MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Joint Budget Committee Members
FROM	JBC Staff
DATE	FEBRUARY 27, 2019
SUBJECT	JBC Bill Drafts

This memo includes the following bill drafts for the Committee's consideration:
1. LLS 19-0898 "Concerning Uniform Mill Levy."(Craig Harper)
2. LLS 19-0900 "Concerning Mill Levy Override Equalization." (Craig Harper)
3. LLS 19-0907 "Concerning Div Parks & Wildlife Alert System Vendors." (Tom Dermody)

This memo includes the following bill concepts for the Committee's consideration:
1. JBC TN 68 "Parole Board Legislation" (Vance Roper)
2. JBC TN 87 "Special Education Funding" (Craig Harper)

DRAFT
2.22.19

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT

LLS NO. 19-0898.01 Julie Pelegrin x2700 **COMMITTEE BILL**

Joint Budget Committee

BILL TOPIC: "School District Uniform Total Program Mill Levy"

A BILL FOR AN ACT

CONCERNING THE NUMBER OF PROPERTY TAX MILLS THAT A SCHOOL DISTRICT IS REQUIRED TO LEVY FOR THE SCHOOL DISTRICT'S SHARE OF TOTAL PROGRAM FUNDING.

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. For purposes of funding a school district's total program under existing law, each school district is required to levy a specified number of property tax mills. The amount of revenue generated by the levy, plus the revenue the district receives from specific ownership tax, is the district's share of total program. The state share

equals the difference between the district's share and the amount of the district's total program.

Beginning with the 2019 property tax year, the bill requires each school district to levy X mills or the number of mills that will result in enough property tax revenue to fully fund the district's total program, whichever is less. If the number of mills required in the bill is an increase in a school district's current levy, the school district must seek voter approval for the increase. A school district is not required to increase the mill levy by more than X mills every 2 years. A school district may count mills that it levies for additional revenue as total program mills to meet the total program mill levy requirements. If a school district does not levy the number of mills required, the state share for the school district will still be based on the number of mills that the school district is required to levy.

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

SECTION 1. In Colorado Revised Statutes, 22-54-106, **amend** (1)(a)(I), (2)(a) introductory portion, and (2)(c); and **add** (2)(a.5) as follows:

22-54-106. Local and state shares of district total program. (1) (a) (I) FOR PROPERTY TAX YEARS BEFORE THE 2019 PROPERTY TAX YEAR, every district shall levy the number of mills determined pursuant to ~~paragraph (a) of subsection (2) of this section, and~~ SUBSECTION (2)(a) OF THIS SECTION. FOR THE 2019 PROPERTY TAX YEAR AND EACH PROPERTY TAX YEAR THEREAFTER, EACH DISTRICT SHALL LEVY THE NUMBER OF MILLS DETERMINED PURSUANT TO SUBSECTION (2)(a.5) OF THIS SECTION. The amount of property tax revenue ~~which the~~ THAT A district is entitled to receive from the levy, assuming one hundred percent collection, along with the amount of specific ownership tax revenue paid to the district, as defined in section 22-54-103 (11), ~~shall be~~ IS the district's share of its total program.

(2) (a) Except as provided in ~~paragraph (c) of this subsection (2),~~

SUBSECTION (2)(c) OF THIS SECTION for reorganized districts, for the 2007 property tax year and property tax years thereafter THROUGH THE 2018 PROPERTY TAX YEAR, each district shall levy the lesser of:

(a.5) (I) FOR THE 2019 PROPERTY TAX YEAR AND EACH PROPERTY TAX YEAR THEREAFTER, EACH DISTRICT SHALL LEVY THE LESSER OF:

(A) X MILLS; OR

(B) THE NUMBER OF MILLS THAT WILL GENERATE PROPERTY TAX REVENUE IN AN AMOUNT EQUAL TO THE DISTRICT'S TOTAL PROGRAM FOR THE APPLICABLE BUDGET YEAR MINUS THE AMOUNT OF SPECIFIC OWNERSHIP TAX REVENUE PAID TO THE DISTRICT. REGARDLESS OF THE APPLICABILITY OF SECTION 22-54-104 (5)(g), FOR THE PURPOSES OF THIS SUBSECTION (2)(a.5)(I)(B), A DISTRICT'S TOTAL PROGRAM IS THE AMOUNT CALCULATED PURSUANT TO SECTION 22-54-104 (2).

(II) BEGINNING WITH THE 2019 PROPERTY TAX YEAR, A DISTRICT SHALL SEEK VOTER APPROVAL, AS NECESSARY, TO COMPLY WITH THE MILL LEVY REQUIREMENTS SPECIFIED IN SUBSECTION (2)(a.5)(I) OF THIS SECTION. A DISTRICT MAY INCREMENTALLY INCREASE THE NUMBER OF MILLS LEVIED, STARTING WITH THE 2019 PROPERTY TAX YEAR, BY INCREASING THE MILL LEVY BY AT LEAST X MILLS EVERY TWO PROPERTY TAX YEARS UP TO THE NUMBER OF MILLS REQUIRED IN SUBSECTION (2)(a.5)(I) OF THIS SECTION. THE DISTRICT'S SHARE OF TOTAL PROGRAM FOR A BUDGET YEAR IN WHICH THE DISTRICT, PURSUANT TO THIS SUBSECTION (2)(a.5)(II), LEVIES FEWER THAN THE NUMBER OF MILLS REQUIRED IN SUBSECTION (2)(a.5)(I) OF THIS SECTION IS CALCULATED BASED ON THE ACTUAL NUMBER OF MILLS THE DISTRICT LEVIES OR THE NUMBER OF MILLS THAT THE DISTRICT IS REQUIRED TO LEVY PURSUANT TO THIS SUBSECTION (2)(a.5)(II), WHICHEVER IS GREATER.

(III) A DISTRICT MAY COUNT ALL OR ANY PORTION OF THE MILLS THAT THE DISTRICT LEVIES PURSUANT TO SECTION 22-54-108 AS MILLS LEVIED PURSUANT TO THIS SUBSECTION (2)(a.5) TO COMPLY WITH THE REQUIREMENTS SPECIFIED IN SUBSECTIONS (2)(a.5)(I) AND (2)(a.5)(II) OF THIS SECTION.

(c) (I) Notwithstanding any other provision of this subsection (2), FOR PROPERTY TAX YEARS BEFORE THE 2019 PROPERTY TAX YEAR, if there is a reorganization pursuant to article 30 of this ~~title~~ TITLE 22, except for a detachment and annexation, and if such reorganization involves districts with differing mill levies, then in its first year of operation, the new district shall levy a number of mills that is based on the total property taxes collected in the preceding year from property included within the new district divided by the total valuation for assessment in the preceding year of property located within the new district but in no event more than 41.75 mills. This ~~paragraph (c)~~ SUBSECTION (2)(c) shall not apply to any new district whose levy would otherwise be calculated pursuant to ~~subparagraph (II) of paragraph (a) of this subsection (2)~~ SUBSECTION (2)(a)(II) OF THIS SECTION.

(II) FOR PROPERTY TAX YEARS BEFORE THE 2019 PROPERTY TAX YEAR, if there is a detachment and annexation pursuant to article 30 of this ~~title~~ TITLE 22 and if such detachment and annexation involves districts with differing mill levies, then in the first year after the detachment and annexation, the annexing district shall calculate its levy pursuant to ~~paragraph (a) of this subsection (2)~~ SUBSECTION (2)(a) OF THIS SECTION.

(III) FOR THE 2019 PROPERTY TAX YEAR AND EACH PROPERTY TAX YEAR THEREAFTER, IF THERE IS A REORGANIZATION PURSUANT TO ARTICLE

30 OF THIS TITLE 22, REGARDLESS OF THE RESULTING CHANGE TO DISTRICT BOUNDARIES, EACH DISTRICT INVOLVED IN OR RESULTING FROM THE REORGANIZATION SHALL CALCULATE ITS LEVY PURSUANT TO SUBSECTION (2)(a.5) OF THIS SECTION, AS APPLICABLE.

SECTION 2. In Colorado Revised Statutes, 22-45-103, **amend** (1)(k) as follows:

22-45-103. Funds. (1) The following funds are created for each school district for purposes specified in this article 45:

(k) **Total program reserve fund.** A school district shall deposit the property tax revenues that it collects from a tax levy imposed pursuant to section 22-54-107 (5) in the total program reserve fund of the district. The district may expend money from the total program reserve fund only to offset the amount of a reduction in the district's state share caused by application of the budget stabilization factor pursuant to section 22-54-104 (5)(g); except that, in a budget year in which the school district levies for its total program the number of mills calculated pursuant to section 22-54-106 (2)(a)(II) OR (2)(a.5)(I)(B), WHICHEVER IS APPLICABLE, if the balance of the total program reserve fund exceeds an amount equal to the district's total program for that budget year multiplied by the budget stabilization factor calculated pursuant to section 22-54-104 (5)(g) for that budget year, the district may expend the amount of the excess balance. Any money remaining in the fund at the end of a fiscal year must remain in the fund and may be used in future years only as provided in this subsection (1)(k).

SECTION 3. In Colorado Revised Statutes, 22-54-104, **amend** (5)(g)(IV) and (5)(g)(V) as follows:

22-54-104. District total program - definitions. (5) For purposes of the formulas used in this section:

(g) (IV) For the 2010-11 budget year, and each budget year thereafter, the total program funding for a district that levies the number of mills calculated pursuant to section 22-54-106 (2)(a)(II) ~~shall be~~ OR (2)(a.5)(I)(B), WHICHEVER IS APPLICABLE, IS the amount calculated pursuant to subsection (2) of this section for the applicable budget year. Any such district shall use the revenues generated by the number of mills that the district levies pursuant to section 22-54-106 (2)(a)(II) OR (2)(a.5)(I)(B), WHICHEVER IS APPLICABLE, to replace any categorical program support funds that the district would otherwise be eligible to receive from the state; except that the amount of categorical program support funds that the district is required to replace ~~shall~~ MUST not exceed an amount equal to the district's reduction amount. The department shall use the amount of categorical program support funds replaced by property tax revenue pursuant to this ~~subparagraph (IV)~~ SUBSECTION (5)(g)(IV) to make payments of categorical program support funds to eligible districts as specified in section 22-54-107 (4).

(V) For the 2010-11 budget year and each budget year thereafter, if a district levies the number of mills calculated pursuant to ~~section 22-54-106 (2)(a)(I)~~ SECTION 22-54-106 (2)(a)(I), (2)(a.5)(I)(A), OR (2)(a.5)(II), WHICHEVER IS APPLICABLE, and the district's reduction amount exceeds the district's state share of total program funding, ~~such~~ THE district's total program funding ~~shall be~~ IS the amount calculated pursuant to subsection (2) of this section for the applicable budget year, minus the district's state aid. Any such district shall use the revenues generated by the number of mills that the district levies pursuant to ~~section 22-54-106 (2)(a)(I)~~ SECTION 22-54-106 (2)(a)(I), (2)(a.5)(I)(A), OR (2)(a.5)(II), WHICHEVER IS APPLICABLE, to replace any categorical program support funds that the district would otherwise be eligible to receive from the state; except that the amount of categorical program support funds that the district is required to replace ~~shall~~ MUST not exceed an amount equal to the remainder of the district's reduction amount after the reduction to the district's total program has been applied pursuant to this ~~subparagraph (V)~~ SUBSECTION (5)(g)(V). The department of education shall use the amount of categorical program support funds replaced by property tax revenue pursuant to this ~~subparagraph (V)~~ SUBSECTION (5)(g)(V) to make payments of categorical program support funds to eligible districts as specified in section 22-54-107 (4).

SECTION 4. In Colorado Revised Statutes, 22-54-107, **amend** (1) and (5) as follows:

22-54-107. Buy-out of categorical programs - total program reserve fund levy. (1) If a district levies the number of mills calculated pursuant to section 22-54-106 (2)(a)(II) OR (2)(a.5)(I)(B), WHICHEVER IS APPLICABLE, the district shall make an additional levy to generate property tax revenue in an amount equal to the amount of categorical support funds; except that the total of the two levies cannot exceed:

(a) FOR PROPERTY TAX YEARS BEFORE THE 2019 PROPERTY TAX YEAR, the lesser of the district's levy for the immediately preceding year, the district's allowable levy under the property tax revenue limitation imposed on the district by section 20 of article X of the state constitution if the district has not obtained voter approval to retain and spend revenues in excess of such property tax revenue limitation, or twenty-seven mills; OR

(b) FOR THE 2019 PROPERTY TAX YEAR AND PROPERTY TAX YEARS

THEREAFTER, THE DISTRICT'S LEVY FOR THE IMMEDIATELY PRECEDING YEAR.

(5) For the 2016-17 budget year and each budget year thereafter, if a district levies the number of mills calculated pursuant to section 22-54-106 (2)(a)(II) OR (2)(a.5)(I)(B), WHICHEVER IS APPLICABLE, and the additional mill levy described in subsection (1) of this section for categorical support funds, and the combined total of the two levies is less than the number of mills that the district levied in the preceding budget year, the district, in addition to the two levies, shall assess a number of mills equal to the difference between the combined total of the two levies and the number of mills levied in the preceding budget year. The district shall deposit the property tax revenue collected from the mills levied pursuant to this subsection (5) in the total program reserve fund created in section 22-45-103 (1)(k).

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 (August 2, 2019, if adjournment sine die is on May 3, 2019); 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 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT 2.12.19

DRAFT

LLS NO. 19-0900.01 Julie Pelegrin x2700 **COMMITTEE BILL**

Joint Budget Committee

BILL TOPIC: "School District Mill Levy Equalization"

A BILL FOR AN ACT

CONCERNING EQUALIZING THE AMOUNT OF PROPERTY TAX REVENUE RECEIVED AS A RESULT OF MILLS LEVIED FOR ADDITIONAL LOCAL REVENUE BY LOW-PROPERTY-VALUE SCHOOL DISTRICTS.

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 education to distribute to applying eligible school districts a mill levy equalization payment for additional local revenue (override) mills initially approved by voters on or after November 6, 2018 (qualifying mills). To be eligible, a school district's per pupil assessed property valuation must

be less than the statewide average per pupil assessed property valuation. The amount of the mill levy equalization payment is equal to the difference in the amount of property tax revenue generated by the qualifying mills levied against the school district's per pupil assessed property valuation and the amount that would be generated if the qualifying mills were levied against the statewide average per pupil assessed property valuation.

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

SECTION 1. In Colorado Revised Statutes, **add** 22-54-141 as follows:

22-54-141. Additional funding - low-assessed property value districts - mill levy equalization money - rules - definitions - repeal. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "DEPARTMENT" MEANS THE DEPARTMENT OF EDUCATION.

(b) "ELIGIBLE DISTRICT" MEANS A DISTRICT IN WHICH THE DISTRICT PER PUPIL ASSESSED PROPERTY VALUATION FOR A PROPERTY TAX YEAR IS LESS THAN THE STATEWIDE AVERAGE PER PUPIL ASSESSED PROPERTY VALUATION FOR THAT PROPERTY TAX YEAR.

(c) "MILL LEVY EQUALIZATION AMOUNT" MEANS AN AMOUNT EQUAL TO THE DIFFERENCE BETWEEN THE AMOUNT OF PROPERTY TAX REVENUE GENERATED BY A SINGLE MILL LEVIED AGAINST THE DISTRICT'S PER PUPIL ASSESSED PROPERTY VALUATION AND THE AMOUNT OF PROPERTY TAX REVENUE GENERATED BY A SINGLE MILL LEVIED AGAINST THE STATEWIDE AVERAGE PER PUPIL ASSESSED PROPERTY VALUATION.

(d) "PER PUPIL ASSESSED PROPERTY VALUATION" MEANS AN AMOUNT EQUAL TO THE TOTAL ASSESSED PROPERTY VALUATION FOR A DISTRICT FOR A PROPERTY TAX YEAR DIVIDED BY THE SUM OF THE DISTRICT'S PUPIL ENROLLMENT, PRESCHOOL PROGRAM ENROLLMENT,

ONLINE PUPIL ENROLLMENT, AND DISTRICT EXTENDED HIGH SCHOOL PUPIL ENROLLMENT FOR THE SCHOOL YEAR THAT ENDS DURING THE PROPERTY TAX YEAR.

(e) "QUALIFYING PROPERTY TAX MILL" MEANS A PROPERTY TAX MILL THAT VOTERS INITIALLY AUTHORIZE A DISTRICT TO COLLECT AS PROVIDED IN SECTION 22-54-108, 22-54-108.5, OR 22-54-108.7 IN AN ELECTION HELD ON OR AFTER NOVEMBER 6, 2018.

(f) "STATEWIDE AVERAGE PER PUPIL ASSESSED PROPERTY VALUATION" MEANS AN AMOUNT EQUAL TO THE TOTAL ASSESSED PROPERTY VALUATION OF THE STATE FOR A PROPERTY TAX YEAR DIVIDED BY THE SUM OF THE PUPIL ENROLLMENT, PRESCHOOL PROGRAM ENROLLMENT, ONLINE PUPIL ENROLLMENT, AND DISTRICT EXTENDED HIGH SCHOOL PUPIL ENROLLMENT FOR ALL DISTRICTS FOR THE SCHOOL YEAR THAT ENDS DURING THE PROPERTY TAX YEAR.

(2) BEGINNING IN THE 2019-20 BUDGET YEAR, THE STATE SHALL DISTRIBUTE A MILL LEVY EQUALIZATION PAYMENT AS PROVIDED IN THIS SECTION TO EACH ELIGIBLE DISTRICT THAT APPLIES FOR A PAYMENT AND MEETS THE REQUIREMENTS OF THIS SECTION. AN ELIGIBLE DISTRICT MAY RECEIVE A MILL LEVY EQUALIZATION PAYMENT FOR UP TO A TOTAL OF XX QUALIFYING PROPERTY TAX MILLS. THE AMOUNT THAT A DISTRICT RECEIVES AS A MILL LEVY EQUALIZATION PAYMENT IS INCLUDED IN CALCULATING THE TOTAL ADDITIONAL LOCAL PROPERTY TAX REVENUES THAT A DISTRICT MAY RECEIVE AS DESCRIBED IN SECTION 22-54-108 (3)(b)(III) AND (3)(b)(IV).

(3) TO RECEIVE A MILL LEVY EQUALIZATION PAYMENT FOR ADDITIONAL LOCAL REVENUE COLLECTED FOR THE PRECEDING PROPERTY TAX YEAR FROM A QUALIFYING PROPERTY TAX MILL, AN ELIGIBLE DISTRICT

MUST ANNUALLY APPLY TO THE DEPARTMENT BY A DATE SPECIFIED BY RULE OF THE STATE BOARD. IN THE APPLICATION, THE ELIGIBLE DISTRICT MUST:

(a) DEMONSTRATE THAT THE DISTRICT'S PER PUPIL ASSESSED PROPERTY VALUATION FOR THE PRECEDING PROPERTY TAX YEAR WAS LESS THAN THE STATEWIDE AVERAGE PER PUPIL ASSESSED PROPERTY VALUATION FOR THE PRECEDING PROPERTY TAX YEAR, AS CALCULATED BY THE DEPARTMENT;

(b) STATE THE AMOUNT OF PROPERTY TAX REVENUE GENERATED BY A SINGLE MILL LEVIED AGAINST THE DISTRICT'S PER PUPIL ASSESSED PROPERTY VALUATION FOR THE PRECEDING PROPERTY TAX YEAR; AND

(c) STATE THE NUMBER OF QUALIFYING PROPERTY TAX MILLS THAT THE DISTRICT ASSESSED FOR THE PRECEDING PROPERTY TAX YEAR AND THE AMOUNT OF PROPERTY TAX REVENUE THAT THE MILLS GENERATE, ASSUMING ONE HUNDRED PERCENT COLLECTION.

(4) THE DEPARTMENT SHALL REVIEW EACH APPLICATION RECEIVED PURSUANT TO SUBSECTION (3) OF THIS SECTION AND, SUBJECT TO AVAILABLE APPROPRIATIONS, DISTRIBUTE TO EACH APPLYING ELIGIBLE DISTRICT AN AMOUNT EQUAL TO THE MILL LEVY EQUALIZATION AMOUNT MULTIPLIED BY THE NUMBER OF QUALIFYING PROPERTY TAX MILLS THAT THE DISTRICT ASSESSED FOR THE PRECEDING PROPERTY TAX YEAR UP TO A TOTAL OF XX QUALIFYING PROPERTY TAX MILLS.

(5) THE STATE BOARD SHALL PROMULGATE RULES AS NECESSARY TO IMPLEMENT THIS SECTION, INCLUDING BUT NOT LIMITED TO ESTABLISHING THE DATE BY WHICH AN ELIGIBLE DISTRICT MUST ANNUALLY SUBMIT AN APPLICATION TO RECEIVE A MILL LEVY EQUALIZATION PAYMENT AS PROVIDED IN THIS SECTION. THE DEPARTMENT

SHALL ANNUALLY CALCULATE THE STATEWIDE AVERAGE PER PUPIL ASSESSED PROPERTY VALUATION AND, UPON REQUEST, PROVIDE TECHNICAL ASSISTANCE TO ELIGIBLE DISTRICTS THAT CHOOSE TO APPLY FOR A MILL LEVY EQUALIZATION PAYMENT AS PROVIDED IN THIS SECTION.

(6) THE GENERAL ASSEMBLY SHALL ANNUALLY APPROPRIATE MONEY TO THE DEPARTMENT FOR DISTRIBUTION AS MILL LEVY EQUALIZATION PAYMENTS AS PROVIDED IN THIS SECTION. IN A BUDGET YEAR IN WHICH THE GENERAL ASSEMBLY DOES NOT APPROPRIATE A SUFFICIENT AMOUNT TO FULLY FUND THE MILL LEVY EQUALIZATION PAYMENTS AUTHORIZED IN THIS SECTION, THE DEPARTMENT SHALL REDUCE EACH APPLYING ELIGIBLE DISTRICT'S MILL LEVY EQUALIZATION PAYMENT BY THE SAME PERCENTAGE THAT THE DEFICIT BEARS TO THE AMOUNT REQUIRED TO FULLY FUND THE PAYMENTS AUTHORIZED BY THIS SECTION.

(7) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2024.

SECTION 2. 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 (August 2, 2019, if adjournment sine die is on May 3, 2019); 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 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Joint Budget Committee
FROM	Tom Dermody, JBC Staff (303-866-4963)
DATE	February 27, 2019
SUBJECT	JBC Staff Analysis of LLS NO. 19-0907

In 2018, the Division of Parks and Wildlife implemented a new system to manage the sale of hunting and fishing licenses and park passes through a third party vendor. The system, called IPAWS, is designed to manage both online sales and point-of-contact sales made at a Division office or agent location. The vendor developed the software and other system components at no cost, in exchange for a commission charged on the sale of licenses and pass. Independent of the commission paid to the vendor, the Division also incurs credit card fees and fulfillment fees for many license and pass sales.

Prior to FY 2017-18, the State Controller allowed the Division of Parks and Wildlife to book their over-expenditures associated with vendor commissions and credit card fees against "inferred non-appropriated spending authority," a phrase used by the Department that has no statutory definition. Beginning in FY 2017-18, the State Controller no longer allowed this practice because it was in contradiction of accounting best practices. As a result, the Division does not have the appropriated spending authority to cover their vendor commissions and credit card fees. This issue impacts five cash funds, they are the:

1. Parks and Outdoor Recreation Cash Fund, Section 33-10-111 (1), C.R.S.;
2. Wildlife Cash Fund, Section 33-1-112 (1)(a), C.R.S.;
3. Division of Parks and Wildlife Aquatic Nuisance Species Fund, Section 33-10.5-108 (1)(a)(I), C.R.S.;
4. Snowmobile Recreation Fund, Section 33-14-106, C.R.S.; and
5. Off-highway Vehicle Recreation Fund, Section 33-14.5-106 (1), C.R.S.

The Department has proposed the following three possible solutions to this issue. Staff has provided the Department's comments on each possibility.

Clarify in statute that commission expenses, fulfillment fees, and credit card fees are unbudgeted

a. Department comments: "Under current practice, most credit card fees and agent commission are booked as unbudgeted expenses. To provide consistency, the General Assembly could clarify in statute which charges are subject to appropriation and which are not. Since this option would mean that some expenses are booked against inferred non-appropriated spending authority, such a legislative change could include reporting on commissions and fees charged if this information is desired by the General Assembly."

Add new spending authority to existing Long Bill line items

b. Department comments: "The General Assembly could add additional spending authority to the CPW section of the Long Bill to cover commissions and credit card expenses, on a line item by line item basis. Because commissions and credit card fees involve activities that impact multiple CPW line items, multiple appropriation increases would be needed. The impacted line items include State Park Operations, Wildlife Operations, Snowmobile Program, Off-highway Vehicle Program Support, and S.B. 08-226 Aquatic Nuisance Species. If, subsequent to these new appropriations, actual charges come in higher than expected, CPW would need to absorb the increase or pursue additional spending authority from the legislature. Due to the timing of revenues, the most likely vehicle for a spending authority change would be a 1331 supplemental late in the fiscal year."

Create a new Long Bill line item with sufficient spending authority to cover these expenses

c. Department comments: "The General Assembly could create a new single line item with spending authority for transaction-related expenses. If estimated charges come in higher than expected, CPW would have no ability to absorb these increases and would need to pursue a budgetary change from the legislature. Due to the timing of revenues, the most likely vehicle for a spending authority change would be a 1331 supplemental late in the fiscal year."

Staff recommends the Committee address this issue through the creation of a specific line item in the Long Bill. Staff will make a formal recommendation regarding this solution and its attendant appropriation during figure setting for this Division on March 6.

It is reasonable for the General Assembly and the Joint Budget Committee to ask the Department and Division to provide annual projections of their total revenue and expenditures to accurately set annual appropriations. The power of appropriation is constitutionally reserved for the General Assembly and it is the Joint Budget Committee's duty to advise the General Assembly with on the annual state budget. The statutory solution requested and preferred by the Department is asking the Committee and the General Assembly to abdicate your most essential constitutional authority and responsibility. The Committee is tasked with budgetary oversight, this bill would make that task more difficult by bifurcating their expenditures between annual appropriations and continuous appropriations.

The statutory solution raises further oversight concerns regarding the eventual renegotiation of vendor commissions and fees by the Division. If the commissions and fees were continuously appropriated to the Division, any future adjustments to them through the vendor contract could be implemented without the input of the Committee and General Assembly. The commissions and fees in questions are, in most cases, incorporated into the licenses and passes fees, some of which are set in statute and some that are set by the Parks and Wildlife Commission. For instance, the cost of an annual adult resident fishing license is $25. If a person purchases the license online through the Division's website with a credit card, the sales commission is 3.7 percent and the credit card fee is 2.2 percent. That means 5.9 percent of the $25, or $1.48, of that sale goes to commissions and fees. If commissions and fees are increased without an increase in the cost of the licenses, then the Division would generate less operating revenue.

The Department asserts that their statutory solution is the most efficient, while addressing this issue through the Long Bill is more complex. That may be the case for the Department's efforts to project and manage their appropriated budget, but it is certainly not the case for the JBC staff and the State Controller's Office. Staff discussed this issue and potential solutions with the State Controller's Office. The takeaway of those discussions was that for budgetary and accounting purposes the Long Bill solution was more simple and elegant. The State Controller's Office also indicated that splitting a cash fund's revenue and expenditures between annually appropriated and continuous spending authority was not a simple task.

The Department's concern about appropriation levels and the mechanics of the appropriations process is a red herring. We have a well-defined budgetary process that allows for intra-year adjustments to account for unexpected and unforeseen circumstances. Within that process, there are five opportunities in any given fiscal year for adjustments to current-year appropriations: June 1331 emergency supplementals, September 1331 emergency supplementals, December 1331 emergency supplementals, January supplemental requests, and Long Bill Add-ons. The Department is more than welcome to and capable of availing itself of these opportunities to address their budgetary needs.

DRAFT
2.13.19

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT

LLS NO. 19-0907.01 Richard Sweetman x4333 **COMMITTEE BILL**

Joint Budget Committee

BILL TOPIC: "Div Parks & Wildlife Alert System Vendors"

A BILL FOR AN ACT

CONCERNING AUTHORIZING THE DIVISION OF PARKS AND WILDLIFE TO CONTRACT WITH A PRIVATE VENDOR FOR THE SALE OF LICENSES RELATING TO THE FEDERAL INTEGRATED PUBLIC ALERT AND WARNING SYSTEM.

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 states that the division of parks and wildlife may contract with a private vendor for the sale of licenses and passes relating to the integrated public alert and warning system 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.

the federal emergency management agency. The contract may permit the vendor to retain a commission on each such sale before remitting the balance of the proceeds from the sale to the division. Net revenue received by the division from a private vendor is subject to annual appropriation by the general assembly to the division.

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

SECTION 1. In Colorado Revised Statutes, **add** 33-9-113 as follows:

33-9-113. Integrated public alert and warning system - sale of licenses and passes - vendor - commissions. (1) THE DIVISION MAY CONTRACT WITH A PRIVATE VENDOR FOR THE SALE OF LICENSES AND PASSES RELATING TO THE INTEGRATED PUBLIC ALERT AND WARNING SYSTEM OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY. THE CONTRACT MAY PERMIT THE VENDOR TO RETAIN A COMMISSION ON EACH SUCH SALE BEFORE REMITTING THE BALANCE OF THE PROCEEDS FROM THE SALE TO THE DIVISION.

(2) NET REVENUE RECEIVED BY THE DIVISION FROM A PRIVATE VENDOR AS DESCRIBED IN SUBSECTION (1) OF THIS SECTION IS SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY TO THE DIVISION.

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, and safety.

Bill Concepts Scheduled for Discussion on February 27, 2019

JBC Tracking Number	Department	Subject	Assigned Staff	Initiated By	Summary	Last Action Taken
68	Corrections	Parole Board Legislation	Roper	JBC Member	Potential Legislation to move the parole board and add members to the board.	Sent to Draft
87	Education	Special Education Funding	Harper	JBC Member	Sen. Zenzinger added proposal to potential bill list on 1/31/19 to provide additional special education funding.	Reviewed