

MEMORANDUM



JOINT BUDGET COMMITTEE

TO Joint Budget Committee Members
FROM JBC Staff
DATE April 11, 2023
SUBJECT Potential Legislation Packet 7

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.

POTENTIAL LEGISLATION

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First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

DRAFT
4/6/23

DRAFT

LLS NO. 23-0934.01 Chelsea Princell x4335

COMMITTEE BILL

Joint Budget Committee

BILL TOPIC: Continuous Coverage Feasibility Study

A BILL FOR AN ACT

101 **CONCERNING A STUDY TO DETERMINE THE FEASIBILITY OF EXTENDING**
102 **CONTINUOUS ELIGIBILITY MEDICAL COVERAGE FOR CERTAIN**
103 **INDIVIDUALS.**

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 department of health care policy and financing (state department) to conduct a study to determine the feasibility of extending continuous eligibility medical coverage for eligible children and adults.

The state department is required to submit a report detailing its

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

findings and recommendations from the feasibility study to the joint budget committee of the senate and house of representatives, the governor, and to the house of representatives public and behavioral health and human services committee and the senate health and human services committee, or any successor committees, by January 1, 2024.

The state department is required to prepare documents seeking federal authorization to provide continuous eligibility medical coverage to eligible adults and children and include the completed federal authorization documents with its report submitted to the joint budget committee of the senate and house of representatives, the governor, and to the house of representatives public and behavioral health and human services committee and the senate health and human services committee, or any successor committees.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 25.5-1-133 as
3 follows:

4 **25.5-1-133. Continuous medical coverage for children and**
5 **adults feasibility study - report - federal authorization - definition.**

6 (1) THE STATE DEPARTMENT SHALL STUDY THE FEASIBILITY OF
7 EXTENDING CONTINUOUS MEDICAL COVERAGE FOR CHILDREN AND
8 ADULTS.

9 (2) AT A MINIMUM, THE FEASIBILITY STUDY MUST CONSIDER THE
10 COSTS; IMPLEMENTATION FACTORS; POTENTIAL HEALTH BENEFITS FOR
11 INDIVIDUALS AND COMMUNITIES, INCLUDING DISADVANTAGED AND
12 MARGINALIZED GROUPS; IMPACTS OF INCREASED USE OF PREVENTIVE AND
13 HIGH-VALUE HEALTH SERVICES; ADMINISTRATIVE SAVINGS; REDUCTIONS
14 IN ADMINISTRATIVE TURNOVER AND COVERAGE LOSS; THE
15 HEALTH-RELATED SOCIAL NEEDS OF A GIVEN POPULATION THAT GIVES
16 CONSIDERATION TO HOUSING AND FOOD SECURITY CONCERNS; AND TO THE
17 EXTENT PRACTICABLE, SOCIAL AND ECONOMIC IMPACTS WITH RESPECT TO
18 THE FOLLOWING:

1 (a) ALLOWING AN ELIGIBLE CHILD, INCLUDING A CHILD WHO
2 WOULD BE ELIGIBLE FOR MEDICAL ASSISTANCE AS DEFINED IN SECTION
3 25.5-4-103, BUT IS NOT ELIGIBLE AS A RESULT OF THE CHILD'S
4 IMMIGRATION STATUS, TO REMAIN CONTINUOUSLY ELIGIBLE FOR MEDICAL
5 ASSISTANCE AND THE CHILDREN'S BASIC HEALTH PLAN FOR TWENTY-FOUR
6 MONTHS SUBSEQUENT TO THE LAST DAY OF THE MONTH IN WHICH THE
7 CHILD WAS ENROLLED;

8 (b) ALLOWING AN ELIGIBLE CHILD UNDER SIX YEARS OF AGE,
9 INCLUDING A CHILD WHO WOULD BE ELIGIBLE FOR MEDICAL ASSISTANCE
10 AS DEFINED IN SECTION 25.5-4-103, BUT IS NOT ELIGIBLE AS A RESULT OF
11 THE CHILD'S IMMIGRATION STATUS, TO REMAIN CONTINUOUSLY ELIGIBLE
12 FOR MEDICAL ASSISTANCE OR THE CHILDREN'S BASIC HEALTH PLAN
13 WITHOUT REGARD TO A CHANGE IN HOUSEHOLD INCOME UNTIL THE CHILD
14 REACHES SIX YEARS OF AGE;

15 (c) ALLOWING AN ELIGIBLE ADULT, AS DEFINED IN SUBSECTION
16 (2)(e) OF THIS SECTION, TO REMAIN CONTINUOUSLY ELIGIBLE FOR MEDICAL
17 ASSISTANCE WITHOUT REGARD TO INCOME FOR TWELVE MONTHS
18 SUBSEQUENT TO THE LAST DAY OF THE MONTH IN WHICH THE ADULT WAS
19 ENROLLED. FOR PURPOSES OF THIS SUBSECTION (2)(c), AN "ELIGIBLE
20 ADULT" INCLUDES A PERSON EIGHTEEN YEARS OF AGE OR OLDER WHO:

21 (I) HAS AN INCOME UNDER THIRTY-THREE PERCENT OF THE
22 FEDERAL POVERTY LINE;

23 (II) IS EXPERIENCING HOMELESSNESS; OR

24 (III) HAS BEEN RELEASED FROM A COLORADO PRISON, FEDERAL
25 PRISON, OR HAS BEEN SENTENCED TO AND RELEASED FROM JAIL. FOR
26 PURPOSES OF THIS SUBSECTION (2)(c)(III), THE TWELVE-MONTH
27 ELIGIBILITY PERIOD BEGINS THE DATE OF THE ELIGIBLE ADULT'S RELEASE

1 AND CONTINUES THROUGH THE END OF THE TWELVE-MONTH PERIOD
2 FOLLOWING THE ELIGIBLE INDIVIDUAL'S ADULT'S RELEASE. AN ELIGIBLE
3 ADULT WHOSE ELIGIBILITY DETERMINATION IS MADE AFTER THE ELIGIBLE
4 INDIVIDUAL'S ADULT'S RELEASE BUT BEFORE THE TWELVE-MONTH PERIOD
5 FOLLOWING THE ELIGIBLE ADULT'S RELEASE HAS EXPIRED IS ELIGIBLE FOR
6 CONTINUOUS ELIGIBILITY THROUGH THE END OF THAT TWELVE-MONTH
7 PERIOD FOLLOWING THE ELIGIBLE ADULT'S RELEASE WHICH MAY RESULT
8 IN A CONTINUOUS ELIGIBILITY PERIOD OF LESS THAN TWELVE MONTHS;
9 AND

10 (d) ALLOWING AN ADULT WHO IS ELIGIBLE FOR MEDICAL
11 ASSISTANCE AT THE TIME OF ENROLLMENT TO REMAIN CONTINUOUSLY
12 ELIGIBLE FOR MEDICAL ASSISTANCE WITHOUT REGARD TO INCOME FOR
13 TWELVE MONTHS SUBSEQUENT TO THE LAST DAY OF THE MONTH IN WHICH
14 THE ADULT WAS ENROLLED.

15 (3) IN CONDUCTING THE FEASIBILITY STUDY PURSUANT TO THIS
16 SECTION, THE STATE DEPARTMENT SHALL SEEK INPUT FROM RELEVANT
17 STAKEHOLDERS. IN CONDUCTING THE STAKEHOLDER PROCESS, THE STATE
18 DEPARTMENT SHALL:

19 (a) ENGAGE DIRECTLY WITH:

20 (I) IMPACTED INDIVIDUALS WHO ARE ENROLLED IN MEDICAL
21 ASSISTANCE OR THE CHILDREN'S BASIC HEALTH PLAN AND WHOSE
22 COVERAGE, OR WHOSE CHILDREN'S COVERAGE, WOULD BE EXTENDED IF
23 LEGISLATION WERE PASSED TO EXTEND CONTINUOUS MEDICAL COVERAGE
24 FOR INDIVIDUALS PURSUANT TO SUBSECTIONS (2)(a) TO (2)(d) OF THIS
25 SECTION;

26 (II) SERVICE PROVIDERS;

27 (III) ADVOCACY ORGANIZATIONS; AND

1 (IV) INDIVIDUALS WORKING IN OR REPRESENTING COMMUNITIES
2 THAT ARE DIVERSE WITH REGARD TO RACE, ETHNICITY, IMMIGRATION
3 STATUS, AGE, ABILITY, SEXUAL ORIENTATION, GENDER IDENTITY, OR
4 GEOGRAPHIC REGION OF THE STATE AND ARE AFFECTED BY HIGHER RATES
5 OF HEALTH DISPARITIES AND INEQUITIES;

6 (b) PUBLICLY CONDUCT STAKEHOLDER MEETINGS, REPORT ON THE
7 OUTCOMES OF THE MEETINGS, AND PUBLICIZE THE REPORTS IN ENGLISH AS
8 WELL AS TWO OTHER COMMONLY SPOKEN LANGUAGES IN COLORADO;

9 (c) INCLUDE OPPORTUNITIES FOR PARTICIPATION IN THE
10 STAKEHOLDER PROCESS OUTSIDE OF REGULAR WORK HOURS; AND

11 (d) HOLD AT LEAST THREE STAKEHOLDER MEETINGS.

12 (4) ON OR BEFORE JANUARY 1, 2024, THE STATE DEPARTMENT
13 SHALL SUBMIT A REPORT DETAILING THE FINDINGS AND
14 RECOMMENDATIONS FROM THE FEASIBILITY STUDY TO THE JOINT BUDGET
15 COMMITTEE OF THE SENATE AND THE HOUSE OF REPRESENTATIVES, OR ITS
16 SUCCESSOR COMMITTEE, THE GOVERNOR, AND TO THE HOUSE OF
17 REPRESENTATIVES PUBLIC AND BEHAVIORAL HEALTH AND HUMAN
18 SERVICES COMMITTEE AND THE SENATE HEALTH AND HUMAN SERVICES
19 COMMITTEE, OR ANY SUCCESSOR COMMITTEES.

20 (5) PRIOR TO SUBMITTING THE REPORT PURSUANT TO SUBSECTION
21 (4) OF THIS SECTION, THE STATE DEPARTMENT SHALL PREPARE NECESSARY
22 DOCUMENTS SEEKING FEDERAL AUTHORIZATION TO PROVIDE CONTINUOUS
23 COVERAGE TO THE INDIVIDUALS DESCRIBED IN SUBSECTION (2) OF THIS
24 SECTION IN ACCORDANCE WITH THE FINDINGS AND RECOMMENDATIONS OF
25 THE FEASIBILITY STUDY REQUIRED BY THIS SECTION AND INCLUDE THE
26 COMPLETED DOCUMENTATION WITH THE REPORT DESCRIBED IN
27 SUBSECTION (4) OF THIS SECTION.

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

First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

DRAFT
4/6/23

DRAFT

LLS NO. 23-0975.01 Jerry Barry x4341

COMMITTEE BILL

Joint Budget Committee

BILL TOPIC: Audits Of DHCPF Payments To Providers

A BILL FOR AN ACT

101 **CONCERNING THE REVIEW OF PAYMENTS MADE BY THE DEPARTMENT**
102 **OF HEALTH CARE POLICY AND FINANCING TO PROVIDERS.**

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 the following changes to the reviews and audits of the payments by the department of health care policy and financing (department) to providers:

- The department shall review and audit underpayments and overpayments to providers;
- If the department determines that an overpayment occurred

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Dashes through the words indicate deletions from existing law.*

because services could have been provided at a lower cost setting, the overpayment is the difference between the amount paid and the amount due if the services had been provided under other circumstances;

- Any overpayment review evaluating medical necessity must be conducted by a Colorado physician relying only on the information available at the time of treatment;
- The department shall not declare the existence of an overpayment until providers have exhausted all administrative and judicial remedies;
- If the department determines that there has been an underpayment, the department shall pay the provider the amount due because of the underpayment, plus interest;
- Reimbursement for covered services, including amounts collected for an overpayment, must be in an amount adequate to ensure access to care;
- Audits and reviews must not occur more than 3 years after the date the claim was filed;
- Notices of adverse action that fail to comply with department rules are void;
- In an appeal of a determination of overpayment or underpayment, an administrative law judge's ruling must be published on the department's website and other administrative law judges may rely on previous rulings as precedent;
- The department shall annually identify billing errors common across multiple providers to enable providers to correct the errors;
- The department may contract with a qualified agent to review or audit payments to providers for both overpayments and underpayments and must protect against conflicts of interest;
- In any contingency-based contract for review or audit of payments, the compensation must not exceed 12.5% of the amount of overpayments collected and the amount due because of underpayments determined;
- At least quarterly, the department shall publish on its website an audit activity report detailing current and recently completed audits and reviews and summaries of the findings of such audits and reviews and a copy of the contracts, scopes of work, and information regarding supervision of contractor deliverables for audits and reviews;
- The department shall create a provider advisory group to advise the department on issues that providers have

- concerning the audits and reviews; and
The department shall contract for an independent review of reviews and audits conducted from the 2018-19 to the 2022-23 state fiscal years for compliance with coding practice standards and state law.

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

2 **SECTION 1.** In Colorado Revised Statutes, 25.5-4-301, **amend**
3 (2) introductory portion, (3)(a)(II), (3)(a)(VI), (3)(a)(VIII), (3)(b)
4 introductory portion, and (3)(b)(I); and **add** (2)(a)(III), (2)(a)(IV),
5 (2)(a)(V), (2)(a)(VI), (2)(a)(VII), (2)(a)(VIII), (2)(a)(IX), (3)(a)(IX),
6 (3)(b)(VI), (3.5)(c), and (3.5)(d) as follows:

7 **25.5-4-301. Recoveries - overpayments and underpayments -**
8 **penalties - interest - adjustments - liens - review or audit procedures**
9 **- repeal.** (2) Any overpayment OR UNDERPAYMENT to a provider,
10 including those of personal needs funds made pursuant to section
11 25.5-6-206, are recoverable regardless of whether the overpayment OR
12 UNDERPAYMENT is the result of an error by the state department, a county
13 department of human or social services, an entity acting on behalf of
14 either department, or by the provider or any agent of the provider as
15 follows:

16 (a) (III) IF THE STATE DEPARTMENT MAKES A DETERMINATION
17 PURSUANT TO SUBSECTION (2)(a)(I) OR (2)(a)(II) OF THIS SECTION THAT
18 AN OVERPAYMENT HAS BEEN MADE FOR A COVERED SERVICE, THE STATE
19 DEPARTMENT SHALL NOT DEMAND FULL REPAYMENT OF THE
20 OVERPAYMENT, AND THE AMOUNT OF THE REPAYMENT IS LIMITED TO THE
21 DIFFERENCE BETWEEN THE AMOUNT PAID AND THE AMOUNT THE STATE
22 DEPARTMENT WOULD HAVE PAID FOR THE COVERED SERVICE UNDER
23 OTHER CIRCUMSTANCES, SUCH AS A DIFFERENT CODE, LOCATION, OR

1 OTHER COVERAGE CRITERIA.

2 (IV) ANY OVERPAYMENT REVIEW EVALUATING MEDICAL
3 NECESSITY MUST BE CONDUCTED BY A PHYSICIAN LICENSED TO PRACTICE
4 IN THIS STATE IN ACCORDANCE WITH 42 CFR 455.508(b), AND IN
5 DETERMINING MEDICAL NECESSITY, ONLY INFORMATION AVAILABLE TO
6 THE TREATING PHYSICIAN AT THE TIME OF TREATMENT MAY BE USED TO
7 MAKE THE DETERMINATION.

8 (V) THE STATE DEPARTMENT SHALL NOT DECLARE THE EXISTENCE
9 OF AN OVERPAYMENT PURSUANT TO SUBSECTION (2)(a)(I) OR (2)(a)(II) OF
10 THIS SECTION UNTIL PROVIDERS HAVE EXHAUSTED ALL ADMINISTRATIVE
11 AND JUDICIAL REMEDIES.

12 (VI) If the state department makes a determination that an
13 underpayment has been made, the state department shall pay to the
14 provider the amount due because of the underpayment, plus interest
15 accruing at the statutory rate from the date that the state department
16 makes the determination.

17 (VII) REIMBURSEMENT FOR COVERED SERVICES, INCLUDING
18 AMOUNTS COLLECTED FOR AN OVERPAYMENT, MUST BE REIMBURSED AT
19 AN AMOUNT ADEQUATE TO ENSURE ACCESS TO CARE, IN ACCORDANCE
20 WITH 42 U.S.C. SEC. 1396a (a)(30)(A).

21 (VIII) CONSISTENT WITH 42 CFR 455.508(f), AUDITS AND
22 REVIEWS CONDUCTED PURSUANT TO THIS SECTION MUST NOT REVIEW
23 CLAIMS THAT ARE FROM MORE THAN THREE YEARS AFTER THE DATE THE
24 CLAIM WAS FILED. THE STATE DEPARTMENT SHALL RESCIND ANY PREVIOUS
25 REQUESTS TO THE FEDERAL GOVERNMENT TO ALLOW AN AUDIT
26 CONDUCTED PURSUANT TO THIS SECTION TO BE CONDUCTED BEYOND A
27 THREE-YEAR PERIOD.

1 (IX) ANY NOTICE OF ADVERSE ACTION THAT HAS PREVIOUSLY
2 FAILED OR LATER FAILS TO COMPLY WITH THE SIXTY-DAY DEADLINE SET
3 FORTH IN 42 CFR 455.508, OR ANY INFORMAL RECONSIDERATION DENIAL
4 THAT HAS PREVIOUSLY FAILED OR LATER FAILS TO COMPLY WITH THE
5 FORTY-FIVE DAY DEADLINE SET FORTH IN SECTION 25.5-4-301, IS VOID. IN
6 SUCH CASES, THE STATE DEPARTMENT WAIVES ANY RIGHT TO RECOVER AN
7 OVERPAYMENT.

8 (3) (a) A review or audit of a provider is subject to the following
9 procedures:

10 (II) The reviewer or auditor shall apply uniform standards and
11 procedures to each class of providers subject to a review or an audit to
12 determine an overpayment OR UNDERPAYMENT.

13 (VI) Whenever possible, the reviewer or auditor shall base a
14 determination of an overpayment OR UNDERPAYMENT to a provider upon
15 a review of actual records of the department, its agents, or the provider.
16 In the event sufficient records are not available to the reviewer or auditor,
17 an overpayment OR UNDERPAYMENT determination may be based upon a
18 sampling of records so long as the sampling and any extrapolation
19 therefrom is reasonably valid from a statistical standpoint and is in
20 accordance with generally accepted auditing standards.

21 (VIII) In accordance with ~~paragraph (c) of subsection (2)~~
22 SUBSECTION (2)(c) of this section, any provider adversely affected by the
23 actions of the state department or its contracting agent in connection with
24 a review or an audit, including whether the state department or its
25 contracting agent adhered to the provisions of this subsection (3) in
26 making an overpayment OR UNDERPAYMENT determination, may appeal
27 such actions pursuant to the provisions of section 24-4-105. ~~C.R.S.~~ IF AN

1 APPEAL PURSUANT TO THIS SUBSECTION (3)(a)(VIII) IS HEARD BY AN
2 ADMINISTRATIVE LAW JUDGE FROM THE OFFICE OF ADMINISTRATIVE
3 COURTS, THE STATE DEPARTMENT SHALL PUBLISH ON ITS WEBSITE THE
4 JUDGE'S FINAL RULING AND OTHER ADMINISTRATIVE LAW JUDGES MAY
5 RELY ON THE PRIOR DECISIONS AS PRECEDENT.

6 (IX) AT THE END OF ANY REVIEW OR AUDIT, BUT NOT LESS THAN
7 ANNUALLY, THE STATE DEPARTMENT SHALL IDENTIFY BILLING ERRORS
8 COMMON ACROSS MULTIPLE PROVIDERS AND, FOR AT LEAST THE TEN MOST
9 COMMON ERRORS IDENTIFIED, PUBLISH ON ITS WEBSITE GUIDANCE THAT
10 ENABLES PROVIDERS TO CORRECT THE BILLING ERRORS.

11 (b) The state department is authorized to engage the services of a
12 qualified agent through a competitive contract issued pursuant to the
13 state's procurement code for the purpose of conducting a review or audit
14 of a provider to assist in determining whether there has been an
15 overpayment OR UNDERPAYMENT to a provider and the amount of that
16 overpayment OR UNDERPAYMENT. In addition to such terms and
17 conditions as the state department may deem necessary, any contract ~~shall~~
18 ~~be~~ MUST PROTECT AGAINST CONFLICTS OF INTEREST ARISING FROM
19 COMMON OWNERSHIP OR CONTROL OF OTHER FUNCTIONS CONDUCTED BY
20 THE STATE DEPARTMENT OR ITS AGENTS AND IS subject to the
21 requirements for conducting a review or an audit in accordance with
22 ~~paragraph (a) of this subsection (3)~~ SUBSECTION (3)(a) OF THIS SECTION.
23 The state department is further authorized to enter into a contract with a
24 qualified agent for the purpose of conducting a review or an audit of a
25 provider that provides that the compensation of the contracting agent ~~shall~~
26 MUST be contingent and based upon a percentage of the amount of the
27 recovery OF THE OVERPAYMENT collected from the provider AND THE

1 UNDERPAYMENT DUE TO A PROVIDER. A contract issued by the state
2 department for the purpose of conducting a review or an audit of a
3 provider to determine whether the provider has received an overpayment
4 ~~shall also be~~ OR UNDERPAYMENT IS subject to the following conditions:

5 (I)(A) The compensation paid to the contracting agent under a
6 contingency-based contract ~~shall~~ MUST not exceed ~~eighteen~~ TWELVE AND
7 ONE-HALF percent of the amount finally collected from the provider FOR
8 THE overpayment OR THE AMOUNT DUE TO THE PROVIDER FOR AN
9 UNDERPAYMENT, and the state department may establish a limit on the
10 amount of annual compensation that may be paid to a contracting agent
11 under a contingency-based contract and may further establish a limit on
12 the amount that may be paid to a contracting agent under a
13 contingency-based contract for recovery from any one provider.

14 (B) WITHIN THIRTY DAYS AFTER THE END OF ANY AGREEMENT
15 WITH A CONTRACTING AGENT IN EFFECT AS OF THE EFFECTIVE DATE OF
16 THIS SUBSECTION (3)(b)(I)(B), THE STATE DEPARTMENT SHALL RESCIND
17 ANY PREVIOUS REQUESTS TO THE FEDERAL GOVERNMENT ALLOWING FOR
18 CONTINGENCY PAYMENTS TO EXCEED TWELVE AND ONE-HALF PERCENT.

19 (VI) AT LEAST QUARTERLY, THE STATE DEPARTMENT SHALL
20 PUBLISH ON ITS WEBSITE AN AUDIT ACTIVITY REPORT DETAILING CURRENT
21 AND RECENTLY COMPLETED AUDITS AND REVIEWS AND SUMMARIES OF THE
22 FINDINGS OF SUCH AUDITS AND REVIEWS, INCLUDING THE NUMBER AND
23 AMOUNTS OF OVERPAYMENTS AND UNDERPAYMENTS FOUND, THE NUMBER
24 AND RESULTS OF APPEALS, AND THE AMOUNTS COLLECTED. IN ADDITION,
25 WHEN THE STATE DEPARTMENT ENTERS INTO CONTRACTS PURSUANT TO
26 THIS SUBSECTION (3)(b), THE STATE DEPARTMENT SHALL PUBLISH ON ITS
27 WEBSITE A COPY OF THE CONTRACT, SCOPE OF WORK, AND INFORMATION

1 REGARDING SUPERVISION OF CONTRACTOR DELIVERABLES.

2 (3.5) (c) THE STATE DEPARTMENT SHALL CREATE A PROVIDER
3 ADVISORY GROUP FOR RECOVERY AUDITS CONSISTING OF EMPLOYEES OF
4 THE STATE DEPARTMENT AND MEMBERS FROM DIFFERENT PROVIDER
5 GROUPS, INCLUDING PHYSICIANS, HOSPITALS, AND ANY OTHER PROVIDER
6 TYPES DIRECTLY IMPACTED BY AUDITS CONDUCTED PURSUANT TO THIS
7 SECTION APPOINTED BY THE EXECUTIVE DIRECTOR. THE PROVIDER
8 ADVISORY GROUP SHALL MEET AT LEAST QUARTERLY TO REVIEW
9 QUARTERLY ACTIVITY REPORTS REQUIRED BY SUBSECTION (3)(b)(VI) OF
10 THIS SECTION AND ADVISE THE STATE DEPARTMENT ON ISSUES PROVIDERS
11 EXPERIENCE WITH THE AUDITS AND REVIEWS CONDUCTED PURSUANT TO
12 SUBSECTION (3) OF THIS SECTION.

13 (d) (I) DURING THE 2023-24 STATE FISCAL YEAR, THE STATE
14 DEPARTMENT SHALL CONTRACT FOR AN INDEPENDENT REVIEW OF ALL
15 AUDITS CONDUCTED FROM THE 2018-19 TO THE 2022-23 STATE FISCAL
16 YEARS FOR COMPLIANCE WITH CODING PRACTICE STANDARDS AND STATE
17 LAW. THE REVIEW MUST INCLUDE A REPORT TO THE HEALTH AND HUMAN
18 SERVICES COMMITTEE OF THE SENATE AND THE PUBLIC AND BEHAVIORAL
19 HEALTH AND HUMAN SERVICES COMMITTEE OF THE HOUSE OF
20 REPRESENTATIVES, OR THEIR SUCCESSOR COMMITTEES.

21 (II) THIS SUBSECTION (3.5)(d) IS REPEALED, EFFECTIVE JULY 1,
22 2025.

23 <{Does the committee want a safety clause?}>

First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

DRAFT
4/7/23

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LLS NO. 23-0966.01 Zach Blaes x4348

COMMITTEE BILL

Joint Budget Committee

BILL TOPIC: Justice Reinvestment Crime Prevention Initiative

A BILL FOR AN ACT

101 **CONCERNING THE JUSTICE REINVESTMENT CRIME PREVENTION**
102 **INITIATIVE, AND, IN CONNECTION THEREWITH, MAKING AN**
103 **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 justice reinvestment crime prevention initiative (initiative) is administered by the division of local government (division) in the department of local affairs (department) to expand small business lending and provide grants aimed at reducing crime and promoting community development. The initiative consists of

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

the targeted crime reduction grant program, which provides funding to eligible entities for programs, projects, or direct services aimed at reducing crime and promoting community development in certain target communities, and a statewide business and entrepreneurship training and grant program for justice-system-involved persons.

Currently, the targeted crime reduction grant program cash fund (fund) is continuously appropriated to the department for the purposes of these 2 grant programs. The bill specifies that for state fiscal year 2023-24 and subsequent fiscal years, the department may expend money from the fund subject to annual appropriation and that the department may use any remaining appropriated money during the year following the year for which the general assembly appropriated the money.

The bill specifies that the statewide business and entrepreneurship training and grant program for justice-system-involved persons will be repealed on September 1, 2024.

The department may expend money from the justice reinvestment initiative expansion account (account) in the fund for the purposes of expanding the targeted crime reduction grant program to Grand Junction and Trinidad and to implement the grant program for justice-system-involved persons. Currently, the state treasurer is required to transfer any money remaining in the account to the general fund on July 1, 2023, and the account will be repealed on September 1, 2023. The bill changes the repeal date of the account to September 1, 2024, and requires the state treasurer to transfer any money remaining in the account to the fund on July 1, 2024. The bill specifies that the department may expend the transferred money for the targeted crime reduction grant program and the grant program for justice-system-involved persons.

Finally, the bill clarifies that the initiative is repealed, effective September 1, 2027, and that the department of regulatory agencies will review the initiative for repeal, continuation, or reestablishment before the initiative is repealed.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-32-120, **amend**
3 (2)(i)(III), (2)(i)(III.3) introductory portion, (2)(i)(III.3)(D), (2)(i)(III.5),
4 and (3); and **add** (2.5)(g) as follows:

5 **24-32-120. Justice reinvestment crime prevention initiative -**
6 **program - rules - cash funds - reports - repeal.** (2) (i) (III) THROUGH
7 STATE FISCAL YEAR 2022-23, money in the fund is continuously

1 appropriated to the department of local affairs for the grant program
2 developed pursuant to this subsection (2) and subsection (2.5) of this
3 section. FOR STATE FISCAL YEAR 2023-24 AND SUBJECT TO ANNUAL
4 APPROPRIATION, THE DEPARTMENT MAY EXPEND MONEY FROM THE FUND
5 FOR THE GRANT PROGRAM DEVELOPED PURSUANT TO SUBSECTIONS (2)
6 AND (2.5) OF THIS SECTION, AND THE DEPARTMENT MAY USE, FOR THE
7 PURPOSES SPECIFIED IN THIS SUBSECTION (2)(i)(III), ANY MONEY
8 APPROPRIATED OR TRANSFERRED TO THE FUND THAT REMAINS IN THE
9 FUND AT THE END OF STATE FISCAL YEAR 2023-24 DURING STATE FISCAL
10 YEAR 2024-25. FOR STATE FISCAL YEAR 2024-25 AND SUBSEQUENT FISCAL
11 YEARS AND SUBJECT TO ANNUAL APPROPRIATION, THE DEPARTMENT MAY
12 EXPEND MONEY FROM THE FUND FOR THE GRANT PROGRAM DEVELOPED
13 PURSUANT TO SUBSECTION (2) OF THIS SECTION, AND THE DEPARTMENT
14 MAY USE, FOR THE PURPOSE SPECIFIED IN THIS SUBSECTION (2)(i)(III), ANY
15 MONEY APPROPRIATED TO THE FUND THAT REMAINS IN THE FUND DURING
16 THE FISCAL YEAR FOLLOWING THE FISCAL YEAR FOR WHICH THE GENERAL
17 ASSEMBLY APPROPRIATED THE MONEY.

18 (III.3) There is hereby created a special account within the fund
19 to be known as the justice reinvestment initiative expansion account. On
20 June 30, 2021, the state treasurer shall transfer three million five hundred
21 thousand dollars from the general fund to the account. Money in the
22 account is continuously appropriated to the department to be used by the
23 department as set forth in this subsection (2)(i)(III.3) and subsection
24 (2)(i)(III.5) of this section. The state treasurer shall credit all interest and
25 income derived from the deposit and investment of money in the account
26 to the account. In state fiscal year 2021-22, the department may use one
27 million seven hundred fifty thousand dollars in the account as follows:

1 (D) This subsection (2)(i)(III.3) is repealed, effective September
2 ~~1, 2023~~ SEPTEMBER 1, 2024.

3 (III.5) (A) In state fiscal year 2022-23 AND STATE FISCAL YEAR
4 2023-24, the department may use any remaining money in the account for
5 the same purposes and in the percentages set forth in subsection
6 (2)(i)(III.3) of this section. On ~~July 1, 2023~~ JULY 1, 2024, the state
7 treasurer shall transfer any unexpended and unencumbered money
8 remaining in the account to the ~~general~~ fund.

9 (B) This subsection (2)(i)(III.5) is repealed, effective September
10 ~~1, 2023~~ SEPTEMBER 1, 2024.

11 (2.5) (g) THIS SUBSECTION (2.5) IS REPEALED, EFFECTIVE
12 SEPTEMBER 1, 2024.

13 (3) ~~Subsections (2) and (2.5) of this section and this subsection (3)~~
14 ~~are~~ THIS SECTION IS repealed, effective September 1, 2027. Before such
15 repeal, the department of regulatory agencies shall review the justice
16 reinvestment crime prevention initiative pursuant to section 24-34-104.

17 **SECTION 2. Appropriation.** For the 2023-24 state fiscal year,
18 \$3,000,000 is appropriated to the department of local affairs. This
19 appropriation is from reappropriated funds in the targeted crime reduction
20 grant program cash fund created in section 24-32-120 (2)(i)(I). To
21 implement this act, the department of local affairs may use this
22 appropriation for crime prevention initiative grants.

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

First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

DRAFT
4/7/23

DRAFT

LLS NO. 23-0965.01 Shelby Ross x4510

COMMITTEE BILL

Joint Budget Committee

BILL TOPIC: Community First Choice Medicaid Benefit
DEADLINES: File by: 4/7/2023

A BILL FOR AN ACT

101 **CONCERNING SEEKING AN AMENDMENT TO THE MEDICAID STATE PLAN**
102 **TO IMPLEMENT THE COMMUNITY FIRST CHOICE OPTIONAL**
103 **BENEFIT.**

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 department of health care policy and financing (department) to seek federal authorization through an amendment to the state medical assistance plan to implement the community first choice option.

The bill requires the state plan amendment to include personal care

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

1 INDIVIDUAL'S ILLNESS, IMPAIRMENT, OR DISABILITY; AND INCLUDE
2 PERSONAL EMERGENCY RESPONSE SYSTEMS AND MEDICATION REMINDERS
3 THROUGH AN AUTOMATED MEDICATION DISPENSING SYSTEM.

4 (2) "HEALTH MAINTENANCE ACTIVITIES" MEANS ROUTINE AND
5 REPETITIVE HEALTH-RELATED TASKS FURNISHED TO A MEMBER IN THE
6 COMMUNITY OR IN THE MEMBER'S HOME THAT ARE NECESSARY FOR THE
7 HEALTH AND NORMAL BODILY FUNCTIONING THAT A PERSON WITH A
8 DISABILITY IS PHYSICALLY UNABLE TO CARRY OUT. "HEALTH
9 MAINTENANCE ACTIVITIES" INCLUDES SKILLED TASKS TYPICALLY
10 PERFORMED BY A CERTIFIED NURSING ASSISTANT OR A LICENSED NURSE
11 THAT DOES NOT REQUIRE THE CLINICAL ASSESSMENT AND JUDGMENT OF
12 A LICENSED NURSE.

13 (3) "HOMEMAKER SERVICES" MEANS GENERAL HOUSEHOLD
14 ACTIVITIES PROVIDED BY AN ATTENDANT IN A MEMBER'S HOME TO
15 MAINTAIN A HEALTHY AND SAFE ENVIRONMENT FOR THE MEMBER
16 THROUGH HANDS-ON ASSISTANCE, SUPERVISION, OR CUEING.
17 "HOMEMAKER SERVICES" MUST ONLY BE PROVIDED IN THE MEMBER'S
18 PRIMARY LIVING SPACE AND MULTIPLE ATTENDANTS SHALL NOT BE
19 REIMBURSED FOR DUPLICATING SUCH SERVICES.

20 (4) "PERSONAL CARE SERVICES" MEANS SERVICES THAT ARE
21 FURNISHED TO A MEMBER TO MEET THE MEMBER'S PHYSICAL,
22 MAINTENANCE, AND SUPPORTIVE NEEDS THROUGH HANDS-ON ASSISTANCE,
23 SUPERVISION, OR CUEING THAT DO NOT REQUIRE A NURSE'S SUPERVISION
24 OR PHYSICIAN'S ORDER.

25 **25.5-6-1902. Community first choice option - covered services**
26 **- state plan amendment.** (1) NO LATER THAN JULY 1, 2025, THE STATE
27 DEPARTMENT SHALL SEEK FEDERAL AUTHORIZATION THROUGH AN

1 AMENDMENT TO THE STATE MEDICAL ASSISTANCE PLAN TO IMPLEMENT
2 THE COMMUNITY FIRST CHOICE OPTION.

3 (2) AT A MINIMUM, THE STATE PLAN AMENDMENT MUST PROVIDE
4 FOR, BUT IS NOT LIMITED TO:

5 (a) THE FOLLOWING SERVICES:

6 (I) PERSONAL CARE SERVICES;

7 (II) HOMEMAKER SERVICES;

8 (III) HEALTH MAINTENANCE ACTIVITIES;

9 (IV) ELECTRONIC MONITORING SERVICES; AND

10 (V) VOLUNTARY TRAINING ON HOW TO SELECT, MANAGE, AND
11 DISMISS AN ATTENDANT; AND

12 (b) THE DELIVERY OF COVERED SERVICES, IF APPLICABLE,
13 THROUGH:

14 (I) IN-HOME SUPPORT SERVICES;

15 (II) CONSUMER-DIRECTED SERVICES AND SUPPORTS; AND

16 (III) LICENSED HOME CARE SERVICES.

17 **25.5-6-1903. Permissible services and supports.** (1) THE STATE
18 DEPARTMENT MAY PROVIDE PERMISSIBLE SERVICES AND SUPPORTS THAT
19 ARE LINKED TO AN ASSESSED NEED OR GOAL IN THE INDIVIDUAL'S
20 PERSON-CENTERED SERVICE PLAN. PERMISSIBLE SERVICES AND SUPPORTS
21 MAY INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:

22 (a) EXPENDITURES FOR TRANSITION COSTS, SUCH AS RENT AND
23 UTILITY DEPOSITS, FIRST MONTH'S RENT AND UTILITIES, BEDDING, BASIC
24 KITCHEN SUPPLIES, AND OTHER NECESSITIES LINKED TO AN ASSESSED NEED
25 FOR AN INDIVIDUAL TO TRANSITION FROM A NURSING FACILITY,
26 INSTITUTION FOR BEHAVIORAL OR MENTAL HEALTH DISORDERS, OR
27 INTERMEDIATE CARE FACILITY FOR INDIVIDUALS WITH INTELLECTUAL

1 DISABILITIES, TO A HOME- AND COMMUNITY-BASED SETTING WHERE THE
2 INDIVIDUAL RESIDES; AND

3 (b) EXPENDITURES RELATING TO A NEED IDENTIFIED IN AN
4 INDIVIDUAL'S PERSON-CENTERED SERVICE PLAN THAT INCREASES AN
5 INDIVIDUAL'S INDEPENDENCE OR SUBSTITUTES FOR HUMAN ASSISTANCE,
6 TO THE EXTENT THAT WOULD OTHERWISE BE MADE FOR HUMAN
7 ASSISTANCE.

8 **25.5-6-1904. Maintenance of effort.** IN IMPLEMENTING THE
9 COMMUNITY FIRST CHOICE OPTION, THE STATE DEPARTMENT SHALL
10 ENSURE CONTINUITY OF SUPPORT FOR ELIGIBLE INDIVIDUALS WHO WERE
11 RECEIVING SERVICES AS OF JULY 1, 2025, AND WHO HAVE MAINTAINED
12 ELIGIBILITY IN THE STATE MEDICAL ASSISTANCE PROGRAM SINCE THAT
13 DATE.

14 **25.5-6-1905. Eligibility.** (1) TO BE ELIGIBLE FOR THE COMMUNITY
15 FIRST CHOICE OPTION, AN INDIVIDUAL MUST:

16 (a) BE ELIGIBLE FOR THE STATE MEDICAL ASSISTANCE PROGRAM;

17 (b) BE IN AN ELIGIBILITY GROUP UNDER THE STATE MEDICAL
18 ASSISTANCE PROGRAM THAT INCLUDES NURSING FACILITY SERVICES, OR
19 IF IN AN ELIGIBILITY GROUP THAT DOES NOT INCLUDE NURSING FACILITY
20 SERVICES, HAVE AN INCOME THAT IS AT OR BELOW ONE HUNDRED FIFTY
21 PERCENT OF THE FEDERAL POVERTY LEVEL. THE STATE DEPARTMENT
22 SHALL DETERMINE WHETHER AN INDIVIDUAL IS AT OR BELOW ONE
23 HUNDRED FIFTY PERCENT OF THE FEDERAL POVERTY LEVEL ON AN ANNUAL
24 BASIS BY APPLYING THE SAME METHODOLOGIES THAT APPLY UNDER THE
25 STATE MEDICAL ASSISTANCE PROGRAM, INCLUDING THE SAME LESS
26 RESTRICTIVE RESOURCE METHODOLOGIES DESCRIBED IN THE FEDERAL
27 "SOCIAL SECURITY ACT", 42 U.S.C. SEC. 1902 (r)(2).

1 (c) (I) RECEIVE AN ANNUAL DETERMINATION THAT IN THE
2 ABSENCE OF THE HOME- AND COMMUNITY-BASED ATTENDANT SERVICES
3 AND SUPPORTS PROVIDED PURSUANT TO THE COMMUNITY FIRST CHOICE
4 OPTION, THE INDIVIDUAL WOULD REQUIRE THE LEVEL OF CARE FURNISHED
5 IN A HOSPITAL, A NURSING FACILITY, AN INTERMEDIATE CARE FACILITY TO
6 AN INDIVIDUAL WITH INTELLECTUAL DISABILITIES, AN INSTITUTION
7 PROVIDING INPATIENT PSYCHIATRIC SERVICES TO AN INDIVIDUAL UNDER
8 TWENTY-ONE YEARS OF AGE, OR AN INSTITUTION FOR BEHAVIORAL OR
9 MENTAL HEALTH DISORDERS FOR AN INDIVIDUAL SIXTY-FIVE YEARS OF
10 AGE OR OLDER IF THE COST COULD BE REIMBURSED UNDER THE STATE
11 MEDICAL ASSISTANCE PROGRAM.

12 (II) THE STATE DEPARTMENT MAY, AT ITS DISCRETION,
13 PERMANENTLY WAIVE THE ANNUAL DETERMINATION FOR AN INDIVIDUAL
14 IF THE STATE DEPARTMENT:

15 (A) DETERMINES THERE IS NO REASONABLE EXPECTATION OF
16 IMPROVEMENT OR SIGNIFICANT CHANGE IN THE INDIVIDUAL'S CONDITION
17 BECAUSE OF THE SEVERITY OF A CHRONIC CONDITION OR THE DEGREE OF
18 IMPAIRMENT OF FUNCTIONAL CAPACITY; AND

19 (B) RETAINS DOCUMENTATION OF THE REASON FOR WAIVING THE
20 INDIVIDUAL'S ANNUAL DETERMINATION REQUIREMENT.

21 (2) FOR THE PURPOSES OF MEETING THE REQUIREMENTS OF
22 SUBSECTION (1)(b) OF THIS SECTION, AN INDIVIDUAL WHO QUALIFIES FOR
23 MEDICAL ASSISTANCE PURSUANT TO THE SPECIAL HOME- AND
24 COMMUNITY-BASED WAIVER ELIGIBILITY GROUP DEFINED IN THE FEDERAL
25 "SOCIAL SECURITY ACT", 42 U.S.C. SEC. 1902 (a)(10)(A)(ii)(VI), SHALL
26 MEET ALL THE REQUIREMENTS IN 42 U.S.C. SEC. 1915(c) AND RECEIVE AT
27 LEAST ONE HOME- AND COMMUNITY-BASED WAIVER SERVICE PER MONTH.

1 (3) INDIVIDUALS RECEIVING SERVICES THROUGH THE COMMUNITY
2 FIRST CHOICE OPTION MUST NOT BE PRECLUDED FROM RECEIVING OTHER
3 HOME- AND COMMUNITY-BASED LONG-TERM CARE SERVICES AND
4 SUPPORTS THROUGH OTHER STATE MEDICAL ASSISTANCE PROGRAM
5 WAIVERS, GRANTS, OR DEMONSTRATION AUTHORITIES.

6 **SECTION 2.** In Colorado Revised Statutes, 25.5-5-203, **repeal**
7 (1)(o) as follows:

8 **25.5-5-203. Optional programs with special state provisions.**

9 (1) Subject to the provisions of subsection (2) of this section, this section
10 specifies programs developed by Colorado to increase federal financial
11 participation through selecting optional services or optional eligible
12 groups. These programs include but are not limited to:

13 (o) ~~Home- and community-based services for children with~~
14 ~~autism, as specified in part 8 of article 6 of this title.~~

15 **SECTION 3.** In Colorado Revised Statutes, 25.5-6-303, **repeal**
16 (8), (9), (10), (11), (17), and (18) as follows:

17 **25.5-6-303. Definitions.** As used in this part 3, unless the context
18 otherwise requires:

19 (8) ~~"Electronic monitoring provider" means an entity that meets~~
20 ~~applicable state, federal, and local requirements and is certified to provide~~
21 ~~electronic monitoring services.~~

22 (9) ~~"Electronic monitoring services" means electronic equipment~~
23 ~~or adaptations or other remote supports that are related to an eligible~~
24 ~~person's disability and enable the person to remain at home.~~

25 (10) ~~"Homemaker agency" means any agency that meets~~
26 ~~applicable state and federal requirements and is state-certified to provide~~
27 ~~homemaker services.~~

1 (11) ~~"Homemaker services" means general household activities~~
2 ~~that are provided by state-certified agencies to maintain a healthy and safe~~
3 ~~home environment for eligible persons.~~

4 (17) ~~"Personal care agency" means any agency that meets state~~
5 ~~and federal requirements and is state-certified to provide personal care~~
6 ~~services.~~

7 (18) ~~"Personal care services" means services to meet an eligible~~
8 ~~person's physical requirements and functional needs, when such services~~
9 ~~do not require the supervision of a nurse.~~

10 **SECTION 4.** In Colorado Revised Statutes, 25.5-6-307, **amend**
11 (1) as follows:

12 **25.5-6-307. Services for the elderly, blind, and disabled.**

13 (1) Subject to the provisions of this part 3, home- and community-based
14 services for the elderly, blind, and disabled include only the following
15 services:

- 16 (a) Adult day care;
- 17 (b) Alternative care services;
- 18 (c) ~~Electronic monitoring services;~~
- 19 (d) Home modification services;
- 20 (e) ~~Homemaker services;~~
- 21 (f) Nonmedical transportation services;
- 22 (g) ~~Personal care services;~~
- 23 (h) Respite care services;
- 24 (i) Repealed.
- 25 (j) ~~Services provided under the consumer-directed care service~~
26 ~~model, part 11 of this article;~~
- 27 (k) ~~In-home support services provided pursuant to part 12 of this~~

1 article:

2 **SECTION 5.** In Colorado Revised Statutes, **repeal** 25.5-6-310 as
3 follows:

4 **25.5-6-310. Special provisions - personal care services provided**
5 **by a family.** ~~(1) A member of an eligible person's family, other than the~~
6 ~~person's spouse, may be employed to provide personal care services to~~
7 ~~such person.~~

8 ~~(2) The maximum reimbursement for the services provided by a~~
9 ~~member of the person's family per year for each client shall not exceed the~~
10 ~~equivalent of four hundred forty-four service units per year for a member~~
11 ~~of the eligible person's family.~~

12 **SECTION 6.** In Colorado Revised Statutes, 25.5-6-406, **repeal**
13 (2)(c)(V) and (2)(c)(VII) as follows:

14 **25.5-6-406. Appropriations - reimbursement for services -**
15 **direct support professionals - legislative declaration - definitions.**

16 (2) (c) The state department shall immediately seek a six and one-half
17 percent increase in the reimbursement rate for the following services
18 delivered through the home- and community-based services for persons
19 with developmental disabilities, supported living services, and children's
20 extensive supports waivers:

21 (V) ~~Homemaker basic;~~

22 (VII) ~~Personal care;~~

23 **SECTION 7.** In Colorado Revised Statutes, 25.5-6-606, **amend**
24 (1) as follows:

25 **25.5-6-606. Implementation of program for persons with**
26 **mental health disorders authorized - federal waiver - duties of the**
27 **department of health care policy and financing and the department**

1 **of human services - rules.** (1) The state department is authorized to seek
2 any necessary waiver from the federal government to develop and
3 implement a home- and community-based services program for persons
4 with major mental health disorders. The program must be designed to
5 provide home- and community-based services to eligible persons.
6 Eligibility may be limited to persons who meet the level of services
7 provided in a nursing facility, and services for eligible persons may be
8 established in state board rules to the extent such eligibility criteria and
9 services are authorized or required by federal waiver. ~~The program must~~
10 ~~include services provided under the consumer-directed care service model,~~
11 ~~part 11 of this article 6.~~

12 **SECTION 8.** In Colorado Revised Statutes, 25.5-6-703, **repeal**
13 (6) as follows:

14 **25.5-6-703. Definitions.** As used in this part 7, unless the context
15 otherwise requires:

16 (6) ~~"Personal care services" means assistance with eating, bathing,~~
17 ~~dressing, personal hygiene, and activities of daily living. Personal care~~
18 ~~services include assistance with the preparation of meals, but not the cost~~
19 ~~of the meals, and homemaker services that are necessary for the health and~~
20 ~~safety of the recipient.~~

21 **SECTION 9.** In Colorado Revised Statutes, 25.5-6-704, **repeal**
22 (2)(c) and (2)(k) as follows:

23 **25.5-6-704. Implementation of home- and community-based**
24 **services program for persons with brain injury authorized - federal**
25 **waiver - duties of the department - rules.** (2) Services for eligible
26 persons may be established in department rules to the extent authorized or
27 required by federal waiver, but must include at least the following:

- 1 (c) ~~Personal care services;~~
2 (k) ~~Services provided under the consumer-directed care service~~
3 ~~model, part 11 of this article.~~

4 **SECTION 10.** In Colorado Revised Statutes, 25.5-6-1101, **amend**
5 (4) and (6) as follows:

6 **25.5-6-1101. Definitions.** As used in this part 11, unless the
7 context otherwise requires:

8 (4) "Eligible person" means a person who is eligible to receive
9 services ~~under parts 3 to 12 of this article or any other home- and~~
10 ~~community-based service waiver for which the state department has~~
11 ~~federal waiver authority~~ PURSUANT TO PART 19 OF THIS ARTICLE 6.

12 (6) "Qualified services" means services provided under the eligible
13 person's ~~applicable waiver program and attendant support~~ COMMUNITY
14 FIRST CHOICE OPTION.

15 **SECTION 11.** In Colorado Revised Statutes, 25.5-6-1102, **amend**
16 (2)(a); **amend as it will become effective July 1, 2024**, (3); and **repeal**
17 (8) as follows:

18 **25.5-6-1102. Service model - consumer-directed care.** (2) In
19 order to qualify and to remain eligible for the consumer-directed care
20 service model authorized by this section, a person shall:

21 (a) Be eligible for ~~home- and community-based services under~~
22 ~~parts 3 to 12 of this article or any other home- and community-based~~
23 ~~service waiver for which the state department has federal waiver authority~~
24 COMMUNITY FIRST CHOICE SERVICES PURSUANT TO PART 19 OF THIS
25 ARTICLE 6;

26 (3) The ~~voucher~~ ALLOCATION issued to the eligible person pursuant
27 to this part 11 must be based on the eligible person's historical utilization

1 of home- and community-based services pursuant to parts 3 to 12 of this
2 article 6, the case management agency's care plan, or any approved
3 resource allocation process as determined by the state department and the
4 department of human services for the eligible person.

5 (8) ~~Section 25.5-6-310 does not apply to a family member of an~~
6 ~~eligible person who provides consumer-directed care services to the~~
7 ~~eligible person pursuant to this part 11.~~

8 **SECTION 12.** In Colorado Revised Statutes, **repeal** 25.5-6-1201
9 as follows:

10 **25.5-6-1201. Legislative declaration.** ~~(1) The general assembly~~
11 ~~finds that there may be a more effective way to deliver home- and~~
12 ~~community-based services to the elderly, blind, and disabled; to disabled~~
13 ~~children; and to persons with spinal cord injuries, that allows for more~~
14 ~~self-direction in their care and a cost savings to the state. The general~~
15 ~~assembly also finds that every person that is currently receiving home- and~~
16 ~~community-based services does not need the same level of supervision~~
17 ~~and care from a licensed health-care professional in order to meet his or~~
18 ~~her care needs and remain living in the community. The general assembly,~~
19 ~~therefore, declares that it is beneficial to the elderly, blind, and disabled~~
20 ~~clients of home- and community-based services, to clients of the disabled~~
21 ~~children care program, and to clients enrolled in the spinal cord injury~~
22 ~~waiver pilot program, for the state department to develop a service that~~
23 ~~would allow these people to receive in-home support.~~

24 ~~(2) The general assembly further finds that allowing clients more~~
25 ~~self-direction in their care is a more effective way to deliver home- and~~
26 ~~community-based services to clients with major mental health disorders~~
27 ~~and brain injuries, as well as to clients receiving home- and~~

1 ~~community-based supportive living services and children's extensive~~
2 ~~support services. Therefore, the general assembly declares that it is~~
3 ~~appropriate for the state department to develop a plan for expanding the~~
4 ~~availability of in-home support services to include these clients.~~

5 **SECTION 13.** In Colorado Revised Statutes, 25.5-6-1202, **amend**
6 (3)(a) and (4) as follows:

7 **25.5-6-1202. Definitions.** As used in this part 12, unless the
8 context otherwise requires:

9 (3) "Eligible person" means any person who:

10 (a) Is enrolled in ~~a home- and community-based services waiver~~
11 ~~program pursuant to this article 6 for which in-home support services are~~
12 ~~authorized pursuant to state and federal law~~ COMMUNITY FIRST CHOICE
13 SERVICES PURSUANT TO PART 19 OF THIS ARTICLE 6;

14 (4) "Health maintenance activities" means ~~health-related tasks as~~
15 ~~defined in rule by the state board and include, but are not limited to,~~
16 ~~catheter irrigation; administration of medication, enemas, and~~
17 ~~suppositories; and wound care~~ ROUTINE AND REPETITIVE HEALTH-RELATED
18 TASKS FURNISHED TO A MEMBER IN THE COMMUNITY OR IN THE MEMBER'S
19 HOME THAT IS NECESSARY FOR THE HEALTH AND NORMAL BODILY
20 FUNCTIONING THAT A PERSON WITH A DISABILITY IS PHYSICALLY UNABLE
21 TO CARRY OUT. "HEALTH MAINTENANCE ACTIVITIES" INCLUDE SKILLED
22 TASKS TYPICALLY PERFORMED BY A CERTIFIED NURSING ASSISTANT OR A
23 LICENSED NURSE THAT DOES NOT REQUIRE THE CLINICAL ASSESSMENT AND
24 JUDGMENT OF A LICENSED NURSE.

25 **SECTION 14.** In Colorado Revised Statutes, 25.5-6-1203, **amend**
26 (1); and **repeal** (6) as follows:

27 **25.5-6-1203. In-home support services - eligibility - licensure**

1 **exclusion - in-home support service agency responsibilities - rules.**

2 (1) The state department shall offer in-home support services as an option
3 for eligible persons who receive ~~home- and community-based~~ COMMUNITY
4 FIRST CHOICE services. In-home support services ~~shall~~ MUST be provided
5 to eligible persons. The state department shall seek any federal
6 authorization that may be necessary to implement this part 12. The state
7 department shall design and implement in-home support services with
8 input from consumers of ~~home- and community-based~~ COMMUNITY FIRST
9 CHOICE services and independent living centers ~~and home- and~~
10 ~~community-based service providers.~~

11 (6) ~~Section 25.5-6-310 does not apply to a family member of an~~
12 ~~eligible person who provides in-home support services to the eligible~~
13 ~~person pursuant to this part 12. The state board shall promulgate rules, as~~
14 ~~necessary, to establish limits on reimbursement to family members.~~

15 **SECTION 15.** In Colorado Revised Statutes, **repeal** 25.5-6-1206
16 as follows:

17 **25.5-6-1206. Report.** ~~The state department shall report annually~~
18 ~~to the joint budget committee of the general assembly and the health and~~
19 ~~human services committee of the senate, or any successor committee, and~~
20 ~~the health and environment committee of the house of representatives, or~~
21 ~~any successor committee, on the implementation of in-home support~~
22 ~~services. At a minimum the report shall include the cost-effectiveness of~~
23 ~~providing in-home support services to the elderly, blind, and disabled and~~
24 ~~to eligible disabled children, the number of persons receiving such~~
25 ~~services, and any strategies and resources that are available or that are~~
26 ~~necessary to assist more persons in staying in their homes through the use~~
27 ~~of in-home support services.~~

1 **SECTION 16.** In Colorado Revised Statutes, 25.5-6-1601, **amend**
2 (2) and (4) as follows:

3 **25.5-6-1601. Definitions.** As used in this part 16, unless the
4 context otherwise requires:

5 (2) "Health maintenance activities" has the meaning set forth in
6 section ~~25.5-6-1202(4)~~ 25.5-6-1901 (2).

7 (4) "Homemaker services" has the meaning AS set forth in section
8 ~~25.5-6-303(11)~~ 25.5-6-1901 (3).

9 **SECTION 17.** In Colorado Revised Statutes, 24-75-1104.5,
10 **amend** (3); and **repeal** (1.7)(k) as follows:

11 **24-75-1104.5. Use of settlement money - programs.**

12 (1.7) Except as otherwise provided in subsections (1.3), (1.8), and (5) of
13 this section, and except that disputed payments received by the state in the
14 2015-16 fiscal year or in any year thereafter are excluded from the
15 calculation of allocations pursuant to this subsection (1.7), for the 2016-17
16 fiscal year and for each fiscal year thereafter, the following programs,
17 services, and funds receive the following specified percentages of the total
18 amount of settlement money received by the state in the preceding fiscal
19 year:

20 (k) ~~The Colorado autism treatment fund created pursuant to section~~
21 ~~25.5-6-805, C.R.S., shall receive two percent of the settlement moneys to~~
22 ~~pay a portion of the state's share of the annual funding required by the~~
23 ~~"Home- and Community-based Services for Children with Autism Act",~~
24 ~~part 8 of article 6 of title 25.5, C.R.S.;~~

25 (3) Notwithstanding subsection (1.7) of this section, for purposes
26 of sections 23-20-136 (3.5)(a), 25-4-1401 (6), 25-4-1405 (2), 25-23-104
27 (2), ~~25.5-6-805 (2)~~, 25.5-8-105 (3), 26.5-3-507 (2)(e), 26-6.8-102 (2)(d),

1 and 28-5-709 (2)(a), settlement money received and allocated by the state
2 pursuant to subsection (1.7) of this section during the same fiscal year is
3 deemed to be money received for or during the preceding fiscal year.

4 **SECTION 18.** In Colorado Revised Statutes, **repeal** part 8 of
5 article 6 of title 25.5.

6 **SECTION 19. Effective date.** This act takes effect upon passage;
7 except that sections 1 to 17 of this act take effect July 1, 2025.

8 **SECTION 20. Safety clause.** The general assembly hereby finds,
9 determines, and declares that this act is necessary for the immediate
10 preservation of the public peace, health, or safety.

MEMORANDUM



JOINT BUDGET COMMITTEE

TO Members of the Joint Budget Committee
FROM Abby Magnus, JBC Staff (303-866-2149)
DATE April 11, 2023
SUBJECT LLS23-0991 State Reimbursement of Costs For Certain Elections Bill Draft

The JBC approved draft legislation to change the current structure for the reimbursing counties for the costs of certain elections. This bill draft makes changes to existing statute as outlined below.

SECTION 1-5-505, C.R.S. ELECTION EXPENSES TO BE PAID BY COUNTY

Current statute dictates that counties are responsible for the entirety of costs to conduct all general, primary, and congressional elections. This bill draft amends statute so say that the State will cover 50.0 percent of the total costs to counties related to administering State Primary Elections, beginning in January 2026. The bill draft does not identify a fund source for the source of the State's costs.

SECTION 1-5-505.5, C.R.S. STATE REIMBURSEMENT TO COUNTIES FOR BALLOT MEASURE ELECTIONS

In elections where there is a statewide ballot question, the Department currently subsidizes county costs at a rate of 80 or 90 cents per active registered voter, based on the number of eligible voters registered in each county. This bill draft restructures this system to have the State cover 45.0 percent and counties cover 55.0 percent of the costs of administering elections related to statewide ballot questions. This would go into effect after July 1, 2024. Current statute states the General Assembly shall make appropriations to the department of state from the department of state cash fund or from the general fund for this purpose.

In rare instances, when there are odd-year elections in which the statewide ballot question is the only item on a county ballot, the Department reimburses the county for its actual direct costs. This bill draft does not change this language.

CONSIDERATIONS

- The Department of State currently only audits reported costs for Presidential Primaries. If the State were reimbursing counties annually for a percentage of direct costs, the Department would require an additional 1.0 FTE for their accounting team to complete annual audits. This would require added appropriations of \$64,840 and additional 1.0 FTE beginning in FY 2024-25, annualizing to \$81,758 in FY 2025-26 from the DOS Cash Fund.
- Without clarity on the funding source, the Department of State will prepare for additional expenditures from the DOS Cash Fund, which will mean increased cash fund revenues in FY 2023-24 which will reduce the available General Fund by the increased amount. The Department would also need to submit a budget request for FY 2024-25 to reimburse counties for 45.0 percent of any costs related to statewide ballot questions.
- The Department did not have drafting privileges on this bill, so staff recommends allowing Departmental review for technical issues before the Committee approves a bill draft for introduction.

First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

DRAFT
4/6/23

DRAFT

LLS NO. 23-0991.01 Nicole Myers x4326

COMMITTEE BILL

Joint Budget Committee

BILL TOPIC: State Reimbursement Of Costs For Certain Elections

A BILL FOR AN ACT

101 **CONCERNING A STATE REIMBURSEMENT TO COUNTIES FOR A PORTION**
102 **OF THE COSTS INCURRED BY COUNTIES IN CONDUCTING CERTAIN**
103 **ELECTIONS.**

Bill Summary

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

Joint Budget Committee. Currently, counties are responsible for paying the entire cost of conducting general, primary, and congressional vacancy elections. For elections conducted on or after January 1, 2026, the bill requires the state to reimburse each county for 50% of the county's costs to conduct primary elections, including the costs of printing and

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

supplies.

Currently, for an election in which a state ballot issue or state ballot question is on the ballot of a county, the state reimburses the county for a portion of the cost of conducting the election for the state ballot issue or state ballot question. The state reimbursement rate is either 80 cents or 90 cents per active registered voter, depending on the number of active registered electors in the county. For elections conducted on or after July 1, 2024, the bill requires the state to reimburse each county for 45% of the cost of the duties performed by the county clerk and recorder that relate to conducting the election on the state ballot issue or state ballot question.

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

2 **SECTION 1.** In Colorado Revised Statutes, 1-5-505, **amend** (1);
3 and **add** (1.5) as follows:

4 **1-5-505. Election expenses to be paid by county - general**
5 **assembly.** (1) Except as provided in section 1-5-505.5 AND SUBSECTION
6 (1.5) OF THIS SECTION, the cost of conducting general, primary, and
7 congressional vacancy elections, including the cost of printing and
8 supplies, ~~shall be~~ IS a county charge, the payment of which ~~shall be~~ IS
9 provided for in the same manner as the payment of other county expenses.

10 (1.5) FOR ELECTIONS CONDUCTED ON OR AFTER JANUARY 1, 2026,
11 THE STATE SHALL REIMBURSE EACH COUNTY FOR FIFTY PERCENT OF THE
12 COSTS THAT THE COUNTY INCURS IN CONDUCTING A PRIMARY ELECTION,
13 INCLUDING THE COST OF PRINTING AND SUPPLIES. THE REMAINDER OF THE
14 COST THAT THE COUNTY INCURS IN CONDUCTING A PRIMARY ELECTION IS A
15 COUNTY CHARGE, THE PAYMENT OF WHICH IS PROVIDED IN THE SAME
16 MANNER AS THE PAYMENT OF OTHER COUNTY EXPENSES.

17 **SECTION 2.** In Colorado Revised Statutes, 1-5-505.5, **amend** (3)
18 introductory portion; and **add** (3.5) as follows:

19 **1-5-505.5. State reimbursement to counties for ballot measure**

1 **elections.** (3) EXCEPT AS PROVIDED IN SUBSECTION (3.5) OF THIS SECTION,
2 for any other odd- or even-numbered year election in which a state ballot
3 issue or state ballot question is on the ballot of a particular county, the
4 state shall reimburse such county for the cost of the duties performed by
5 the county clerk and recorder that relate to conducting the election on the
6 ballot issue or ballot question; except that the reimbursement shall be set
7 at the following rates:

8 (3.5) FOR ANY ODD- OR EVEN-NUMBERED YEAR ELECTION
9 CONDUCTED ON OR AFTER JULY 1, 2024, IN WHICH A STATE BALLOT ISSUE
10 OR STATE BALLOT QUESTION IS ON THE BALLOT OF A PARTICULAR COUNTY,
11 THE STATE SHALL REIMBURSE THE COUNTY FOR FORTY-FIVE PERCENT OF
12 THE COST OF THE DUTIES PERFORMED BY THE COUNTY CLERK AND
13 RECORDER THAT RELATE TO CONDUCTING THE ELECTION ON THE BALLOT
14 ISSUE OR BALLOT QUESTION. THE REMAINDER OF THE COST OF THE DUTIES
15 PERFORMED BY THE COUNTY CLERK AND RECORDER THAT RELATE TO
16 CONDUCTING AN ELECTION ON A BALLOT ISSUE OR BALLOT QUESTION IS A
17 COUNTY CHARGE, THE PAYMENT OF WHICH IS PROVIDED IN THE SAME
18 MANNER AS THE PAYMENT OF OTHER COUNTY EXPENSES.

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