENDENT ENTITY TO PERFORM THE FINANCIAL ANALYSIS REQUIRED PURSUANT TO SUBSECTION (2)(g) OF THIS SECTION.

(d) ON OR BEFORE DECEMBER 31, 2022, THE COMMISSIONER OF EDUCATION, AS DEFINED IN SECTION 22-2-102, SHALL PRESENT THE REPORT COMPILED PURSUANT TO SUBSECTION (4)(b) OF THIS SECTION TO THE JOINT BUDGET COMMITTEE, INCLUDING DETAILS OF THE MODEL, THE IMPLEMENTATION PLAN AND TIMELINE, ANY FISCAL IMPACT OF IMPLEMENTING THE MODEL, ANY NECESSARY STATUTORY CHANGES, AND ANY RECOMMENDATIONS TO INCREASE COLORADO’S SYSTEM TO SERVE AND ITS CAPACITY TO SUPPORT STUDENTS IN THE TARGET POPULATION, INCLUDING SHORT-TERM STRATEGIES DEVELOPED TO ADDRESS LOST
FACILITY SCHOOL CAPACITY.

(e) On or before October 1, 2023, and on or before each October 1 during the implementation phase of the model, the department shall submit a written report concerning the progress of the model’s implementation, including but not limited to, the status of each deliverable identified in the implementation plan, any modifications to the implementation plan, and any statutory changes and funding necessary in the upcoming fiscal year in order to successfully implement each phase of the model.

SECTION 4. In Colorado Revised Statutes, 22-2-408, add (3) as follows:

22-2-408. Approved facility schools - funding. (3) In state fiscal year 2021-22 only, and within available appropriations, the department shall distribute supplemental payments to facility schools approved by the department as of October 1, 2021. The supplemental payments must be above and beyond the current daily per pupil revenue rate as established for the 2021-22 state fiscal year. The department shall determine the method through which the supplemental payments are distributed to all approved facility schools and shall ensure that the supplemental payments made pursuant to this subsection (3) are paid to the approved facility school prior to June 30, 2022.

SECTION 5. Appropriation. (1) For the 2021-22 state fiscal year, $6,200,000 is appropriated to the department of education. This appropriation is from the general fund. To implement this act, the
department may use this appropriation as follows:

(a) $500,000 for the facility school work group; and

(b) $5,700,000 for supplemental payments to facility schools.

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

TO Members of the Joint Budget Committee
FROM Robin J. Smart, JBC Staff (303-866-4955)
DATE May 10, 2021
SUBJECT Potential legislation concerning a funding model used to determine child welfare services allocation, and, in connection therewith, making an appropriation (LLS 21-0831.02)

LLS 21-0831.02 CHILD WELFARE FUNDING MODEL
Current language in the bill requires:
• The use of the child welfare funding model for determining Child Welfare Block, Core Services, and additional Staffing allocations to counties beginning in FY 2023-24;
• The funding model to inform annual budget requests;
• Ongoing evaluations of the model to ensure that it remains up to date and reflects changes in federal and state law and annually updated county data;
• An updated workload study and the inclusion of that data in the model;
• Annual modifications to the model by the contracted entity; and
• A triennial evaluation of the implementation of the model.
• Appropriates $250,000 for the workload study.

The following amendments to the bill have been requested by the Department of Human Services and the Child Welfare Allocations Committee:
• Page 3, line 17, after "department" insert "and the child welfare allocations committee".
• Page 3, line 25, after "department" insert "and the child welfare allocations committee".
• Page 4, line 14, strike "the state department shall" and substitute "the child welfare committee shall make recommendations to the state department concerning how to modify the results of the funding model to align with the appropriation.".
• Page 4, strike lines 15 through 17.
• Page 7, line 5, strike "2021." and substitute "2021, and includes factors that best meet the needs of children, youth, and families in the child welfare system".
• Modifications to the implementation dates in the bill to ensure there is enough time for the completion of the workload study and the incorporation of its data into the model. This will likely result in delaying full implementation of the model by one year. Several dates in the bill will need to be changed to account for this.
A BILL FOR AN ACT

Concerning a funding model used to determine child welfare services allocations, and, in connection therewith, making an appropriation.

Bill Summary

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

Joint Budget Committee. The bill requires the state department of human services (state department), beginning in state fiscal year 2023-24, to use the child welfare allocations funding model (funding model) to determine the capped and targeted allocations for child welfare services and the funding required for adoption and relative guardianship
subsidies, the independent living program, additional county child welfare staff, and family and children's programs.

The funding model determines the appropriate level of funding required to fully meet all state and federal requirements concerning the comprehensive delivery of child welfare services. The bill clarifies what must be included in the funding model and requires the state department and the child welfare allocations committee to annually submit a report on the funding model to the joint budget committee.

The department is required to enter into a 3-year agreement with an outside entity to annually modify the funding model based on recommendations from the child welfare allocations committee and evaluations and deliver the results of the model each year. The bill requires a child welfare workload study to inform the funding model. To maintain the integrity of the data used in the funding model, the child welfare allocations committee shall annually examine county practices regarding data collection and financial management, an evaluation group annually evaluates the funding model, and, every 3 years, an outside evaluating entity conducts a comprehensive evaluation of the implementation of the funding model.

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

SECTION 1. In Colorado Revised Statutes, 26-5-104, amend (3)(a), (3)(a.6), (7)(b), and (8)(a); and add (3)(a.2), (6.1)(c), and (6.6)(c) as follows:

26-5-104. Funding of child welfare services provider contracts - funding mechanism review - fund - report - rules - definitions - repeal. (3) Allocation formula. (a) (I) For state fiscal year 2018-19 and for each state fiscal year thereafter THROUGH STATE FISCAL YEAR 2022-23, the state department, after input from the child welfare allocations committee, shall develop formulas for capped and targeted allocations, including the child welfare services allocation, the allocation for additional county child welfare staff, and the allocation for family and children's programs. Allocation formulas developed pursuant to this subsection (3)(a) must include, effective for EACH state fiscal year
2018-19 and each state fiscal year thereafter THROUGH 2022-23, the estimated caseload for the delivery of those specific child welfare services to be funded by the money in the capped or targeted allocations. The formulas must also include a performance-aligned component that supports the implementation AND DELIVERY of promising, supported, or well-supported practices, as defined in the federal "Family First Prevention Services Act of 2018", as defined in section 26-5-101 (4.5); be outcome-driven; and be aligned with desired state-department-defined or federally required outcomes and goals. The allocation to each county from any given formula must be equitable and reflective of the cost of delivering services. If a county receives more than one capped or targeted allocation for the delivery of child welfare services, the formula must identify the specific caseload estimate attributable to each capped or targeted allocation.

(II) THIS SUBSECTION (3)(a) IS REPEALED, EFFECTIVE JULY 1, 2023.

(a.2) (I) FOR STATE FISCAL YEAR 2023-24, AND FOR EACH STATE FISCAL YEAR THEREAFTER, THE STATE DEPARTMENT SHALL USE THE FUNDING MODEL DESCRIBED IN SECTION 26-5-103.7 TO DETERMINE THE FUNDING REQUIRED FOR EACH COUNTY FOR ADOPTION AND RELATIVE GUARDIANSHIP SUBSIDIES AND THE INDEPENDENT LIVING PROGRAM, AND TO DETERMINE THE CAPPED AND TARGETED ALLOCATIONS TO EACH COUNTY, OR GROUP OF COUNTIES, FOR CHILD WELFARE SERVICES, ADDITIONAL COUNTY CHILD WELFARE STAFF, AND FAMILY AND CHILDREN'S PROGRAMS.

(II) THE STATE DEPARTMENT SHALL MAKE THE CAPPED AND TARGETED ALLOCATIONS DESCRIBED IN SUBSECTION (3)(a.2)(I) OF THIS SECTION BASED ON THE TOTAL AMOUNT IDENTIFIED IN THE FUNDING

(III) IF THE APPROPRIATION MADE FOR A FISCAL YEAR IS NOT EQUAL TO THE AMOUNT NECESSARY TO FULLY FUND THE ALLOCATIONS REQUIRED BY THE FUNDING MODEL, THE STATE DEPARTMENT SHALL ADJUST THE ALLOCATION TO EACH COUNTY BY THE SAME PERCENTAGE DIFFERENCE BETWEEN THE APPROPRIATION AND THE AMOUNT REQUIRED TO FULLY FUND THE FUNDING MODEL.

(a.6) On or before March 1 of any state fiscal year, the child welfare allocations committee shall submit written recommendations to the state department to inform the capped and targeted allocations. The child welfare allocations committee is encouraged to include documentation on how the recommendations support the achievement of expectations described in subsection (3)(a) of this section.

(6.1) (c) (I) ON OR BEFORE DECEMBER 31, 2021, THE STATE DEPARTMENT SHALL ENTER INTO AN AGREEMENT WITH AN OUTSIDE ENTITY TO CONDUCT AN UPDATED WORKLOAD STUDY. THE OUTSIDE ENTITY MAY BE THE SAME ENTITY THAT UPDATES AND MODIFIES THE

(II) (A) The updated workload study must include consideration of, but is not limited to considering, the following data: County population information; child welfare staff by county; county budget information; the number of time-study participants by county; key tasks performed by child welfare workers; detailed results for time spent per case on individual tasks; the percentage of hours recorded and paid by each county; and development of a method to create workload, caseload, and staffing models.

(B) All counties are encouraged to participate in the updated workload study. If a county elects not to participate in the study, the department shall determine the proxy data for each nonparticipating county to be used in the study.

(III) This subsection (6.1)(c) is repealed, effective June 30, 2023.

(6.6) (c) (I) On or before July 1, 2022, the state department shall submit to the joint budget committee an update of the report required pursuant to section (6.6)(b) of this section that includes updated information about each of the subjects addressed in the initial report.

(II) This subsection (6.6)(c) is repealed, effective June 30,
(7) (b) A county may only receive money pursuant to the provisions of subsection (7)(a.5) of this section if the requirements of section 26-5-103.5(4) have been satisfied, for expenditures other than those attributable to administrative and support functions as referred to in section 26-5-101(3)(m) as defined in accordance with the provisions of section 26-5-103.5(4), and for authorized expenditures attributable to caseload increases beyond the caseload estimate established pursuant to subsection (3) of this section for a specific capped allocation.

(8) County-level child welfare staff. (a) For the state fiscal year 2015-16, and for each state fiscal year thereafter, each county may receive a capped allocation in addition to its portion of the child welfare block grant for the specific purpose of hiring new child welfare staff at the county level in addition to child welfare staff existing as of January 1, 2015. A county that utilizes said additional allocation shall continue to pay for child welfare staff positions existing as of January 1, 2015, through the child welfare block grant. The child welfare allocations committee shall determine the allocation formula pursuant to subsection (3) of this section:

SECTION 2. In Colorado Revised Statutes, add 26-5-103.7 as follows:

26-5-103.7. Child welfare allocations funding model - evaluation group - report - definitions - repeal. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "EVALUATION GROUP" MEANS THE GROUP ESTABLISHED TO EVALUATE THE FUNDING MODEL DESCRIBED IN SUBSECTION (6) OF THIS SECTION.
(b) "FUNDING MODEL" means the funding model to determine the appropriate level of funding required to fully meet all state and federal requirements concerning the comprehensive delivery of child welfare services that was developed pursuant to Section 26-5-103.5 (7) prior to its repeal in 2021.

(2) (a) (I) On or before October 31, 2021, the State Department shall enter into an agreement with an outside entity to update and modify the funding model for fiscal years 2022-23 and 2023-24 in accordance with the recommendations of the Child Welfare Allocations Committee. The agreement must end no later than June 30, 2023.

(II) On or before March 31, 2022, the outside entity shall update and modify the funding model to be used for the 2022-23 fiscal year. On or before March 31, 2023, the outside entity shall update and modify the funding model to be used for the 2023-24 fiscal year. For both years, the outside entity shall update the funding model in accordance with the recommendations of the Child Welfare Allocations Committee made pursuant to Subsection (7) of this section and deliver the results of the model to the Joint Budget Committee, State Department, and Child Welfare Allocations Committee.

(III) This subsection (2)(a) is repealed, effective July 1, 2023.

(b) On or before July 1, 2023, and on or before July 1 every third year thereafter, the State Department shall enter into a three-year agreement with an outside entity to annually modify the funding model, update the data used in the funding model,
AND DELIVER THE RESULTS OF THE FUNDING MODEL, AS DESCRIBED IN SUBSECTION (8) OF THIS SECTION.

(3) ON OR BEFORE JULY 1, 2023, AND ON OR BEFORE JULY 1 EVERY THIRD YEAR THEREAFTER, THE STATE DEPARTMENT SHALL ENTER INTO AN AGREEMENT WITH AN OUTSIDE EVALUATING ENTITY TO CONDUCT A COMPREHENSIVE EVALUATION OF THE IMPLEMENTATION OF THE FUNDING MODEL. THE EVALUATION MUST ENSURE THAT THE APPROPRIATE MODIFICATIONS WERE MADE TO THE FUNDING MODEL IN THE PRECEDING THREE YEARS, INCLUDING NECESSARY CHANGES RELATED TO FEDERAL AND STATE LAW; WHETHER COUNTY DATA WAS ACCURATELY AND APPROPRIATELY UPDATED EACH YEAR; WHETHER THE MODEL WAS RUN EACH YEAR AND USED FOR ALLOCATIONS TO COUNTIES; HOW THE ALLOCATIONS WERE MADE TO EACH COUNTY; WHETHER COUNTIES INCREASED STAFFING LEVELS AS A RESULT OF THE MODEL'S WORKLOAD METRIC; AND WHETHER THE UPDATED WORKLOAD STUDY DESCRIBED IN SECTION 26-5-104 (6.1)(b) WAS ADDED TO THE MODEL. ON OR BEFORE OCTOBER 1 OF EACH YEAR OF AN AGREEMENT, THE EVALUATING ENTITY SHALL DELIVER THE RESULTS OF ITS EVALUATION TO THE STATE DEPARTMENT, CHILD WELFARE ALLOCATIONS COMMITTEE, AND THE OUTSIDE ENTITY DESCRIBED IN SUBSECTION (2) OF THIS SECTION. THE DEPARTMENT SHALL NOT ENTER INTO AN AGREEMENT PURSUANT TO THIS SUBSECTION (3) WITH THE SAME OUTSIDE ENTITY DESCRIBED IN SUBSECTION (2) OF THIS SECTION.

(4) BEGINNING WITH THE FUNDING MODEL EFFECTIVE FOR STATE FISCAL YEAR 2023-24, THE FUNDING MODEL MUST:

(a) INCLUDE FACTORS ADDRESSING COUNTY WORKLOAD, INFORMED BY THE WORKLOAD STUDY CONDUCTED IN 2022 PURSUANT TO
SECTION 26-5-104 (6.1)(c), INCLUDING THE NUMBER OF CHILD WELFARE CASE AIDES, CASE WORKERS, AND SUPERVISORS NECESSARY TO PERFORM ALL RESPONSIBILITIES REQUIRED BY STATE AND FEDERAL LAW;

(b) INCLUDE FACTORS ADDRESSING DEMOGRAPHIC DATA, INCLUDING POVERTY STATISTICS, AND STATE AND LOCAL ECONOMIC DRIVERS THAT MAY INFLUENCE THE COST OF DELIVERING CHILD WELFARE SERVICES AND PREVENTION PROGRAMS, AS DEFINED IN SECTION 19-1-103, WITH AN EMPHASIS ON BUILDING CAPACITY TO PROVIDE SERVICES BASED ON THE NEEDS OF THE CHILD AND FAMILY;

(c) INCLUDE THE ESTIMATED CASELOAD FOR THE DELIVERY OF SPECIFIC CHILD WELFARE SERVICES IN EACH COUNTY, TO BE FUNDED BY THE MONEY ALLOCATED TO COUNTIES PURSUANT TO SECTION 26-5-104;

(d) INCLUDE A PERFORMANCE-ALIGNED COMPONENT THAT SUPPORTS THE IMPLEMENTATION OF PROMISING, SUPPORTED, OR WELL-SUPPORTED PRACTICES, AS DEFINED IN THE FEDERAL "FAMILY FIRST PREVENTION SERVICES ACT OF 2018";

(e) BE DRIVEN BY OUTCOMES RELATED TO THE STABILITY AND WELL-BEING OF CHILDREN RECEIVING CHILD WELFARE SERVICES, CONSISTENT WITH THE RECOMMENDATIONS OF THE DELIVERY OF CHILD WELFARE SERVICES TASK FORCE MADE PURSUANT TO SECTION 26-5-105.8 (4.5) PRIOR TO ITS REPEAL IN 2023; AND

(f) INCLUDE INCENTIVES FOR THE DELIVERY OF SERVICES BASED ON THE RECOMMENDATIONS OF THE DELIVERY OF CHILD WELFARE SERVICES TASK FORCE MADE PURSUANT TO SECTION 26-5-105.8. THE FUNDING MODEL MUST PROVIDE THE INCENTIVES TO COUNTIES BASED ON MEASUREMENTS AND METRICS ESTABLISHED BY THE STATE DEPARTMENT AFTER CONSIDERATION OF INPUT FROM THE CHILD WELFARE ALLOCATIONS
committee. The measurements and metrics may include metrics concerning successful adoptions, successfully sustained placements, high school graduations, family reunifications, no recurrence of abuse and neglect, and timely dental and medical checks.

(5) Notwithstanding section 24-1-136 (11)(a)(I), on or before November 15, 2021, and on or before November 15 of each year thereafter, the state department and the child welfare allocations committee shall submit a report regarding the funding model to the joint budget committee. The report must include the following information concerning the previous fiscal year:

(a) The results of the funding model, including the cost per county necessary to meet all state and federal requirements for the comprehensive delivery of child welfare services;

(b) The difference between each county's actual allocation and the allocation amount identified by the funding model;

(c) The final close-out pursuant to section 26-5-104 (7) for the previous fiscal year;

(d) Any modifications made to the model to improve the accuracy of the data;

(e) A description of the incentives included in the funding model and the amount of incentives provided to each county; and

(f) Any other issues related to funding child welfare
SERVICES IDENTIFIED BY THE CHILD WELFARE ALLOCATIONS COMMITTEE.

(6) (a) (I) On or before August 1, 2021, and on or before August 1 of each year thereafter, the Child Welfare Allocations Committee shall establish and appoint members to a funding model evaluation group to evaluate the funding model.

(II) The evaluation group has seven members who are experts in child welfare funding and policy. At least one member must be a representative of the State Department with child welfare funding expertise, one member must be a county financial officer from a county described in Section 26-5-104 (4)(b)(I), and one member must be a county financial officer from a county described in Section 26-5-104 (4)(b)(II).

(III) The members of the evaluation group serve without compensation but may be reimbursed for actual and necessary expenses incurred in the performance of their duties.

(b) The evaluation group shall evaluate the funding model to ensure that it is consistent with changes to State and Federal law, includes outcome-based incentives and child and family well-being outcomes as factors in the model, includes an ongoing workload analysis, and satisfies the criteria described in subsection (4) of this section. The evaluation group shall evaluate any components of the funding model identified for evaluation by the Child Welfare Allocations Committee pursuant to Section 26-5-103.5 (4.5).

(c) On or before October 1, 2021, and on or before October 1 of each year thereafter, the evaluation group must complete its annual evaluation of the funding model and deliver its
FINDINGS AND RECOMMENDATIONS TO THE CHILD WELFARE ALLOCATIONS COMMITTEE.

(7) On or before December 31, 2021, and on or before December 31 of each year thereafter, and after considering the findings and recommendations of the Evaluation Group, the Child Welfare Allocations Committee shall deliver to the State Department and outside entity described in subsection (2) of this section responsible for updating the funding model the Committee's recommendations for modifications to the funding model that are necessary to ensure that the model is current and reflects any changes in federal or state law and county data and workload.

(8) The outside entity described in subsection (2) of this section shall:

(a) On or before March 31 of the first year of its agreement, modify the model to be used for the next fiscal year based on the results of the evaluation conducted pursuant to subsection (3) of this section and the recommendations of the State Department, Child Welfare Allocations Committee, and Evaluation Group; update the data used in the model; and deliver the results of the model to the Child Welfare Allocations Committee, State Department, and Joint Budget Committee; and

(b) On or before March 31 of every other year of the agreement, modify the funding model to be used for the next fiscal year in accordance with the recommendations of the Child Welfare Allocations Committee made pursuant to subsection (7)
OF THIS SECTION, UPDATE THE DATA USED IN THE MODEL, AND DELIVER
THE RESULTS OF THE MODEL TO THE CHILD WELFARE ALLOCATIONS
COMMITTEE, STATE DEPARTMENT, AND JOINT BUDGET COMMITTEE.

SECTION 3. In Colorado Revised Statutes, 26-5-103.5, amend
(1), (2)(a), (2)(c) introductory portion, (2)(c)(III), and (3); repeal (4) and
(7); and add (4.5) as follows:

26-5-103.5. Child welfare allocations committee - organization
- duties - funding model - definition - repeal. (1) The state department
shall convene a child welfare allocations committee referred to in this
section as the "committee"; as necessary in order to PERFORM THE DUTIES
DESCRIBED IN THIS SECTION AND make advisory recommendations as
described in this article 5.

(2) (a) The CHILD WELFARE ALLOCATIONS committee consists of
thirteen members, ten of whom must be appointed by county
commissioners and three of whom must be appointed by the state
department, and the CHILD WELFARE ALLOCATIONS committee consists of
two nonvoting members who must be appointed by the state department.

(c) Of the members appointed by county commissioners, only one
representative per county may serve on the CHILD WELFARE ALLOCATIONS
committee at the same time, and:

(III) Two members must be representatives from the two counties
in the state with the greatest percentage of the state's child welfare
caseload. County commissioners in the two counties with the greatest
percentage of the state's child welfare caseload shall each appoint one
member from their counties to serve on the CHILD WELFARE ALLOCATIONS
committee.

(3) The CHILD WELFARE ALLOCATIONS committee shall develop its
own operating procedures.

(4) No later than January 15, 1999, the state department, with input from the committee, shall make recommendations to the joint budget committee of the general assembly for a definition of what constitutes administration and support functions as referred to in section 26-5-101 (3)(m) and a method for identifying costs for such functions.

(4.5) (a) On or before August 1, 2021, and on or before August 1 of each year thereafter, the child welfare allocations committee shall identify components of the funding model that should be evaluated by the funding model evaluation group pursuant to section 26-5-103.7.

(b) In order to ensure the integrity of the funding model described in section 26-5-103.7, on or before September 1, 2021, and on or before September 1 of each year thereafter, the child welfare allocations committee shall:

(I) Establish expectations for gathering and using data in the funding model to ensure consistency within the funding model;

(II) Identify county training and capacity needs to ensure integrity of the data collected and used in the Colorado TRAILS case management system and county financial management systems; and

(III) Develop strategies and recommend changes to data systems that support the funding model and to financial policies and practices to ensure that appropriate, consistent, and accurate data can be used to inform the funding model.

(c) The child welfare allocations committee shall provide
INPUT TO THE STATE DEPARTMENT CONCERNING THE MEASUREMENTS AND METRICS FOR COUNTIES TO RECEIVE INCENTIVES RECOMMENDED BY THE DELIVERY OF CHILD WELFARE SERVICES TASK FORCE MADE PURSUANT TO SECTION 26-5-105.8.

(d) The child welfare allocations committee shall also perform any duties required in section 26-5-103.7 related to the child welfare allocations funding model.

(7) (a) Beginning with state fiscal year 2018-19, and every three years thereafter, the state department shall contract with an outside entity to develop a funding model that must be used to inform the committee, the general assembly, the governor, and the state department of the appropriate level of funding required to fully meet all state and federal requirements concerning the comprehensive delivery of child welfare services, as defined in section 26-5-101(3). The funding model must take into consideration workload, demographic data, including poverty statistics, and state and local economic drivers that may influence the delivery of services. The funding model developed pursuant to this subsection (7) must be informed by the recommendations of the delivery of child welfare services task force as set forth in section 26-5-105.8 and must be used to inform the decision-making process of the committee.

(b) (f) On or before November 1, 2019, and each November 1 thereafter, the state department, in collaboration with the committee, shall submit an annual report to the joint budget committee, or any successor committee. The report must include the results of regular evaluations of the funding model developed pursuant to subsection (7)(a) of this section, the allocation formulas developed pursuant to section 26-5-104 (3), and outcomes and performance measures related to the delivery of child welfare services.
welfare services, pursuant to section 26-5-105.8.

(II) Notwithstanding section 24-1-136 (11)(a)(I), the reporting requirement in subsection (7)(b)(I) of this section continues indefinitely.

SECTION 4. In Colorado Revised Statutes, 26-5-105.8, amend (1)(c), (1)(h), and (5); and add (4.5) as follows:

26-5-105.8. Delivery of child welfare services task force - creation - duties - membership - reporting requirements - repeal.

(1) There is created in the state department the delivery of child welfare services task force, referred to in this section as the "task force". The state department, in collaboration with counties, shall convene the task force at least once per quarter, beginning July 1, 2018. The purpose of the task force is to:

(c) Establish performance and outcome measures and the process by which to evaluate the measures associated with the delivery of child welfare services, including but not limited to residential out-of-home placements; foster care; adoption; and services to children and youth in their own homes, including prevention and intervention services, and determine how the measures and evaluation will be used to inform the funding model described in section 26-5-103.5 (7)(a) and the allocation of funds pursuant to section 26-5-104 (3);

(h) Make recommendations to the general assembly joint budget committee, the governor, the state department, and the child welfare allocations committee concerning the task force's responsibilities and findings.

(4.5) On or before July 31, 2022, the task force shall report to the funding model evaluation group established in section 26-5-103.7 its recommendations for including in the child
WELFARE SERVICES FUNDING MODEL DESCRIBED IN SECTION 26-5-103.7

PERFORMANCE AND OUTCOME MEASURES AND OUTCOME-BASED INCENTIVES RELATED TO THE STABILITY AND WELL-BEING OF CHILDREN WHO RECEIVE CHILD WELFARE SERVICES. THE TASK FORCE MAY PROVIDE UPDATED RECOMMENDATIONS TO THE EVALUATION GROUP PRIOR TO THE REPEAL OF THIS SECTION.

(5) This section is repealed, effective June 30, 2022 2023.

SECTION 5. Appropriation. For the 2021-22 state fiscal year, $250,000 is appropriated to the department of human services for use by the division of child welfare. This appropriation is from the general fund.

To implement this act, the division may use this appropriation for the county child welfare workload study.

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

TO Members of the Joint Budget Committee
FROM Robin J. Smart, JBC Staff (303-866-4955)
DATE May 10, 2021
SUBJECT Potential legislation concerning residential placements for children with intellectual and developmental disabilities, and, in connection therewith, making an appropriation (LLS 21-0830.01)

LLS 21-0830.01 RESIDENTIAL PLACEMENTS FOR CHILDREN WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES

- Requires county departments of human social services to enroll or assist a parent or guardian in enrolling eligible children in the Children’s Residential Habilitation Program and to provide documentation to the Department of Human Services of enrollment or denial of eligibility when applying for placement of children who are in the custody of a county;
- Amends language concerning the opportunity for application to be made by families with children who are not in the custody of a county or the state department; and
- Appropriates $1,162,912 General Fund to increase the number of beds available in the program in order to ensure that children who are currently placed out-of-state at a much higher cost can be moved back in-state.
Joint Budget Committee

BILL TOPIC: "Childrens Habilitation Residential Prog Enrollment"

A BILL FOR AN ACT

Concerning residential placements for children with intellectual and developmental disabilities, and, in connection therewith, making an appropriation.

Bill Summary

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

Joint Budget Committee. The bill requires county departments of human or social services to apply for the children's habilitation residential program (CHRP) waiver for children with intellectual and developmental disabilities who are referred for placement in the program and show proof of enrollment or denial of eligibility to the department of

Capital letters or bold & italic numbers indicate new material to be added to existing statute. Dashes through the words indicate deletions from existing statute.
human services when they apply for placement in CHRP. The bill does not guarantee a placement if the child is enrolled in CHRP.

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

2. SECTION 1. In Colorado Revised Statutes, 26-5-102, amend (3)(c), (3)(d), (3)(e), (3)(i), and (3)(j) as follows:

3. 26-5-102. Provision of child welfare services - system reform goals - out-of-home placements for children and youth with intellectual and developmental disabilities - rules - definition. (3) (c) On or before December 31, 2018, the state department shall contract with a licensed provider for the delivery of services to children and youth with intellectual and developmental disabilities who are placed in the program. The state department shall utilize a request for proposal process to define the scope of the contract and to select the licensed provider. The providers must be approved by the Department of Health Care Policy and Financing as service providers for children eligible for enrollment in the children's habilitation residential program waiver established pursuant to Section 25.5-6-903.

4. (d) A county department that wishes to place a child or youth in the program shall submit an application to the state department for review. Within seven days of making an application to the state department for placement of a child or youth in the program, a county department shall refer the child or youth to be assessed for enrollment in the children's habilitation residential program, or assist the parent or legal guardian who retains legal custody to make the referral. The county department shall provide to the state department evidence that the county
DEPARTMENT OR THE CHILD’S PARENT OR LEGAL GUARDIAN HAS REFERRED THE CHILD OR YOUTH FOR ENROLLMENT IN THE CHILDREN’S HABILITATION RESIDENTIAL PROGRAM OR EVIDENCE OF EITHER ENROLLMENT IN OR DENIAL OF ENROLLMENT IN THE CHILDREN’S HABILITATION RESIDENTIAL PROGRAM, DEPENDING ON WHETHER THE CHILD OR YOUTH IS ELIGIBLE OR INELIGIBLE FOR SUCH ENROLLMENT. The state department shall approve admissions into the program and determine discharge criteria for each placement. ENROLLMENT OF A CHILD OR YOUTH IN THE CHILDREN’S HABILITATION RESIDENTIAL PROGRAM DOES NOT CONSTITUTE AUTOMATIC Placement WITH A SERVICE PROVIDER CONTRACTED WITH PURSUANT TO SUBSECTION (3)(c) OF THIS SECTION. A county department that has applied for the admission of a child or youth into the program shall be notified in writing of a placement approved by the state department.

(e) For the duration of the treatment, as defined in the approval letter from the state department, and for thirty days after the completion of treatment, the county department responsible for the placement of the child or youth in the program must be reimbursed by the state department for one hundred percent of the costs associated with the approved placement. STATE DEPARTMENT SHALL REIMBURSE THE PROVIDER DIRECTLY FOR COSTS ASSOCIATED WITH THE PLACEMENT OF A CHILD OR YOUTH IN THE PROGRAM.

(i) Entities other than county departments, including but not limited to hospitals, health-care providers, single entry point agencies, and community-centered boards, and providers of case management services, may refer a family to voluntarily apply for placement with a service provider contracted with pursuant to subsection (3)(c) of this section and may assist with the application to the state
department for admission of the family's child or youth with intellectual
and developmental disabilities into the program pursuant to this
subsection (3). Such applications will be considered if space is
available. The entity may refer the family to a provider of case
management services or assist the family with the process of
enrolling the child or youth in the children's habilitation
residential program if the child or youth is eligible. However,
children and youth with intellectual and developmental disabilities placed
by county departments or the state department shall have priority
for admission to the program. The state department shall not accept
applications for placement of a child or youth who is exclusively insured
by private insurance. A child or youth who is dually insured by private
insurance and medicaid and whose residential level of care has been
denied by private insurance may be eligible for services in the program.
A child or youth who is eligible for enrollment in the children's
habilitation residential program must be enrolled.

(j) Any family that is voluntarily applying for placement
with assistance from any entity defined in subsection (3)(i) of this
section that receives placement approval from the state department shall
contract directly with the provider for such placement and is responsible
for the costs associated with the placement.

SECTION 2. Appropriation. For the 2021-22 state fiscal year,
$1,162,912 is appropriated to the department of human services for use
by the division of child welfare. This appropriation is from the general
fund and is based on an assumption that the division will require an
additional 0.5 FTE. To implement this act, the division may use this
5.5.21

1 appropriation for residential placements for children with intellectual and
devolutional disabilities. Any money appropriated in this section not
expended prior to July 1, 2022, is further appropriated to the division for
the 2022-23 state fiscal year for the same purpose.

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

TO Members of the Joint Budget Committee
FROM Robin J. Smart, JBC Staff (303-866-4955)
DATE May 10, 2021
SUBJECT Potential legislation concerning reimbursement for placement of children in out-of-home placement (LLS 21-0829.02)

LLS 21-0829.02 REIMBURSEMENTS FOR OUT-OF-HOME PLACEMENTS

- **Section 1:** Adds languages to ensure that out-of-home child welfare placements in the Division of Youth Services are eligible for Title IV-E reimbursement under the federal Family First Prevention Services Act of 2018;
- **Section 2:** Requires the state and county departments of human services to develop and implement a plan to build out-of-home placement capacity in the state to ensure that children and youth do not have to be placed out of state at a higher cost in order to receive services;
- **Section 3:** Requires child welfare reforms to increase flexibility and collaboration across multiple agencies and funding streams to ensure the delivery of services based on the needs of the child or youth;
- **Section 4:** Requires:
  - The Department of Human Services to fully implement the rate increases pursuant to H.B. 17-1292 (Provider rates) and S.B. 18-254 (Child welfare reforms);
  - An update to the provider rate actuarial analysis performed pursuant to H.B. 17-1292 to include the Division of Youth Services and the new out of home placement provider options required by the federal Family First Prevention Services Act of 2018;
  - The Department to update the rate setting methodology required pursuant to H.B. 17-1292 to reflect the updated actuarial; and
  - The Department to contract with an outside entity to perform a new actuarial analysis of out of home placement provider rates every three years beginning in FY 2022-23;
  - The submission of an annual report to the Joint Budget Committee concerning the provisions of the bill; and
  - The Department to assist residential placement providers in transitioning to a new business model to ensure that the providers are able to be certified as a Qualified Residential Treatment Facility without being designated as an Institute for Mental Disease.
- **Section 5:** (to be added to the bill) Appropriates $250,000 General Fund for the actuarial.
Joint Budget Committee

BILL TOPIC: "Child Welfare System Reforms"

A BILL FOR AN ACT

101 CONCERNING REIMBURSEMENT FOR PLACEMENT OF CHILDREN IN
102 OUT-OF-HOME PLACEMENT.

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 makes several changes to the current child welfare system, including:

- Ensuring that out-of-home placements in the division of youth services align with the requirements of the federal "Family First Prevention Services Act" to qualify for Title IV-E reimbursement for such placements;

Capital letters or bold & italic numbers indicate new material to be added to existing statute. Dashes through the words indicate deletions from existing statute.
• Ensuring appropriate capacity for out-of-home placements in Colorado;
• Authorizing a county to negotiate rates above the base anchor rates established by the state department with licensed out-of-home placement providers serving children in higher acuity cases;
• Requiring the department of human services (department) to contract with a vendor to update the existing actuarial analysis to include division of youth services out-of-home placement providers and new out-of-home placement provider options under federal law, and to update and fully implement the existing rate methodology with the updated provider rates by September 30, 2021;
• Commencing with the 2022-23 fiscal year, requiring the department to contract with an independent vendor every 3 years to conduct a new actuarial analysis of all provider rates for licensed out-of-home placement providers, including the division of youth services providers, to update the rate-setting methodology to reflect the new actuarial analysis, and to implement any adjusted provider rates by July 1, 2024, and by July 1 of each fiscal year immediately following the fiscal year in which a new actuarial analysis results in adjusted rates; and
• Requiring the use of a portion of the federal "Family First Transition and Support Act" funding to be used to support the transition of current providers to a placement option that meets the needs of the child or youth and maximizes federal Title IV-E and Medicaid reimbursements.

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

SECTION 1. In Colorado Revised Statutes, 19-1-115, amend (4)(e) introductory portion and (4)(h) introductory portion as follows:

19-1-115. Legal custody - guardianship - placement out of the home - petition for review for need of placement. (4) (e) Within sixty days after a placement of a child, juvenile, or youth in a qualified residential treatment program, or within thirty days after a placement when the qualified individual does not support the qualified residential treatment program level of care or the child, juvenile, or youth, guardian
ad litem, or any party objects to the placement, a juvenile court or the administrative review division of the state department when a juvenile has been committed to the division of youth services and the court no longer has ongoing jurisdiction, shall: WHEN A CHILD, JUVENILE, OR YOUTH HAS BEEN COMMITTED TO THE DIVISION OF YOUTH SERVICES AND THE COURT NO LONGER HAS ONGOING JURISDICTION, THE ADMINISTRATIVE REVIEW DIVISION SHALL REVIEW THE PLACEMENT OF THAT CHILD, JUVENILE, OR YOUTH IN A QUALIFIED RESIDENTIAL TREATMENT PROGRAM WITHIN SIXTY DAYS AFTER PLACEMENT. WHEN THE CHILD, JUVENILE, OR YOUTH HAS NOT BEEN COMMITTED TO THE DIVISION OF YOUTH SERVICES AND THE COURT HAS ONGOING JURISDICTION, WITHIN SIXTY DAYS AFTER A PLACEMENT OF THAT CHILD, JUVENILE, OR YOUTH IN A QUALIFIED RESIDENTIAL TREATMENT PROGRAM, OR WITHIN THIRTY DAYS AFTER A PLACEMENT WHEN THE QUALIFIED INDIVIDUAL DOES NOT SUPPORT THE QUALIFIED RESIDENTIAL TREATMENT PROGRAM LEVEL OF CARE OR THE CHILD, JUVENILE, YOUTH, GUARDIAN AD LITEM, OR ANY PARTY OBJECTS TO THE PLACEMENT, A JUVENILE COURT SHALL REVIEW THAT PLACEMENT. IN BOTH Instances, THE JUVENILE COURT OR THE ADMINISTRATIVE REVIEW DIVISION OF THE STATE DEPARTMENT SHALL:

(h) In making a decision as to proper placement in a qualified residential treatment program, the court or the administrative review division shall consider the assessment provided by the qualified individual and the most recent assessment, as described in subsection (4)(e) of this section, and shall give great weight to the recommendation in the assessment when making a qualified residential treatment program placement decision. An assessment prepared by the qualified individual must identify whether a qualified residential treatment program is the
most effective, appropriate, and least restrictive placement for the child or youth. The assessment must also identify child- or youth-specific short- and long-term goals for the child or youth and the family. If the court or administrative review division deviates from the qualified individual's assessment and recommendation, the court or the administrative review division shall make specific findings of fact regarding the most effective, appropriate, and least restrictive placement for the child or youth and whether the placement is consistent with child- or youth-specific short- and long-term goals for the child or youth and the family. When making such findings of fact, the court or the administrative review division shall consider all relevant information, including:

SECTION 2. In Colorado Revised Statutes, 19-3-208, add (2)(d.5) and (2)(d.7) as follows:

19-3-208. Services - county required to provide - out-of-home placement options - rules - definitions. (2) (d.5) On or before January 1, 2022, the Department of Human Services, in cooperation with county departments of human or social services, shall analyze necessary data to assess and determine the number of placements necessary for each level of care for children or youth who are in out-of-home placements.

(d.7) On or before July 1, 2022, the Department of Human Services, in consultation with the Department of Health Care Policy and Financing, shall develop and implement a plan to build capacity and develop appropriate and available out-of-home placement options for each necessary level of care in the state in order to serve the number of children and youth who require a given level of care.
SECTION 3. In Colorado Revised Statutes, 26-5-102, amend (2)
introductory portion and (2)(b) as follows:

26-5-102. Provision of child welfare services - system reform
goals - out-of-home placements for children and youth with
intellectual and developmental disabilities - rules - definition.
(2) Reforms in child welfare and related delivery systems shall MUST be
directed at the following objectives:

(b) Increased flexibility and collaboration across multiple agencies
and funding streams to more appropriately meet consumer needs and
avoid cost shifting between systems ENSURE THE DELIVERY OF SERVICES
BASED ON THE NEEDS OF THE CHILD OR YOUTH;

SECTION 4. In Colorado Revised Statutes, 26-5-104, amend
(6)(a), (6)(g), (6.2) introductory portion, and (6.2)(c); and add (6)(i) and
(6.7) as follows:

26-5-104. Funding of child welfare services provider contracts
- funding mechanism review - fund - report - rules - definitions -
repeal. (6) County negotiations with providers. (a) Subject to rules
promulgated by the state department pursuant to subsection (6)(b) of this
section and the methodology adopted pursuant to subsections (6)(e) to
(6)(h) of this section, for each child or youth placed in an out-of-home
placement setting, a county is authorized to negotiate rates related to
services and outcomes with licensed out-of-home placement providers;
except that a county may not negotiate rates below the base anchor rates
established by the state department. Counties with an approved alternative
methodology shall use a request for proposal process to solicit bids from
licensed out-of-home placement providers that allows for adequate
private competition and provides opportunities for competitive
negotiations A COUNTY IS AUTHORIZED TO NEGOTIATE RATES ABOVE THE
BASE ANCHOR RATES ESTABLISHED BY THE STATE DEPARTMENT WITH
LICENSED OUT-OF-HOME PLACEMENT PROVIDERS SERVING CHILDREN IN
HIGHER ACUITY CASES.

(g) (I) Subject to available appropriations, the methodology must
be implemented on or before July 1, 2018, except for those rates that must
be approved by CMS. Rates that must be approved by CMS must be
implemented upon approval. In the event that the representatives
identified in subsection (6)(e) of this section do not agree on the
rate-setting methodology on or before February 1, 2018, the state
department, the county representatives, and the licensed out-of-home
placement providers shall submit alternatives to the joint budget
committee. The joint budget committee shall then select a methodology
prior to the start of the succeeding state fiscal year. It is the intent of the
general assembly that the rate methodology developed pursuant to this
subsection (6) be fully implemented on or before June 30, 2022, through
incremental rate increases established by the state department. For fiscal
year 2019-20 through fiscal year 2021-22, the state department is
encouraged to submit, as a part of the annual budget process, a request for
increased appropriations to fund the increased rates required by the
methodology.

(II) (A) EXCEPT FOR THOSE RATES THAT MUST BE APPROVED BY
CMS, ON OR BEFORE SEPTEMBER 30, 2021, THE STATE DEPARTMENT
SHALL FULLY IMPLEMENT ADJUSTED RATES FOR LICENSED OUT-OF-HOME
PLACEMENT PROVIDERS USING THE EXISTING RATE METHODOLOGY
ESTABLISHED PURSUANT TO SUBSECTION (6)(g)(I) OF THIS SECTION. THE
STATE DEPARTMENT SHALL IMPLEMENT RATES THAT MUST BE APPROVED
BY CMS UPON APPROVAL BY CMS. THE FULL IMPLEMENTATION OF THE
UPDATED RATE METHODOLOGY ADJUSTMENTS MUST INCLUDE RATES FOR
DIVISION OF YOUTH SERVICES OUT-OF-HOME PLACEMENT PROVIDERS AND
FOR NEW OUT-OF-HOME PLACEMENT PROVIDER OPTIONS REQUIRED
PURSUANT TO THE FEDERAL "FAMILY FIRST PREVENTION SERVICES ACT
OF 2018", AS DEFINED IN SECTION 26-5-101, AND AS INFORMED BY AN
UPDATED ACTUARIAL ANALYSIS OF THE COSTS ASSOCIATED WITH SUCH
NEW PROVIDER OPTIONS, WITH THE EXCEPTION OF THERAPEUTIC FOSTER
CARE AND TREATMENT FOSTER CARE, CONDUCTED PURSUANT TO
SUBSECTION (6)(g)(II)(B) OF THIS SECTION.

(B) FOR PURPOSES OF SUBSECTION (6)(g)(II)(A) OF THIS SECTION,
THE STATE DEPARTMENT SHALL CONTRACT WITH AN INDEPENDENT
VENDOR TO UPDATE THE ACTUARIAL ANALYSIS CONDUCTED PURSUANT TO
SUBSECTION (6)(e)(II) OF THIS SECTION TO ADD AN ANALYSIS OF THE
COSTS NECESSARY TO PROVIDE SERVICES BY DIVISION OF YOUTH SERVICES
OUT-OF-HOME PLACEMENT PROVIDERS AND LICENSED OUT-OF-HOME
PLACEMENT PROVIDER OPTIONS INCLUDED IN THE FEDERAL "FAMILY FIRST
PREVENTION SERVICES ACT OF 2018", AS DEFINED IN SECTION 26-5-101,
THAT ARE NOT INCLUDED IN THE ORIGINAL ACTUARIAL ANALYSIS, WITH
THE EXCEPTION OF THERAPEUTIC FOSTER CARE AND TREATMENT FOSTER
CARE. THE VENDOR SHALL COMPLETE THE UPDATED ACTUARIAL ANALYSIS
ON OR BEFORE SEPTEMBER 1, 2021.

(i) (I) AT THE BEGINNING OF THE 2022-23 FISCAL YEAR, AND AT
THE BEGINNING OF EVERY THIRD FISCAL YEAR THEREAFTER, THE STATE
DEPARTMENT SHALL CONTRACT WITH AN INDEPENDENT VENDOR TO
CONDUCT A NEW ACTUARIAL ANALYSIS OF ALL PROVIDER RATES FOR
LICENSED OUT-OF-HOME PLACEMENT PROVIDERS, INCLUDING THE DIVISION
OF YOUTH SERVICES OUT-OF-HOME PLACEMENT PROVIDERS, THAT
ANALYZES THE COSTS NECESSARY TO PROVIDE SERVICES AT A LEVEL
REQUIRED BY STATE STATUTE, DEPARTMENT RULE, OR FEDERAL RULES
AND REGULATIONS, AS APPROPRIATE FOR THE CHILD OR YOUTH. THE
VENDOR SHALL DETERMINE WHETHER THE SALARY SURVEY PERFORMED
Pursuant to Section (6)(e)(I) of This Section Is Sufficient for the
Actuarial Analysis Required Pursuant to This Subsection (6)(i)(I)
OR WHETHER TO UPDATE THE SALARY SURVEY. THE VENDOR SHALL
COMPLETE THE ACTUARIAL ANALYSIS BY SEPTEMBER 1, 2023, AND BY
SEPTEMBER 1 OF EACH YEAR IN WHICH AN ACTUARIAL ANALYSIS IS
CONDUCTED PURSUANT TO THIS SUBSECTION (6)(i)(I).

(II) The State Department Shall Update the Rate-Setting
Methodology for Licensed Out-of-Home Placement Providers,
Including the Division of Youth Services Out-of-Home Placement
Providers, to Reflect the New Actuarial Analysis by July 1, 2024,
And by July 1 of Each Fiscal Year Immediately Following the
Fiscal Year in Which a New Actuarial Analysis Results in Adjusted
RATES.

(III) Subject to Available Appropriations, Except for Those
Rates That Must Be Approved by CMS, the State Department Shall
Implement Any Adjusted Rates Required by the Rate-Setting
Methodology by July 1, 2024, and by July 1 of Each Fiscal Year
Immediately Following the Fiscal Year in Which a New Actuarial
Analysis Results in Adjusted Rates. The Updated Rate-Setting
Methodology May Include Tiered Provider Rates Based on Acuity.

(IV) The State Department Is Encouraged to Submit for
Consideration During the Annual Budget Process a Request For
ADJUSTED APPROPRIATIONS TO FUND THE RATES REQUIRED BY THE UPDATED METHODOLOGY.

(V) The state department shall submit a report to the joint budget committee no later than December 30, 2022, and no later than December 30 of each year thereafter in which an actuarial analysis is conducted. The report must include a summary of the actuarial analysis and the resulting adjustments to the rate-setting methodology.

(6.2) For the purposes of this section, unless the context otherwise requires:

(c) "Licensed out-of-home placement provider" means a licensed residential child care facility, a child placement agency, or a secure residential treatment center, a psychiatric residential treatment facility, a qualified residential treatment program, or therapeutic foster care, as defined in section 26-6-102.

(6.7) Beginning in the state fiscal year 2021-22 and through state fiscal year 2022-23, the state department shall assist residential placement providers in the transition to a business model that ensures that out-of-home placements with the provider are eligible for reimbursement under Title IV-E of the federal "Social Security Act", as amended, and ensures that a Medicaid-eligible child or youth placed with the provider maintains eligibility for enrollment in the state's medical assistance program. Assistance provided by the state department includes grants from not less than fifteen percent of the funding received from the federal "Family First Transition and Support Act of 2019". The state department shall
MAKE GRANTS AVAILABLE TO PROVIDERS NO LATER THAN SEPTEMBER 1, 2021, AND SHALL CONTINUE TO MAKE GRANTS AVAILABLE AND AWARD GRANTS UNTIL JANUARY 1, 2023. FEDERAL FUNDING THAT HAS NOT BEEN AWARDED AS GRANTS TO PROVIDERS BY JANUARY 1, 2023, MUST BE USED FOR OTHER PURPOSES RELATED TO THE IMPLEMENTATION OF THE FEDERAL "FAMILY FIRST PREVENTION SERVICES ACT OF 2018".

SECTION 5. In Colorado Revised Statutes, 26-1-132, amend (1) introductory portion as follows:

26-1-132. Department of human services - rate setting - residential treatment service providers - monitoring and auditing - report. (1) In conjunction with the group of representatives convened by the state department pursuant to section 26-5-104 (6)(e), (6)(g), AND (6)(i) to review the rate-setting process for child welfare services, the state department shall develop a rate-setting process consistent with medicaid requirements for providers of residential treatment services in Colorado. The department of health care policy and financing shall approve the rate-setting process for rates funded by medicaid. The rate-setting process developed pursuant to this section may include:

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

TO: Members of the Joint Budget Committee  
FROM: Robin J. Smart, JBC Staff (303-866-4955)  
DATE: May 10, 2021  
SUBJECT: Potential legislation LLS 21-0827.01 (Prevention services cash fund)

LLS 21-0827.01 CHILD WELFARE PREVENTION AND INTERVENTION SERVICES CASH FUND
Joint Budget Committee staff recommends that this bill be removed from the Committee’s list of potential legislation. Staff has worked with the Department of Human Services, counties, and other stakeholders to draft an amendment to H.B. 21-1248 requiring the deposit of earned Title IV-E prevention services reimbursement into the Colorado Children’s Trust Fund, including the use of those funds to expand primary prevention and prevention services capacity across the state.
BILL TOPIC: "Evidence-based Evaluations For Budget"

A BILL FOR AN ACT

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

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 establishes the following evidence-based continuum:

● Tier 1: Proven;
5.7.21

- Tier 2: Evidence-informed;
- Tier 3: Theory-informed;
- Tier 4: Opinion-based; or
- Tier 5: Evaluation investment or not applicable.

If a state agency or the office of state planning and budgeting includes an evidence-based evaluation of a program or practice in a budget request or budget amendment, then the state agency or office is required to use the evidence-based continuum for this purpose and specify the tier that best describes the program or practice. In such case, the state agency or office is also required to provide any academic research that supports the program or practice or a decrease in funding for a program or practice, along with information concerning how the evidence referenced was used in the development of the budget request or budget amendment request.

Joint budget committee staff is required to independently analyze and determine the appropriate tier on the evidence-based continuum for the program or practice and to include any evidence-based information as part of any recommendation it makes regarding a budget request or budget amendment request. The staff director is required to appoint additional staff as necessary to provide the evidence-based analysis, and upon request, joint budget committee staff shall also assist legislators in incorporating evidence-based assessments in legislation for bills that create a new program or practice.

The joint budget committee is required to use any available evidence-based information when determining the appropriate level of funding of a program or practice.

The bill makes an appropriation.

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

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

2-3-210. Evidence-based decision-making - budget requests - legislative declaration - definitions. (1) The General Assembly hereby finds and declares that:

(a) When appropriate, the use of data and outcome-related evidence in the analysis of programs implemented and delivered by state agencies is an effective means through which funding decisions concerning program

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IMPROVEMENT AND EXPANSION OR REDIRECTION OF FUNDS CAN BE
ACHIEVED; AND

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

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

(a) "EVIDENCE-BASED CONTINUUM" MEANS THE TIERS OF
EVALUATIONS OF A PROGRAM OR PRACTICE SPECIFIED IN SUBSECTION (3)
OF THIS SECTION.

(b) "EVALUATION INVESTMENT PROGRAM OR PRACTICE OR NOT
APPLICABLE" MEANS A PROGRAM OR PRACTICE FOR WHICH THERE IS NO
EXISTING EVIDENCE ABOUT THE EFFECTIVENESS, INEFFECTIVENESS, OR
HARMFULNESS AND QUALITY EVALUATION IS PLANNED, OR THAT SUCH
EVALUATION IS NOT APPLICABLE.

(c) "EVIDENCE-INFORMED PROGRAM OR PRACTICE" MEANS A
PROGRAM OR PRACTICE THAT REFLECTS A MODERATE, SUPPORTED, OR
PROMISING LEVEL OF CONFIDENCE OF EFFECTIVENESS, INEFFECTIVENESS,
OR HARMFULNESS AS DETERMINED BY ONE HIGH-QUALITY RANDOM
CONTROL TRIAL, TWO QUASI-EXPERIMENTAL DESIGNED STUDIES, OR AN
EQUIVALENT MEASURE.

(d) "OPINION-BASED PROGRAM OR PRACTICE" MEANS A POLICY OR
PRACTICE THAT REFLECTS A LOW LEVEL OF CONFIDENCE OF
EFFECTIVENESS, INEFFECTIVENESS, OR HARMFULNESS, AS BASED ON
SATISFACTION SURVEYS, PERSONAL EXPERIENCE, OR TESTIMONIALS.
(e) "Proven program or practice" means a program or practice that reflects a high or well-supported level of confidence of effectiveness, ineffectiveness, or harmfulness as determined by two high-quality random control trials or an equivalent measure.

(f) "State agency" means any department, commission, council, board, bureau, committee, institution of higher education, agency, or other governmental unit of the executive, legislative, or judicial branch of state government.

(g) "Theory-informed program or practice" means a program or practice that reflects a moderate to low or promising level of confidence of effectiveness, ineffectiveness, or harmfulness as determined by one quasi-experimental designed study or evaluations with no control or comparison group or an equivalent measure.

(3) The evidence-based continuum is as follows:

(a) Tier 1: Proven;

(b) Tier 2: Evidence-informed;

(c) Tier 3: Theory-informed;

(d) Tier 4: Opinion-based; or

(e) Tier 5: Evaluation investment or not applicable.

(4) (a) If a state agency or the office of state planning and budgeting includes an evidence-based evaluation of a program or practice in a budget request or budget amendment request submitted in accordance with section 2-3-208, then the state agency or office shall use the evidence-based continuum for this purpose and specify the tier that best describes the program or
(b) If subsection (4)(a) of this section applies, then the state agency or the office of state planning and budgeting shall also provide the following information:

(I) Any academic research that supports the implementation, continuation, or expansion of the program or practice, including any research demonstrating improved or consistent outcomes achieved by those who benefit from the program or practice;

(II) Any academic research that supports a decrease in funding for a program or practice that may be shown to be ineffective or harmful to those receiving services; and

(III) Information concerning how the evidence referenced was used in the development of the budget request or budget amendment request.

(c) If a state agency provides an evidence-based evaluation of a program or practice in a budget request or budget request amendment, joint budget committee staff shall independently analyze and determine the appropriate tier on the evidence-based continuum for the program or practice.

(5) Joint budget committee staff shall include any information specified in subsection (4) of this section as part of any recommendation it makes regarding a budget request or budget amendment request.

(6) Whenever a state agency is required to undertake an evidence-based analysis of a program or practice, the state agency shall use the evidence-based continuum and specify
WHICH TIER BEST DESCRIBES THE PROGRAM OR PRACTICE, UNLESS ANOTHER EVIDENCE-BASED ANALYSIS IS PROVIDED BY LAW.

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

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

(4) The joint budget committee shall use any available evidence-based information specified in Section 2-3-210 when determining the appropriate level of funding of a program or practice.

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

2-3-204. Staff director, assistants, and consultants. (3) The staff director shall appoint additional staff as necessary to provide the evidence-based analysis required by Section 2-3-310 (4)(c). Upon request, joint budget committee staff shall also assist legislators in incorporating evidence-based assessments into legislation for bills that create a new program or practice.

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

SECTION 5. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V
of the state constitution against this act or an item, section, or part of this
act within such period, then the act, item, section, or part will not take
effect unless approved by the people at the general election to be held in
November 2022 and, in such case, will take effect on the date of the
official declaration of the vote thereon by the governor.
A BILL FOR AN ACT

CONCERNING CASH FUND SOLVENCY, AND, IN CONNECTION THEREWITH, CREATING THE CASH FUND SOLVENCY FUND TO ALLOW THE STATE CONTROLLER TO TRANSFER MONEY TO CERTAIN CASH FUNDS WITH ANTICIPATED CASH DEFICITS, WHICH AMOUNTS WILL BE LATER REPAYED, AND TRANSFERRING MONEY TO THE MARIJUANA CASH 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. Section 1 of the bill creates the cash
fund solvency fund. The purpose of the fund is to allow the state controller to transfer money from the fund to another cash fund for which it is anticipated that there will be a cash deficit. Thereafter, the state controller is required to transfer the same amount of money from the cash fund back to the cash fund solvency fund in one or more installments, which may be over multiple fiscal years. The state controller is required to annually report to the joint budget committee and the office of state planning and budgeting about any transfers made.

Section 2 requires the state treasurer to transfer $1,805,317 from the marijuana tax cash fund to the marijuana cash fund and $1,200,000 from the general fund to the marijuana cash fund. The first transfer repays the marijuana cash fund for a prior transfer and the second transfer partially repays the marijuana cash fund.

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

SECTION 1. In Colorado Revised Statutes, add 24-30-210 as follows:

24-30-210. Cash fund solvency fund - creation - loans - report - legislative declaration. (1) The general assembly hereby finds and declares that:

(a) When fee-funded programs use multi-year licensing and service periods, state agencies may have revenue shortfalls during off-cycle years in which revenue collections are dramatically lower than they are on on-cycle years;

(b) The COVID-19 pandemic has reduced fee revenue or disrupted the fee cycle for many state programs, which exacerbates the need for a multi-year, cash-management solution to smooth out revenue fluctuations;

(c) Fee-funded state programs should be able to weather the current and future economic downturns without resorting to large, short-term fee increases on businesses and Coloradans as they are recovering from the downturn; and
(d) Providing fee-funded programs adequate, multi-year flexibility to manage cash flows while also maintaining the existing safeguards against overcharging fee payers for services is an important state function.

(2) The cash fund solvency fund, referred to in this section as the "fund", is hereby created in the state treasury. The fund consists of money credited to the fund pursuant to subsection (4) of this section and any other money that the general assembly may appropriate or transfer to the fund. The state treasurer shall credit all interest and income derived from the deposit and investment of money in the cash fund solvency fund to the fund.

(3) (a) Notwithstanding any provision of law to the contrary, upon the request of the office of state planning and budgeting, the state controller may transfer money from the fund to another cash fund if the state controller determines that:

   (I) the primary source of revenue in the cash fund is from fee revenue;

   (II) the fee revenue is collected on a multi-year licensing and service period or there has been an unexpected, significant decrease in fee revenue collected; and

   (III) the cash fund will have a deficit based on current expenditures in the absence of a significant fee increase, unless a loan is made to the cash fund.

(b) After a transfer to a cash fund under subsection (3)(a) of this section, the state controller shall transfer the same
AMOUNT OF MONEY FROM THE CASH FUND BACK TO THE CASH FUND SOLVENCY FUND IN ONE OR MORE INSTALLMENTS. THE STATE CONTROLLER SHALL ESTABLISH THE TERMS OF THE REPAYMENT TRANSFERS, WHICH MAY BE OVER MULTIPLE FISCAL YEARS.

(4) ON JULY 1, 2021, THE STATE TREASURER SHALL TRANSFER THREE MILLION ONE HUNDRED THOUSAND DOLLARS FROM THE GENERAL FUND TO THE FUND.

(5) NOTWITHSTANDING SECTION 24-1-136 (11), ON OR BEFORE NOVEMBER 1, 2021, AND EACH NOVEMBER 1 THEREAFTER, THE STATE CONTROLLER SHALL ANNUALLY REPORT TO THE JOINT BUDGET COMMITTEE AND THE OFFICE OF STATE PLANNING AND BUDGETING ABOUT ANY REPAYMENT TRANSFERS THAT HAVE BEEN MADE UNDER THIS SECTION, THE TERMS OF THE REPAYMENT TRANSFERS, AND THE AMOUNT THAT HAS BEEN REPAIRED.

SECTION 2. In Colorado Revised Statutes, 44-10-801, amend (1)(d) as follows:

44-10-801. Marijuana cash fund - repeal. (1) (d) (I) On July 1, 2014, the state treasurer shall transfer to the marijuana tax cash fund created in section 39-28.8-501 any money in the fund that is attributable to the retail marijuana excise tax transferred pursuant to section 39-28.8-305 (1)(b), the retail marijuana sales tax transferred pursuant to section 39-28.8-203 (1)(b), or the sales tax imposed pursuant to section 39-26-106, on the retail sale of marijuana products pursuant to this article 10.

(II) On the date on which the state controller publishes the comprehensive annual financial report of the state for the 2013-14 state fiscal year, the state treasurer shall transfer to the marijuana tax cash fund
created in section 39-28.8-501 any remaining money in the fund that is attributable to the retail marijuana excise tax transferred pursuant to section 39-28.8-305 (1)(b), the retail marijuana sales tax transferred pursuant to section 39-28.8-203 (1)(b), or the sales tax imposed pursuant to section 39-26-106, on the retail sale of marijuana products under this article 10.

(III) (A) On July 1, 2019, the state treasurer shall transfer nine hundred fourteen thousand four hundred sixteen dollars from the marijuana cash fund to the marijuana tax cash fund created in section 39-28.8-501. On July 1, 2020, the state treasurer shall transfer eight hundred ninety thousand nine hundred one dollars from the marijuana cash fund to the marijuana tax cash fund.

(B) ON JULY 1, 2021, THE STATE TREASURER SHALL TRANSFER ONE MILLION EIGHT HUNDRED FIVE THOUSAND THREE HUNDRED SEVENTEEN DOLLARS FROM THE MARIJUANA TAX CASH FUND CREATED IN SECTION 39-28.8-501 TO THE MARIJUANA CASH FUND.

(C) THIS SUBSECTION (1)(d)(III) IS REPEALED, EFFECTIVE JULY 1, 2022.

(IV) (A) Notwithstanding any other provision of law, on June 30, 2020, the state treasurer shall transfer one million six hundred thousand dollars from the marijuana cash fund to the general fund.

(B) ON JULY 1, 2021, THE STATE TREASURER SHALL TRANSFER ONE MILLION TWO HUNDRED THOUSAND DOLLARS FROM THE GENERAL FUND TO THE MARIJUANA CASH FUND.

(C) THIS SUBSECTION (1)(d)(IV) IS REPEALED, EFFECTIVE JULY 1, 2022.

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

CONCERNING THE CREATION OF THE EXTENDED RECESSION RECOVERY ACCOUNT IN THE GENERAL 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 creates the extended recession recovery account (account) within the general fund. Beginning with the current state fiscal year, the state treasurer will deposit 70% of all appropriations that revert to the general fund in the account up to a target amount. The general assembly may only appropriate money from the account for a state fiscal year if:
The national bureau of economic research declared that the United States entered into, or continued to be in, a recession during the state fiscal year or the 2 preceding state fiscal years;

- The amount of the general fund reserve is less than or equal to 5%; and
- The total appropriations and transfers from the general fund, including the money from the account, for the state fiscal year will be less than or equal the total appropriations and transfers from the general fund for the preceding state fiscal year increased by 3.5%

In such circumstances, appropriations may be made for any purpose. Otherwise, the general assembly is prohibited from appropriating money from the account. Money in the account may be designated as a TABOR emergency reserve, but it may not constitute any part of the general fund statutory reserve.

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1  Be it enacted by the General Assembly of the State of Colorado:
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3   SECTION 1. In Colorado Revised Statutes, add 24-75-226 as follows:
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7   (1) The General Assembly hereby finds and declares that:
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9      (a) While Colorado has enjoyed many years of growth and prosperity, it has also periodically endured difficult economic downturns;
10
11      (b) Economic downturns may last for more than a year and reduce state revenues billions of dollars, as was the case with the Great Recession from 2007 to 2009;
12
13      (c) The state's general fund reserve allows the state to withstand temporary decreases in revenue, but given its structure and amount, it is only a short-term tool;
14
15      (d) The state's existing general fund reserve is inadequate
TO MAINTAIN ESSENTIAL STATE SERVICES DURING AN EXTENDED RECESSION;

(e) It is advisable to create and allocate money to the extended recession recovery account within the general fund to address future recessions; and

(f) The money in the account should only be available in very limited circumstances.

(2) As used in this section, unless the context otherwise requires:

(a) "Account" means the extended recession recovery account in the general fund created in subsection (3) of this section.

(b) "General fund revenue" means the amount of money that is credited to the general fund in a state fiscal year and does not include any amounts transferred to or from the general fund or the beginning balance in the fund.

(c) "Reversion amount" means the final, adjusted amount of state money appropriated from the general fund for a state fiscal year that is unexpended and unencumbered as of the date the state controller publishes the comprehensive annual financial report of the state for the state fiscal year, but excluding any amount that is required to be transferred to the legislative department cash fund in accordance with section 2-2-1601 (2.6).

(3) (a) There is hereby created in the general fund the extended recession recovery account. Except as set forth in subsection (3)(b) of this section, the state treasurer shall credit
SEVENTY PERCENT OF THE REVERSION AMOUNT TO THE ACCOUNT FOR STATE FISCAL YEARS COMMENCING ON AND AFTER JULY 1, 2020. THE ACCOUNT ALSO INCLUDES ANY OTHER MONEY THAT THE GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE ACCOUNT. THE STATE TREASURER SHALL CREDIT TO THE ACCOUNT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE ACCOUNT.

(b) THE STATE TREASURER SHALL NOT TRANSFER TO THE ACCOUNT ANY PORTION OF THE REVERSION AMOUNT THAT WOULD CAUSE THE ACCOUNT BALANCE TO EXCEED THE TARGET AMOUNT FOR THE STATE FISCAL YEAR, WHICH IS EQUAL TO TWENTY-FIVE PERCENT OF THE GENERAL FUND REVENUE FOR THE PRECEDING STATE FISCAL YEAR.

(4) (a) FOR A STATE FISCAL YEAR, THE GENERAL ASSEMBLY MAY APPROPRIATE MONEY FROM THE ACCOUNT FOR ANY PURPOSE IF:

(I) THE NATIONAL BUREAU OF ECONOMIC RESEARCH DECLARED THAT THE UNITED STATES ENTERED INTO, OR CONTINUED TO BE IN, A RECESSION DURING THE STATE FISCAL YEAR OR THE TWO PRECEDING STATE FISCAL YEARS;

(II) THE AMOUNT OF THE GENERAL FUND RESERVE REQUIRED IN SECTION 24-75-201.1 (1)(d) FOR THE FISCAL YEAR IS LESS THAN OR EQUAL TO FIVE PERCENT OF THE AMOUNT APPROPRIATED FOR EXPENDITURE FROM THE GENERAL FUND FOR THE STATE FISCAL YEAR; AND

(III) THE TOTAL APPROPRIATIONS AND TRANSFERS FROM THE GENERAL FUND, INCLUDING THE MONEY FROM THE ACCOUNT, FOR THE FISCAL YEAR WILL BE LESS THAN OR EQUAL TO AN AMOUNT EQUAL TO ONE HUNDRED THREE AND ONE-HALF PERCENT OF THE TOTAL APPROPRIATIONS AND TRANSFERS FROM THE GENERAL FUND FOR THE PRECEDING STATE
FISCAL YEAR.

(b) THE GENERAL ASSEMBLY SHALL NOT APPROPRIATE MONEY FROM THE FUND FOR ANY PURPOSE UNLESS THE CONDITIONS SPECIFIED IN SUBSECTION (4)(a) OF THIS SECTION ARE MET.

(c) THE MONEY IN THE ACCOUNT MAY CONSTITUTE ALL OR SOME PORTION OF THE STATE EMERGENCY RESERVE ESTABLISHED PURSUANT TO SECTION 24-77-104 IN ACCORDANCE WITH SECTION 20 (5) OF ARTICLE X OF THE STATE CONSTITUTION AND MAY BE EXPENDED IN ACCORDANCE THERewith.

(d) THE MONEY IN THE ACCOUNT IS SEPARATE FROM AND SHALL NOT CONSTITUTE ANY PART OF THE RESERVE REQUIRED UNDER SECTION 24-75-201.1 (1)(d).

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