

# MEMORANDUM



## JOINT BUDGET COMMITTEE

TO Members of the Joint Budget Committee  
FROM Robin J. Smart, Tom Dermody, Christina Beisel, JBC Staff  
DATE May 18, 2020  
SUBJECT Department of Human Services, Budget Balancing Comebacks

### DELAYED STAFF BUDGET BALANCING DOCUMENT OPTIONS AND OSPB COMEBACK ITEMS

FY 2019-20 and FY 2020-21

#### → ES FAMILY FIRST ACT AND COLORADO TRAILS – PARTIALLY UNDO (APPROVED)

DOCUMENT	PAGE
JBC Staff Budget Balancing Document	10
OSPB Comeback (Appendix)	98

*JBC ACTION AS OF 5/17/20:* The Committee approved Staff's recommendation to reduce General Fund appropriation to the Division of Child Welfare Administration line item by \$633,510 and 5.6 FTE in FY 2019-20 and by \$1,530,254 and 12.4 FTE in FY 2020-21.

Approved appropriations include:

- \$744,199 total funds, including \$483,729 General Fund, in FY 2019-20 for the modernization and modification of Colorado Trails;
- \$515,488 total funds, including \$335,067 General Fund, in FY 2020-21 for the modernization and modification of Colorado Trails; and
- No increase in funding and FTE for the implementation of Family First or for assessments in either FY 2019-20 and FY 2020-21.

#### *KEY CONSIDERATIONS:*

The Department asserts that the funding for the decision item is still necessary as six of the seven positions have been filled. The Department released an announcement this week, however, indicating that the implementation of Family First has been delayed for a second time. The announcement did not provide a new date for implementation. Given that, JBC staff believes that no funding should be provided for the implementation of Family First at this time and that the Department should be required to submit a prioritized budget request for this funding when it is certain the initiative will actually be implemented. If the Department believes maintaining the filled positions is necessary, then it should be required to do so within existing resources.

➔ S.B. 19-008 SUBSTANCE USE DISORDER TREATMENT IN CRIMINAL JUSTICE SYSTEM  
– REDUCE (DELAYED)

DOCUMENT	PAGE
JBC Staff Budget Balancing Document	18
OSPB Comeback (Appendix)	n/a

*JBC ACTION AS OF 5/17/20:* The Committee delayed Staff's recommendation to eliminate the annualization for S.B. 19-008.

RECOMMENDED REDUCTION FOR S.B. 19-008	
PURPOSE	GENERAL FUND
Administration	(\$29,207)
MAT Treatment in County Jails	(735,000)
Co-Responder Expansion	(387,072)
<b>Total</b>	<b>(\$1,151,279)</b>

*KEY CONSIDERATIONS:*

New program (not yet fully implemented or new proposal for FY 2020-21).

*Additional Background:*

MAT Treatment in County Jails

For FY 2019-20, the Department was appropriated \$798,780 General Fund and 0.7 FTE to provide medication-assisted treatment (MAT) to persons confined in county jails. For FY 2020-21, that amount increases by \$735,000 General Fund. The recommendation retains the base funding, but eliminates the increase for FY 2020-21.

Co-Responder Expansion

For FY 2019-20, the Department was appropriated \$1,165,052 General Fund and 0.8 FTE to increase the number of co-responder programs from eight to 12. For FY 2020-21, that amount increases by \$387,072 General Fund. Eliminating the increase would reduce expansion by one site (from 12 to 11).

➔ R1 IMPROVING CHILD CARE QUALITY – UNDO (APPROVED)

DOCUMENT	PAGE
JBC Staff Budget Balancing Document	28
OSPB Comeback (Appendix)	87

*JBC ACTION AS OF 5/17/20:* The Committee approved Staff's recommendation to eliminate funding for R1, reducing the Department's appropriation by \$5,460,296 total funds, including \$2,730,148 General Fund and an equal amount of federal funds from Child Care Development Funds, and 7.2 FTE for FY 2020-21.

*KEY CONSIDERATIONS:* OSPB accepts the Committee's decision to undo the GF increase of \$2.7 million for Comprehensive Approach to Improving Child Care Quality but respectfully requests the

Committee maintain the federal fund increase of \$2.7M to support this work in FY 2020-21. The continuation of this federally funded increase is even more important for the State’s response to COVID-19 and the support of child care providers during the reopening of the State’s economy.

*Additional Background:* New federal resources provided through the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) include \$42.5 million in Child Care Development Funds, with no matching requirement, for Colorado.

- The Department estimates that it will spend up to \$13,221,654 on the Emergency Child Care Collaborative program to reimburse child care providers for child care provided to essential workers. The emergency child care program, authorized by Executive Order D 2020 035, began on March 23, 2020 and will end May 24, 2020.
- The Department estimates that it will spend up to \$11,785,021 to reimburse counties that pay providers through the Child Care Assistance Program (CCCAP) for increased absences or closures as a result of COVID-19 through May 2019, as authorized by Executive Order D 2020 007. The Department is considering extending the payment for increased absences through June 2020, which would increase this amount by up to \$4.6 million.
- The Department has spent \$226,146 to purchase necessary cleaning supplies, gloves, and masks for child care providers who have been unable to purchase these necessary supplies.
- The Department is working with the Governor's Office, stakeholders, and other interested parties to determine a plan to utilize the remaining funding to provide necessary supports for the child care system and the children and families it serves.

➔ S5 CHILD SUPPORT PASS-THROUGH (FY 2019-20) – UNDO (DELAYED)

DOCUMENT	PAGE
JBC Staff Budget Balancing Document	48
OSPB Comeback (Appendix)	96

*JBC ACTION AS OF 5/17/20:* The Committee delayed decision on Staff’s recommendation to not fund the staff recommendation for S5, **reducing the appropriation for the Department by \$439,160 General Fund for FY 2019-20**. The annualization of this recommendation would also **reduce the FY 2020-21 appropriation for the Department by an equal amount of General Fund**.

*KEY CONSIDERATIONS:* OSPB respectfully requests that the Committee modify the proposed reduction to \$321,040. For children and families receiving TANF assistance, child support payments are received directly by children and families rather than retained by the counties and the federal government. This appropriation level will allow the program to remain solvent and provide support to some the most vulnerable families in Colorado.

➔ BUILDING SUBSTANCE USE DISORDER TREATMENT CAPACITY IN UNDERSERVED COMMUNITIES GRANT PROGRAM (H.B. 19-1287) – ELIMINATE (DELAYED)

DOCUMENT	PAGE
JBC Staff Budget Balancing Document	49
OSPB Comeback (Appendix)	n/a

*JBC ACTION AS OF 5/17/20:* The Committee delayed its decision on the option of eliminating the appropriation for FY 2020-21. The FTE for this program have not yet been hired. This recommendation requires legislation.

*KEY CONSIDERATIONS:*

New program / Affects a vulnerable population.

*Other Items of Note:* Residential capacity for substance use disorder (SUD) treatment across the state is limited, and, prior to budget balancing reductions, limited the ability to roll-out the Medicaid benefit required by H.B. 18-1136. Reducing this appropriations will further limit capacity building and impact full delivery of the Medicaid SUD benefit in the future.

*Additional Background:*

H.B. 19-1287 requires the Department of Human Services (DHS) to establish a centralized, web-based behavioral health capacity tracking system to track bed space use and availability at crisis stabilization units, acute treatment units, community mental health centers, and hospitals. The bill also requires DHS to establish a care navigation system to assist individuals in accessing substance use disorder treatment. Finally, the bill creates the Building Substance Use Disorder Treatment Capacity in Underserved Communities Grant Program to be administered by DHS to support substance use disorder treatment capacity-building in rural and frontier communities. The grants may be used to support building a continuum of services, including, but not limited to, medical detoxification, residential treatment, and intensive outpatient treatment. Managed service organizations, local primary care or substance use disorder treatment providers, local governments, counties, schools, and law enforcement agencies may apply for a grant.

➔ FAMILY SUPPORT SERVICES – REDUCE/ELIMINATE (DELAYED)

DOCUMENT	PAGE
JBC Staff Budget Balancing Document	52
OSPB Comeback (Appendix)	79

*JBC ACTION AS OF 5/17/20:* The Committee delayed its decision on the option of:

- Reducing the appropriation for this line by \$527,951 General Fund for FY 2020-21
- Eliminating this line item from the Long Bill, reducing the appropriation by an additional \$750,000 General Fund and 0.5 FTE for FY 2020-21.

*KEY CONSIDERATIONS:* OSPB does not recommend any reduction or elimination of funding for Family Resource Centers (FRC) as they provide a crucial safety net for families throughout the State. As a response to COVID-19, the centers have helped families with food, rent, shelter, and a range of other services, including serving as primary distribution sites for the FEMA emergency order of diapers and formula throughout the state. This program will be even more critical during an economic recession as FRCs support families with economic self-sufficiency, prevention of child maltreatment, and connection to public benefits.

➔ DIVERSION TO OLDER COLORADANS CASH FUND – SUSPEND (DELAYED)

DOCUMENT	PAGE
JBC Staff Budget Balancing Document	52
OSPB Comeback (Appendix)	n/a

*JBC ACTION AS OF 5/17/20:* The Committee delayed its decision to temporarily reduce or suspend the statutory transfer, pursuant to Section 39-26-123 (3)(a), C.R.S., of sales and use tax revenue to the Older Coloradans Cash Fund.

*KEY CONSIDERATIONS:*

- This recommendation requires legislation
- No immediate health, life, or safety impact
- Does affect vulnerable population
- New federal resources provided through the Families First Coronavirus Response Act (FFCRA) and the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) total \$14.6 million for programs and services related to the Older Americans Act. Of this amount, \$3.6 million must be expended on nutritional services. Federal funding provided under the Older Americans Act is not appropriated by the General Assembly and appears in the Long Bill with an informational "(I)" note.

*Other Items of Note:* Section 39-26-123 (3)(a), C.R.S., directs the annual transfer of \$10.0 million in sales and use taxes to the Older Coloradans Cash Fund, created in Section 26-11-205.5 (5)(a), C.R.S. This transfer functions as the base revenue source for the Older Coloradans Cash Fund and is essential to the funding of services for seniors. Money in the Older Coloradans Cash Fund from the statutory transfer is subject to annual appropriation for distribution to the Area Agencies on Aging (AAAs) and must be used for senior services, utilizing the funding formula dictated by Section 26-11-205.5 (5)(b), C.R.S. The State Funding for Senior Services appropriation, along with the Older Americans Act funding, allows more than 55,000 older Coloradans to receive services including personal care, assisted transportation, congregate meals, home-delivered meals, homemaker services, adult day care, transportation, and legal assistance. These services help seniors to age-in-place in their communities and postpone or avoid more costly placements such as assisted living facilities or nursing homes.

OLDER COLORADANS CASH FUND				
	FY 17-18	FY 18-19	FY 19-20	FY 20-21
	ACTUAL	ACTUAL	ESTIMATED	ESTIMATED
Beginning FY Balance	\$481,105	\$15,285,734	\$32,201,147	\$14,201,147
Projected Revenues	24,852,031	26,766,292	10,000,752	10,000,752
Expenditures	(10,047,402)	(9,850,879)	(13,000,752)	(16,000,752)
Ending FY Balance Without Transfer	\$15,285,734	\$32,201,147	\$29,201,147	\$8,201,147
Proposed Transfer	0	0	13,000,000	0
Proposed Diversion	0	0	2,000,000	2,000,000
Ending FY Balance After Transfer	\$15,285,734	\$32,201,147	\$14,201,147	\$6,201,147
Fee Impact: Receives \$10.0 million annually from sales and use tax revenue.				

➔ GENERAL FUND APPROPRIATIONS TO PREVENTION PROGRAMS – REDUCE (DELAYED)

DOCUMENT	PAGE
JBC Staff Budget Balancing Document	55
OSPB Comeback (Appendix)	n/a

*JBC ACTION AS OF 5/17/20:* The Committee delayed its decision to reduce the General Fund appropriation to the following prevention programs:

- Collaborative Management Program: \$750,000 General Fund;
- Tony Grampas Youth Services Program: \$500,000 General Fund; and
- S.B. 91-94: \$1,000,000 General Fund.

*KEY CONSIDERATIONS:*

Reductions in appropriations to these programs will result in a decrease of prevention services.

➔ GENERAL FUND FOR CIRCLE PROGRAMS – ELIMINATE

DOCUMENT	PAGE
JBC Staff Budget Balancing Document	55
OSPB Comeback (Appendix)	n/a

*JBC ACTION AS OF 5/17/20:* The Committee delayed its decision to eliminate General Fund (\$3.1 million) in the “Circle Program and Other Rural Treatment Programs for People with Co-occurring Disorders” line item. This would reduce total appropriations to \$5.2 million.

The operational funding for the existing program in Pueblo is approximately \$2.4 million annually. Two additional program are expected to open in 2020, but are not yet operational. Contracts have been awarded to all three programs and expenditures have already been made in preparation for opening.

*KEY CONSIDERATIONS:*

Program expanded since FY 2013-14.

*Other Items of Note:* Residential capacity for substance use disorder (SUD) treatment across the state is limited, and, prior to budget balancing reductions, limited the ability to roll-out the Medicaid benefit required by H.B. 18-1136. Reducing the General Fund appropriation for the Circle programs will further limit capacity and impact full delivery of the Medicaid SUD benefit in the future.

*Additional Background:*

There are three Circle programs located throughout the state. The Pueblo program is run by Crossroads and is fully operational. Two locations are slated to open in FY 2020-21: a location in Mesa County (June 2020) and a location in Larimer County (October 2020). Contracts have been awarded to all three programs and expenditures have already been made in preparation for opening.

The operational funding for the existing program (Pueblo) is approximately \$2.4 million annually. This program currently has a waitlist with more potential clients than its total capacity. Additionally, the Pueblo program is planning to use available funds to expand or move into a new facility.

The Mesa and Larimer County Circle programs are co-located with other locally funded recovery programs. The OBH contracts fund approximately half of the total project at each location.

→ S2/R5A DYS DRUG DETECTION DEVICES, CANINES, AND STAFFING – UNDO (DELAYED)

DOCUMENT	PAGE
JBC Staff Budget Balancing Document	57
OSPB Comeback (Appendix)	89

*JBC ACTION AS OF 5/17/20:* The Committee delayed its decision to eliminate all funding for this program in both FY 2019-20 and FY 2020-21.

*KEY CONSIDERATIONS:* Calculations for each fiscal year are provided in the table below. The cost of the detection devices and staffing total:

- \$261,313 General Fund and 1.7 FTE in FY 2019-20; and
- \$808,000 General Fund and 10.0 FTE in FY 2020-21.

The cost of the contract for canine site visits total:

- \$76,033 General Fund in FY 2019-20; and
- \$208,000 General Fund in FY 2020-21.

The Department conducts searches for drugs in its youth services facilities and has instituted a new policy allowing staff and visitors to utilize clear bags to bring allowable personal belongings into a secure facility. In spite of the new policy, the Department reports an increase in the total number of drug possession incidents in all facilities in the past four years, primarily in the number of incidents involving marijuana and THC wax. If the Committee elects to fund a portion of this budget request in both FY 2019-20 and FY 2020-221, the Department requests that the funding for canine site visits be prioritized.

→ R19 REPLACE LEGACY PHONE SYSTEMS – UNDO (DELAYED)

DOCUMENT	PAGE
JBC Staff Budget Balancing Document	58
OSPB Comeback (Appendix)	94

*JBC ACTION AS OF 5/17/20:* The Committee delayed its decision on Staff’s recommendation to not replace the legacy phone systems at this time, **reducing the appropriation to the Department by \$917,525 General Fund for FY 2020-21.**

*KEY CONSIDERATIONS:* OSPB recommends the Committee at least approve of \$689,371 General Fund to replace the phone system at the Colorado Mental Health Institute at Pueblo. The existing

phone system adversely affects the health and safety of patients and staff. Further, the phone technology is no longer supported by the vendor and unreliable during times of emergency. The Department also provided staff with the priority order for phony system replacement at the Division of Youth Services facilities.

R19 REPLACE LEGACY PHONE SYSTEM, PER FACILITY COST		
DIVISION/FACILITY	FY 2020-21	FY 2021-22
Office of Behavioral Health		
Colorado Mental Health Institute at Pueblo	\$689,371	\$583,579
<i>Subtotal OBH</i>	\$689,371	\$583,579
Division of Youth Services		
Lookout Mountain	\$67,921	\$66,671
Gilliam	18,413	15,913
Spring Creek	27,079	22,079
Platte Valley	76,223	66,223
Marvin Foote	38,518	33,518
<i>Subtotal DYS</i>	\$228,154	\$204,404
<b>Total</b>	<b>\$917,525</b>	<b>\$787,983</b>

→ ANNUALIZATION OF FY 2019-20 R2 COMPENSATION FOR DYS DIRECT CARE EMPLOYEES – DELAY (DELAYED)

DOCUMENT	PAGE
JBC Staff Budget Balancing Document	59
OSPB Comeback (Appendix)	n/a

*JBC ACTION AS OF 5/17/20:* The Committee delayed its decision on Staff’s recommendation to delay the annualization of the FY 2019-20 R2 budget request until FY 2021-22, reducing General Fund appropriations in FY 2020-21 by \$6,273,826 General Fund.

*KEY CONSIDERATIONS:* The Committee previously approved a JBC Staff recommendation to eliminate the annualization for employees in the Department of Corrections. If the Committee is to remain consistent, members should also fully eliminate the annualization in the Division of Youth Services.

→ R2 EARLY INTERVENTION CASELOAD – UNDO (DELAYED)

DOCUMENT	PAGE
JBC Staff Budget Balancing Document	34
OSPB Comeback (Appendix)	n/a

*JBC ACTION AS OF 5/17/20:* The Committee approved staff’s recommendation to reduce the appropriation for R2 by the amount in excess of the Department’s request, reducing the appropriation for the Department by \$275,354 General Fund.

*ADDITIONAL OPTION:* Staff recommends the Committee consider not funding the requested FY 2020-21 caseload growth adjustment, **reducing the appropriation for the Department by \$1,728,866 General Fund.**

*KEY CONSIDERATIONS:* OSPB does not recommend undoing the approved FY 2020-21 increase for Early Intervention caseload growth.

→ S4 EARLY INTERVENTION CASELOAD (FY 2019-20) – UNDO (DELAYED)

DOCUMENT	PAGE
JBC Staff Budget Balancing Document	60
OSPB Comeback (Appendix)	83

*JBC ACTION AS OF 5/17/20:* The Committee delayed its decision on Staff's recommendation to consider not funding the requested caseload growth adjustment, **reducing the FY 2019-20 appropriation for the Department by \$1,503,074 General Fund.** The annualization of this recommendation would also **reduce the FY 2020-21 appropriation for the Department by an equal amount of General Fund.**

*KEY CONSIDERATIONS:* OSPB does not recommend undoing the approved FY 2019-20 supplemental increase for EI caseload. Funding authorized in the supplemental has already been encumbered with community providers to pay for services associated with current year caseload growth. The Department would need to suspend EI direct services in May 2020 for the remainder of the year, cutting services to approximately 9,000 children and families in this 2 month period.

→ SERVICES FOR JUVENILE AND ADULT OFFENDERS – REDUCE (DELAYED)

DOCUMENT	PAGE
JBC Staff Budget Balancing Memo	4
OSPB Comeback (Appendix)	n/a

*JBC ACTION AS OF 5/17/20:* The Committee delayed its decision on the option to reduce the General Fund for contracts with Community Mental Health Centers for mental health services provided to low income individuals by \$1.0 million cash funds from the Marijuana Tax Cash Fund. The Department supports this recommendation.

→ ASSERTIVE COMMUNITY TREATMENT PROGRAMS – REDUCE (DELAYED)

DOCUMENT	PAGE
JBC Staff Budget Balancing Memo	4
OSPB Comeback (Appendix)	n/a

*JBC ACTION AS OF 5/17/20:* The Committee delayed its decision on Staff's recommendation to reduce the General Fund for the ACT program by \$1.0 million General Fund.

*BACKGROUND:* Assertive Community Treatment (ACT) is an evidence-based service delivery model for providing comprehensive community-based treatment to adults with serious and persistent mental illness. The ACT model includes a mobile mental health team with members that function interchangeably to provide the treatment, rehabilitation, and support services that adults with serious mental illnesses need to live successfully in the community.

→ **CONTRACTS FOR MENTAL HEALTH SERVICES FOR LOW INCOME INDIVIDUALS – REDUCE (DELAYED)**

DOCUMENT	PAGE
JBC Staff Budget Balancing Memo	5
OSPB Comeback (Appendix)	n/a

*JBC ACTION AS OF 5/17/20:* The Committee delayed its decision on Staff’s recommendation to reduce the General Fund for contracts with Community Mental Health Centers for mental health services provided to low income individuals by 5.0 percent General Fund. This is a reduction of \$1,382,357 above the FY 2019-20 appropriation. If deeper cuts are required, a 10 percent reduction would total \$2,764,713 General Fund.

*BACKGROUND:* Reduces funding available for FY 2020-21 to contract with Community Mental Health Centers to provide behavioral health services not otherwise available, including assessment, emergency services, clinical treatment, residential and inpatient services, and psychiatric/medication management. Mental health services provided through the Center contracts are not an entitlement. Thus, the number of individuals receiving services and the level of services provided is directly affected by the level of available funding.

**NEW INFORMATION/FOLLOW-UP**

During the balancing discussion on May 9, a question was asked about reducing rates for Regional Accountable Entities (RAEs) if a reduction was made to the contracts for Community Mental Health Centers (CMHCs).

**BACKGROUND**

Rates for RAEs are determined based on an actuarial process and must be certified by the Centers for Medicare and Medicaid (CMS). Under CMS rules, the Department of Health Care Policy and Financing (HCPF) can change the rates to RAEs within 1.5 percent without going through a recertification process. If the rate is changed outside of 1.5 percent, HCPF would have to rest rates with the actuaries, negotiate with RAEs to reach an updated agreement, and then resubmit the certification letter to CMS for approval. In short, rates must be actuarially sound, not determined by budget.

Under the managed care model, and pursuant to federal regulation, HCPF cannot determine the rates RAEs pay to individual providers. HCPF can issue guidance and request data indicating how RAEs followed that guidance, but cannot dictate how RAEs execute their contracts.

**BALANCING OPTIONS**

The Committee could consider a reduction to RAE contracts for FY 2020-21 of 1.5 percent or less. A 1.5 percent reduction would reduce General Fund by \$3.4 million (\$13.0 million total funds).

It is important to note that this reduction could be passed down to providers, as HCPF cannot dictate how RAEs set their rates. This would be particularly important to consider if the Committee reduces

the appropriation in the Department of Human Services for contacts with CMHCs. If RAEs pass on some of that rate cut to rates with providers, CMHCs could take a double cut.

However, this could be a more equitable way to reduce rates while achieving General Fund savings, rather than a reduction to CMHC contracts in HCPF. This would likely spread the reduction across RAEs and providers. Additionally, this would impact all providers, not just CMHCs.

→ CRISIS SERVICES – REDUCE (DELAYED)

DOCUMENT	PAGE
JBC Staff Budget Balancing Memo	5
OSPB Comeback (Appendix)	n/a

*JBC ACTION AS OF 5/17/20:* The Committee delayed its decision on Staff’s recommendation to reduce the General Fund for the Crisis Response System Services line item by 5.0 percent General Fund. This is a reduction of \$1,204,094 above the FY 2019-20 appropriation. The Department opposes this recommendation. If deeper cuts are required, a 10 percent reduction would total \$2,408,188 General Fund.

*BACKGROUND:* This line item provides funding for a collection of integrated services to respond to and assist individuals experiencing a behavioral health emergency, including walk-in, mobile, residential, and respite crisis services.

→ CHILD WELFARE SERVICES FUNDING – REFINANCE (DELAYED)

DOCUMENT	PAGE
JBC Staff Budget Balancing Memo	6
OSPB Comeback (Appendix)	n/a

*JBC ACTION AS OF 5/17/20:* The Committee delayed its decision on Staff’s recommendation to refinance \$5,215,211 million General Fund in the appropriation with cash funds from local sources. The Department is researching the feasibility of this recommendation.

*KEY CONSIDERATIONS:* While a the majority of the allocation to counties for child welfare services is subject to a 20.0 percent county match, a portion of the allocation requires no match from county sources. The funds allocated with a zero county match formula were added to the line item as a result of a historical settlement agreement. The State is no longer under a settlement agreement.

→ COLLABORATIVE MANAGEMENT PROGRAM – ELIMINATE GENERAL FUND (DELAYED)

DOCUMENT	PAGE
JBC Staff Budget Balancing Memo	6
OSPB Comeback (Appendix)	n/a

*JBC ACTION AS OF 5/17/20:* The Committee delayed its decision concerning eliminating the General Fund appropriation to the Collaborative Management Program.

*KEY CONSIDERATIONS:* Prior to FY 2015-16, the source of funding for this program was only cash funds. In 2015, based on JBC Staff's recommendation, the JBC sponsored S.B. 15-241, making changes to the statute concerning this program and increasing the appropriation to the program by \$1.5 million General Fund. Appropriations in this line item fund incentives paid to collaborative programs that provide prevention services to children and families. Reductions in appropriations will result in a decrease of prevention services.

➔ COUNTY TAX BASE RELIEF – ELIMINATE GENERAL FUND (DELAYED)

DOCUMENT	PAGE
JBC Staff Budget Balancing Memo	7
OSPB Comeback (Appendix)	n/a

*JBC ACTION AS OF 5/17/20:* The Committee delayed its decision concerning the option of a one-time elimination all General Fund appropriations for this line item and the removal of the line item from the Long Bill is an option, but only if extreme budgetary actions are necessary.

*KEY CONSIDERATIONS:* This line item provides funding that assists counties with the highest costs and lowest property tax values in meeting their obligations for the local match required by the State for certain public assistance programs. This money is expended to supplement county expenditures for public assistance. These obligations include: county responsibility for maintenance of effort expenditures for the Temporary Assistance to Needy Families (TANF) Block Grant, the county 20 percent share for food assistance and Medicaid administration, the county share for child welfare services expenditures (20 percent for most services), and the county share for adult assistance programs (20 percent).

The Department strongly opposes this option because it negatively affects those counties least able to adapt to the current economic environment.

➔ S.B. 91-94 PROGRAM – REDUCE (DELAYED)

DOCUMENT	PAGE
JBC Staff Budget Balancing Memo	7
OSPB Comeback (Appendix)	91

*JBC ACTION AS OF 5/17/20:* The Committee delayed its decision concerning a further reduction of \$5.0 million General Fund appropriated to the S.B 91-94 Program.

*KEY CONSIDERATIONS:* Appropriations in this line item fund services to ensure that youth are supervised at a level that is commensurate with their risk in the community. Reductions in appropriations will result in a decrease of prevention services.

## → COMPETENCY FINES AND FEES (NEW RECOMMENDATION)

DOCUMENT	PAGE
JBC Staff Budget Balancing Document	12
OSPB Comeback (Appendix)	n/a

*JBC ACTION AS OF 5/17/20:* The Committee's action includes \$2.9 million General Fund for FY 2020-21 to pay for fines and fees accrued as part of the Consent Decree resulting from the *Center for Legal Advocacy (d/b/a Disability Law Colorado) v. Barnes and Marshall (Colorado Department of Human Services)* lawsuit.

*ANALYSIS:* On April 7, 2020, the Office of Behavioral Health (OBH) issued notice<sup>1</sup> that face-to-face competency evaluations would be suspended in response to the COVID-19 outbreak. During this time, OBH is triaging and prioritizing the admission of the most acute individuals (Tier I). Pretrial detainees are admitted in cohorts and monitored for symptoms for 14 days in compliance with and direction of the Centers for Disease Control and the Colorado Department of Public Health and Environment. In the event Tier 1 or those pretrial detainees who are recommended by the forensic navigator cannot be medically cleared, telehealth provider-to-provider consultation will be offered to jails.

**This action is expected to delay compliance with the Consent Decree, unless the parties agree to exceptions due to circumstances.** A delay in compliance will lead to an increase in fines. For reference, the annual fines are capped at \$10.0 million plus inflation, in addition to the fees charged by the Special Master. For FY 2020-21, staff would estimate the maximum to be around \$10.6 million. The Department is working with their attorneys to discuss modifications to the Agreement that would account for the unexpected impact of COVID on the Department's ability to become compliant with the Consent Decree. **At this time, staff does not expect a resolution before the JBC finalizes the Long Bill.**

### NEW RECOMMENDATION

Staff recommends the Committee appropriate an additional \$7.7 million General Fund to the Office of Behavioral Health to cover the cost of the maximum amount of fines and fees for FY 2020-21 (an estimated \$10.6 million). This is for two reasons. First, legal action is required (either through formal agreement between the parties or a return to court) for the Department to NOT reach the maximum fine amount in FY 2020-21. Since this will not be resolved in the next week, at this time, the best information indicates those funds will be required in FY 2020-21. Second, given the tight budget situation and uncertainty around future revenue projections, the most cautious recommendation would be to appropriate the funds now, rather than waiting for supplementals.

As was discussed on May 9, the Committee could choose to let the legal negotiations play out and consider a supplemental at a later date. However, staff would note one timing consideration. Fines could accrue most significantly at the beginning of the fiscal year, leading the Department to spend the current fine appropriations (\$2.9 million) prior to the supplemental process in January. If that happens, the Department could request a 1331 supplemental. Section 24-75-111, C.R.S. requires that

<sup>1</sup> Office of Behavioral Health Notice of Ending Face-to-Face Competency Evaluation: <https://us14.campaign-archive.com/?u=ab4d57df3cf259d7a3ccc3565&id=87b39d0cc5>

such requests be due to unforeseen circumstances arising while the General Assembly is not in session. In this case, such a request would not be unforeseen.

Should the parties to the Consent Decree reach an agreement after the Long Bill has been enacted, those funds would either revert, or the appropriation could be reduced via the supplemental process.

**→ REVERSE DHS BA1 MHI PSYCHOLOGIST PAY ADJUSTMENT**

DOCUMENT	PAGE
JBC Staff Budget Balancing Document (Compensation)	5
OSPB Comeback (Appendix)	n/a

*JBC ACTION AS OF 5/17/20:* During the discussion of Statewide Compensation Policies, the Committee delayed action to reverse the increase adjustments for psychologists within the Mental Health Institutes (MHI) in the Department of Human Services (DHS).

*RECOMMENDATION:* JBC staff recommended that the Committee reverse its action and deny this request for FY 2020-21. This action would save \$540,894 General Fund over prior action in order to provide consistency for the treatment of all requests for salary increases.

During that conversation, the Committee asked how that action would impact the Department of Human Service’s ability to become compliance with the competency-related Consent Decree. The Office of Behavioral Health has stated that they believe these increases are necessary for their ability to comply with the Consent Decree. They have a few unfilled positions that have difficult to hire for, as the Department was not able to match compensation offered by other employers. Unfilled positions reduce the number of evaluations that can be performed, and under current circumstances, the Department is still incurring fines as a result of delays in evaluations.

**Therefore, staff recommends the Committee maintain the increase.**

**OSPB COMEBACKS NOT INCLUDED IN STAFF BUDGET BALANCING DOCUMENTS**

**→ ELIGIBILITY STAFFING**

DOCUMENT	PAGE
JBC Staff Budget Balancing Document	n/a
OSPB Comeback (Appendix)	103

*DESCRIPTION:* The Department requests \$3,686,769 total funds, including \$1,450,041 General Fund, \$347,745 Cash Funds, and \$1,888,984 federal funds (\$725,963 Medicaid, \$850,046 SNAP, and \$312,975 TANF), and 56.0 FTE for FY 2020-21. This funding request is a collaborative effort with the Department of Health Care Policy and Financing (HCPF) to help to mitigate the anticipated increase in applications for public and medical assistance in the aftermath of the COVID-19 crisis. Specifically, these funds will be used to hire 50 new eligibility technicians to process applications for

SNAP, medical assistance, and cash assistance (including TANF, OAP, and Aid to the Needy Disabled), three supervisors to quarterback the process, two Help Desk technicians to answer the increased volume of questions, and one program assistant.

The Department will utilize \$970,905 of its General Fund from the CBMS Operating and Contract Expenses line that will roll-forward to FY 2020-21 to fund this critical request. Similarly, HCPF will use \$479,136 of its General Fund from its CBMS Operating and Contract Expenses line that will roll-forward to FY 2020-21 to fund this critical request.

**→ RESOURCE AND REFERRAL FUNDING REFINANCE**

DOCUMENT	PAGE
JBC Staff Budget Balancing Document	n/a
OSPB Comeback (Appendix)	108

*DESCRIPTION:*

The Office of State Planning and Budgeting requests that the Joint Budget Committee reduce the \$315,175 General Fund appropriated to the Child Care Resource and Referral program and increase the federal funds appropriated to the program by a corresponding amount. The Department is recommending the use of Child Care and Development (CCDF) funds received by the State from the CARES Act to fund this program. Child Care Resource and Referral agencies have been actively involved in the COVID-19 response, to help providers and families navigate facility closures, emergency child care, and other impacts to the child care system as a result of the COVID-19 pandemic. Likewise, since the Department was requesting a decrease in funding from this program for FY 2020-21, the Department believes that this refinance does not violate the guidance of the CARES Act that federal stimulus funds should supplement and not supplant State resources. The net impact of this change is \$0, however, by refinancing this activity with CCDF funding from the CARES Act, the Department can free up \$315,175 General Fund to support other priorities within the Department.

**→ REDUCE CBCAP FUNDING FOR SAFECARE PROGRAM (OSPB COMEBACKS PG 110)**

DOCUMENT	PAGE
JBC Staff Budget Balancing Document	n/a
OSPB Comeback (Appendix)	110

*DESCRIPTION:*

The Office of State Planning and Budgeting respectfully requests the Joint Budget Committee consider a request to reduce the funding to the Community Based Child Abuse Prevention line by \$350,000 in General Fund and total fund, to reduce the amount allocated to the Safecare Colorado program by \$350,000. The reduction reflects ongoing contractual savings that have been realized within the Safecare Colorado program, allowing the General Fund to be used for other priorities within the Department. This reduction will not reduce the amounts received by community contractors implementing the Safecare Colorado program, and will therefore not have a negative impact on families receiving services through the program.

➔ TOBACCO MASTER SETTLEMENT AGREEMENT (OSPБ COMEBACKS PG 111)

DOCUMENT	PAGE
JBC Staff Budget Balancing Document	n/a
OSPБ Comeback (Appendix)	111

*DESCRIPTION:* The Office of State Planning and Budgeting respectfully requests that the Joint Budget Committee forgo the JBC Staff initiated Nurse Home Visitor Fund cash fund increase of \$507,127 cash funds and transfer that amount to the General Fund.

**SUMMARY OF RECOMMENDATIONS REQUIRING STATUTORY CHANGE**

➔ TRANSFER REVENUE FROM FT. LOGAN LAND SALE (DELAYED)

DOCUMENT	PAGE
JBC Staff Budget Balancing Document	39
OSPБ Comeback (Appendix)	n/a

*RECOMMENDATION:* Staff recommends the Committee carry legislation to transfer \$7.9 million cash funds from the Fort Logan Land Sale Account in the Capital Construction Fund, created in Section 24-75-302 (3.3), C.R.S., to the General Fund on June 20, 2020. This is a one-time increase to the General Fund.

*KEY CONSIDERATIONS:*

No program impact.

*Additional Background:*

In October 2019, the U.S. Department of Veterans Affairs (VA) National Cemetery purchased 49 acres of land from the State’s Fort Logan Campus for expansion of the Fort Logan National Cemetery for \$10.8 million. Of this amount, \$2.8 million has already been awarded (via the Capital Construction process) to a vendor for the Department’s facility master plan.

**NEW INFORMATION IN RESPONSE TO COMMITTEE QUESTION**

House Bill 17-1346 directed that funds from the sale of Fort Loan be used for behavioral health or veterans-related capital projects. When staff determined there was “no program impact,” it was based on the thought that these funds are intended for capital rather than a specific program. In checking with the Department, they confirmed that the only funds they have used are for the development of a facility master plan. Additional projects have not yet been identified, nor have any gotten started, as they are awaiting completion of the master planning.

➔ H.B. 19-1193 ANNUALIZATION – UNDO (DELAYED)

DOCUMENT	PAGE
JBC Staff Budget Balancing Document	42
OSPB Comeback (Appendix)	n/a

*JBC ACTION AS OF 3/16/20:* The Committee approved staff’s recommendation to annualize the cost of H.B. 19-1193 (Behavioral Health Supports For High-risk Families). It is anticipated that H.B. 19-1193 will cost \$500,000 General Fund and 0.6 FTE for FY 2020-21 to increase access to substance use disorder treatment and support for pregnant women and new mothers.

*RECOMMENDATION:* Staff recommends not approving the annualization of H.B. 19-1193, **reducing the appropriation to the Department by \$500,000 General Fund and 0.6 FTE for FY 2020-21.** Staff also recommends that the Committee **repeal the statutory provisions in Sections 27-80-119 (3) and 26-6.9-102 (4)(a), C.R.S.,** which divert General Fund revisions and require the General Assembly to appropriate General Fund to support the program, respectively. This recommendation would remove the Child Care Services and Substance Use Disorder Treatment Pilot Program line item from the FY 2020-21 Long Bill.

*KEY CONSIDERATIONS:*

- This recommendation will require legislation, which should be enacted on or before June 30, 2020.
- No immediate health, life, or safety impact
- Does affect a vulnerable population, but the impact on that population is uncertain
- The Final Fiscal Note for H.B. 19-1193 does not estimate the potential effect of the General Fund diversions of this bill.

➔ SUSPEND TRANSFER TO CHILD WELFARE PREVENTION AND INTERVENTION SERVICES CASH FUND (NEW)

DOCUMENT	PAGE
JBC Staff Budget Balancing Document	n/a
OSPB Comeback (Appendix)	n/a

*RECOMMENDATION:* Staff recommends the Committee consider sponsoring legislation to suspend the transfers to the Child Welfare Prevention and Intervention Services Cash Fund of unspent General Fund appropriated to the Child Welfare Services line item and allocated to counties. Staff recommends a three-year suspension for fiscal years 2019-20 through fiscal years 2021-22.

*KEY CONSIDERATIONS:*

Senate Bill 18-254 (Child Welfare Reforms) created the Child Welfare Prevention and Intervention Services Cash Fund into which unspent General Fund in county Child Welfare Block allocations is transferred. It is not yet known if county block allocations will be underspent, therefore JBC Staff is unable to determine if there will be a General Fund reversion in FY 2019-20.

## NEW JBC STAFF BUDGET BALANCING RECOMMENDATIONS/OPTIONS

### → REFINANCING CHILD WELFARE SERVICES LINE ITEM WITH TANF (NEW)

DOCUMENT	PAGE
JBC Staff Budget Balancing Document	n/a
OSPB Comeback (Appendix)	n/a

*RECOMMENDATION:* Staff recommends the following:

- Refinance \$1,638,408 General Fund in the Child Welfare Services line item with federal Temporary Assistance to Needy Families funds in FY 2019-20.
- Refinance \$11,338,408 General Fund in the Child Welfare Services line item with federal Temporary Assistance to Needy Families funds in FY 2020-21.
- The creation of a new line item in the Office of Self Sufficiency, Colorado Works Program subdivision title County Block Grant Support Fund and making the following appropriations:
  - \$1,500,000 from federal Temporary Assistance to Needy Families funds in FY 2019-20, and
  - \$1,500,000 from federal Temporary Assistance to Needy Families funds in FY 2020-21.

*KEY CONSIDERATIONS:* Per federal rules and regulations, up to 10.0 percent of the state’s annual TANF allocation can be transferred to the Title XX Social Security Block Grant and used for child welfare. The annual maximum of such transfers is \$13,605,669. In FY 2019-20, the state has transferred \$11,967,261 for these purposes. In FY 2020-21, the state is planning to transfer \$2,267,261.

TANF LONG-TERM RESERVE - CHILD WELFARE TRANSFERS		
CURRENTLY TRANSFERRED	FY 2019-20	FY 2020-20
Maximum transfer allowed	\$13,605,669	\$13,605,669
Currently transferred	11,967,261	2,267,261
Remaining for transfer	\$1,638,408	\$11,338,408

In addition to the refinance of General fund, staff is also recommending the creation and funding of a new line item. This line item will provide an appropriations to the County Block Grant Support Fund, created in Section 26-2-720.5 (1), C.R.S. This fund is intended to provide additional financial support to counties, especially those that have exhausted all of their available TANF allocation in a given fiscal year. The Department reports that many of the State’s smaller counties have or are near to fully utilizing their TANF reserves in the current fiscal year. Distributions from the Fund are made by the Department, in consultation with the Works Allocation Committee.

AVAILABILITY OF TANF FUNDS						
	FY 2018-19 ACTUALS	FY 2019-20 APPROPRIATED	FY 2020-21 PROJECTED	FY 2021-22 PROJECTED	FY 2022-23 PROJECTED	FY 2023-24 PROJECTED
Prior Grant Year Funds Available (as of June 30)	\$140,463,018	\$91,316,787	\$67,816,909	\$50,379,521	\$45,780,541	\$41,181,561
State Family Assistance Grant	135,607,703	136,056,690	136,056,690	136,056,690	136,056,690	136,056,690

AVAILABILITY OF TANF FUNDS						
	FY 2018-19 ACTUALS	FY 2019-20 APPROPRIATED	FY 2020-21 PROJECTED	FY 2021-22 PROJECTED	FY 2022-23 PROJECTED	FY 2023-24 PROJECTED
Contingency Fund	15,716,131	12,000,000	12,000,000	12,000,000	12,000,000	12,000,000
Sub-total TANF Funds Available	\$291,786,852	\$239,373,477	\$215,873,599	\$198,436,211	\$193,837,231	\$189,238,251
Less County Reserves (as of June 30)/ Net Change in out year	(54,782,061)	(2,754,953)	0	0	0	0
<b>Total TANF Funds Available to Appropriate</b>	<b>\$237,004,791</b>	<b>\$236,618,524</b>	<b>\$215,873,599</b>	<b>\$198,436,211</b>	<b>\$193,837,231</b>	<b>\$189,238,251</b>
<b>TANF Spending/Appropriations</b>						
General & Administrative & Prior Year Adjustment	\$3,970,422	\$5,288,518	\$5,288,518	\$5,288,518	\$5,288,518	\$5,288,518
OIT Common Policy	330,381	999,101	999,101	999,101	999,101	999,101
Colorado Benefits Management System	1,761,793	2,658,422	2,617,833	2,617,833	2,617,833	2,617,833
Colorado Works Administration	3,843,132	4,021,291	3,966,223	3,966,223	3,966,223	3,966,223
County Block Grants	124,252,960	128,198,357	128,198,357	128,198,357	128,198,357	128,198,357
Total TANF Transfers to Social Security Block Grant (Title XX)	2,200,262	2,267,261	2,267,261	2,267,261	2,267,261	2,267,261
JBC Staff recommended additional transfer to Social Security Block Grant (Title XX)	0	1,638,408	11,338,408	0	0	0
Total TANF Transfers to Child Care Development Fund	1,196,520	3,000,000	3,000,000	3,000,000	3,000,000	3,000,000
County Training	337,124	386,859	383,922	383,922	383,922	383,922
Domestic Abuse Program	629,677	629,677	629,677	629,677	629,677	629,677
Works Program Evaluation	486,723	495,440	495,440	495,440	495,440	495,440
Workforce Development Council	76,211	76,211	76,211	76,211	76,211	76,211
Employment Opportunities With Wages (SB 17-292)	3,789,471	4,000,000	0	0	0	0
Child Support Services Program (New)	0	952,669	1,819,966	1,819,966	1,819,966	1,819,966
Refugee Assistance	2,752,242	2,762,021	2,705,334	2,705,334	2,705,334	2,705,334
Electronic Benefits Transfer Service	58,834	205,406	205,406	205,406	205,406	205,406
System Alien Verification for Eligibility	2,252	2,421	2,421	2,421	2,421	2,421
Child Welfare	0	9,700,000	0	0	0	0
SB 19-235 Voter Registration	0	19,553	0	0	0	0
JBC Staff recommended - County Block Grant Support Fund	0	1,500,000	1,500,000	0	0	0
<b>Total TANF Spending/Appropriation</b>	<b>\$145,688,004</b>	<b>\$168,801,615</b>	<b>\$165,494,078</b>	<b>\$152,655,670</b>	<b>\$152,655,670</b>	<b>\$152,655,670</b>
<b>State TANF Long-term Reserve balance</b>	<b>\$91,316,787</b>	<b>\$67,816,909</b>	<b>\$50,379,521</b>	<b>\$45,780,541</b>	<b>\$41,181,561</b>	<b>\$36,582,581</b>

**NEW JBC STAFF COMEBACKS (TECHNICAL)**

**→ JBC STAFF COMEBACK – COLORADO CHILDREN’S TRUST FUND**

*JBC ACTION AS OF 5/17/20:* The Committee approved staff’s recommendation refinancing the \$253,425 General Fund approved for the Colorado Children’s Trust Fund line item with an equivalent amount from the Colorado Children’s Trust Fund.

*RECOMMENDATION:* Upon further discussions with stakeholders and review of statute, this refinance is not permissible. Grant disbursement requirements dictated by Section 19-3.5-107 (2)(a), C.R.S., allow for only 75.0 percent of the revenue received from the court filing fees for the dissolution of a marriage or civil union, plus the prior years interest, to be expended annually. This requirement is in force until the Fund’s balance reaches \$5.0 million. The Fund’s estimated FY 2020-21 beginning balance is \$2.1 million. It is estimated that expenditures from the Fund will total \$316,390 in FY 2020-21.

**Staff recommends eliminating the General Fund appropriation to the Colorado Children’s Trust Fund line item.**

*KEY CONSIDERATIONS:* The Colorado Children’s Trust Fund line item first received General Fund in FY 2018-19 because of the passage of H.B. 18-1064 (Training Program Prevention Child Sexual Abuse). This bill allows funds from the Colorado Children’s Trust Fund (CCTF) to be used to develop, promote, maintain, and monitor an evidence or research-based child sexual abuse prevention training model. The bill expands training to include all persons who interact with young children, including parents, childcare providers, teachers, and any other mandatory reporter. The bill adds a component to the voluntary child care credentialing system for education and training on the prevention of child sexual abuse.

COLORADO CHILDREN'S TRUST FUND REVERSIONS					
FISCAL YEAR	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	FEDERAL FUNDS	FTE
FY 2013-14	\$666,244	\$0	\$191,161	\$475,083	(2.3)
FY 2014-15	231,945	0	196,216	35,729	(2.3)
FY 2015-16	329,867	0	176,109	153,758	(1.1)
FY 2016-17	604,733	0	314,029	290,704	(1.5)
FY 2017-18	413,700	0	308,876	104,824	(1.3)
FY 2018-19	(134,797)	74,730	58,019	(267,546)	(1.5)
Average	\$351,949	\$12,455	\$207,402	\$132,092	(1.7)

In FY 2019-20, the Colorado Children’s Trust Fund line item was appropriated \$1,417,701 total funds, including \$253,425 General Fund, \$359,276 cash funds, \$805,000 federal funds, and 1.5 FTE. Historically, this line item has reverted \$351,949 total funds, including \$207,402 cash funds and \$132,092 federal funds. In addition to this line’s reversion history, in recent fiscal years, expenditures from the Fund have not reached the 75.0 percent limit dictated by statute. In FY 2018-19, the program also received more federal funds than anticipated, accounting for the overexpenditure shown in the table above.