Second Regular Session Seventy-third General Assembly STATE OF COLORADO

PREAMENDED

This Unofficial Version Includes Committee Amendments Not Yet Adopted on Second Reading

LLS NO. 22-0805.01 Jane Ritter x4342

HOUSE BILL 22-1283

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Public & Behavioral Health & Human Services Appropriations

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A BILL FOR AN ACT

101	CONCERNING ENHANCED RESIDENTIAL SERVICES FOR PERSONS WITH
102	BEHAVIORAL HEALTH NEEDS, AND, IN CONNECTION THEREWITH
103	MAKING AN APPROPRIATION.

Bill Summary

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

The bill implements the recommendations of the behavioral health transformational task force concerning youth and family residential care. Specifically, the bill:

• Creates in-home and residential respite care in 10-12 regions of the state for children and families;

E eading

Shading denotes HOUSE amendment. <u>Double underlining denotes SENATE amendment.</u>

Capital letters or bold & italic numbers indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

Amended 3rd Reading April 20, 2022

HOUSE Amended 2nd Reading April 19, 2022

- Provides operational support for psychiatric residential treatment facilities and qualified residential treatment programs for youth; and
- Provides funds to build and staff a neuro-psych facility at the Colorado mental health institute at Fort Logan.

The bill requires the general assembly to appropriate money from the behavioral and mental health cash fund to the department of human services to implement the provisions of the bill.

1 *Be it enacted by the General Assembly of the State of Colorado:* 2 **SECTION 1. Legislative declaration.** (1) The general assembly 3 finds and declares that: 4 (a) During the COVID-19 pandemic, children and youth faced 5 unprecedented behavioral health challenges; 6 (b) During this unprecedented time, children, youth, and their 7 families may have lost access to, or needed increased availability of, 8 behavioral and mental health care: 9 (c) Since the COVID-19 pandemic began, rates of psychological 10 distress among youth have increased, including symptoms of anxiety, 11 depression, and other behavioral and mental health disorders; 12 (d) Additional in-home and residential respite care services and 13 facilities for children and families must be created in ten to twelve 14 regions of the state to meet the increased need; 15 (e) Funding for additional operational support is critical for 16 psychiatric residential treatment facilities and qualified residential 17 treatment programs for youth across the state; 18 (f) It is crucial to begin the process of building and staffing a neuro-psych facility with a capacity of up to sixteen beds for youth less 19 20 than twenty-one years of age at the Colorado mental health institute at 21 Fort Logan; and

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1	(g) The federal government enacted the "American Rescue Plan
2	Act of 2021" to provide support to state, local, and tribal governments in
3	responding to the impact of the COVID-19 pandemic.
4	(2) The general assembly further declares that:
5	(a) Children, youth, and families have been disproportionately
6	impacted by the COVID-19 pandemic and its negative public health
7	impacts, especially the behavioral health of children, youth, and families.
8	The programs and services funded by the federal money in this act are
9	appropriate uses of the money transferred to Colorado under the
10	"American Rescue Plan Act". This money will expand access to
11	evidence-based treatment for behavioral health services, including
12	additional in-home and residential respite care; operational support that
13	is critical for psychiatric residential treatment facilities and qualified
14	residential treatment programs for youth across the state; and building and
15	staffing a neuro-psych facility with a capacity of up to sixteen beds for
16	youth less than twenty-one years of age at the Colorado mental health
17	institute at Fort Logan; and
18	(b) The services described in this act are critical government
19	services.
20	SECTION 2. In Colorado Revised Statutes, add with amended
21	and relocated provisions 26-5-116 as follows:
22	26-5-116. [Formerly 27-60-113] Out-of-home placement for
23	children and youth with mental or behavioral needs - funding -
24	report - rules - legislative declaration - repeal. (1) (a) The general
25	assembly finds and declares that:
26	(I) The COVID-19 pandemic has lead to an emergency need for
27	increased placements for children and youth with behavioral or mental

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health needs, including those involved with the child welfare system; and

(II) As the state works to transition to the critical requirements of
the federal "Family First Prevention Services Act", it must ensure a
smooth transition by helping existing residential child care facilities
transition to qualified residential treatment programs or psychiatric
residential treatment facilities.

(b) Therefore, the general assembly declares that the state should
provide resources to qualified residential treatment programs, psychiatric

- (b) Therefore, the general assembly declares that the state should provide resources to qualified residential treatment programs, psychiatric residential treatment facilities, or therapeutic foster care providers to address this emergency situation and ensure there are high-quality providers available to meet these needs.
- (2) (a) On or before August 1, 2021, the state department shall develop a program to provide emergency resources to licensed providers to help remove barriers such providers face in serving children and youth whose behavioral or mental health needs require services and treatment in a residential child care facility. Any such licensed provider shall meet the requirements of a qualified residential treatment program, as defined in section 26-5.4-102; a psychiatric residential treatment facility, as defined in section 26-5.4-103 (19.5); TREATMENT FOSTER CARE; or therapeutic foster care. as defined in section 26-6-102 (39).
- (b) (I) BEGINNING JULY 1, 2022, THE STATE DEPARTMENT SHALL PROVIDE ONGOING OPERATIONAL SUPPORT FOR PSYCHIATRIC RESIDENTIAL TREATMENT FACILITIES, THERAPEUTIC FOSTER CARE, TREATMENT FOSTER CARE, AND QUALIFIED RESIDENTIAL TREATMENT PROGRAMS AS DESCRIBED IN SUBSECTION (2)(a) OF THIS SECTION.
- 27 (II) FOR THE 2022-23 BUDGET YEAR, THE GENERAL ASSEMBLY

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1	SHALL APPROPRIATE MONEY FROM THE BEHAVIORAL AND MENTAL HEALTH
2	CASH FUND CREATED IN SECTION 24-75-230 TO THE STATE DEPARTMENT
3	TO FUND OPERATIONAL SUPPORT FOR PSYCHIATRIC RESIDENTIAL
4	TREATMENT FACILITIES FOR YOUTH, QUALIFIED RESIDENTIAL TREATMENT
5	PROGRAMS, THERAPEUTIC FOSTER CARE, AND TREATMENT FOSTER CARE
6	FOR YOUTH ACROSS THE STATE AS DESCRIBED IN THIS SUBSECTION (2).
7	(III) MONEY SPENT PURSUANT TO THIS SUBSECTION (2) MUST
8	CONFORM WITH THE ALLOWABLE PURPOSES SET FORTH IN THE FEDERAL
9	"AMERICAN RESCUE PLAN ACT OF 2021", PUB.L. 117-2, AS AMENDED.
10	THE STATE DEPARTMENT SHALL EITHER SPEND OR OBLIGATE SUCH
11	APPROPRIATION PRIOR TO DECEMBER 30, 2024, AND EXPEND THE
12	APPROPRIATION ON OR BEFORE DECEMBER 31, 2026.
13	(IV) This subsection (2)(b) is repealed, effective September
14	1, 2027.
15	(c) THE STATE DEPARTMENT AND ANY PERSON WHO RECEIVES
16	MONEY FROM THE STATE DEPARTMENT SHALL COMPLY WITH THE
17	COMPLIANCE, REPORTING, RECORD-KEEPING, AND PROGRAM EVALUATION
18	REQUIREMENTS ESTABLISHED BY THE OFFICE OF STATE PLANNING AND
19	BUDGETING AND THE STATE CONTROLLER IN ACCORDANCE WITH SECTION
20	24-75-226 (5).
21	(3) The state department may promulgate rules concerning the
22	placement of a child or youth in the program. The rules may address
23	quality assurance monitoring, admissions, discharge planning, appropriate
24	length of stay, an appeals process for children and youth who are
25	determined ineligible for the program, and compliance with applicable
26	federal law, including the federal "Family First Prevention Services Act";
27	except that rules concerning the placement of a child or youth who is not

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1	in the custody of a state or county department of human or social services
2	shall MUST not inappropriately apply compliance with such act.
3	(4) (a) On or before December 31, 2021, the state department shall
4	contract with licensed providers for the delivery of services to children
5	and youth who are determined eligible for and placed in the program. A
6	provider that contracts with the state department shall not:
7	(I) Deny admittance of a child or youth if the child or youth
8	otherwise meets the eligibility criteria for the program; or
9	(II) Discharge a child or youth based on the severity or complexity
10	of the child CHILD'S or youth's physical, behavioral, or mental health
11	needs; except that the state department may arrange for the placement of
12	a child or youth with an alternate contracted provider if the placement
13	with the alternate provider is better suited to deliver services that meet the
14	needs of the child or youth.
15	(b) The state department shall reimburse a provider directly for the
16	costs associated with the placement of a child or youth in the program for
17	the duration of the treatment, including the costs the provider
18	demonstrates are necessary in order for the provider to operate
19	continuously during this period.
20	(c) The state department shall coordinate with the department of
21	health care policy and financing to support continuity of care and
22	payment for services for any children or youth placed in the program.
23	(d) The state department shall reimburse the provider one hundred
24	percent of the cost of unutilized beds in the program to ensure available
25	space for emergency residential out-of-home placements.
26	(5) (a) A hospital, health-care provider, provider of case
27	management services, school district, managed care entity, or state or

-6county department of human or social services may refer a family for the placement of a child or youth in the program. The entity referring a child or youth for placement in the program shall submit or assist the family with submitting an application to the state department for review. The state department shall consider each application as space becomes available. The state department shall approve admissions into the program and determine admission and discharge criteria for placement.

- (b) The state department shall develop a discharge plan for each child or youth placed in the program. The plan must include the eligible period of placement of the child or youth and shall identify the entity that will be responsible for the placement costs if the child or youth remains with the provider beyond the date of eligibility identified in the plan.
- (c) The entity or family that places the child or youth in the program retains the right to remove the child or youth from the program any time prior to the discharge date specified by the state department.
- (6) Within seven days after submitting an application to the state department for placing a child or youth in the program, the state department shall work with the referring entity and the child's or youth's parents or legal guardians to ensure the child or youth is assessed for eligibility for enrollment into the state medical assistance program. A child or youth who is eligible for enrollment into the state medical assistance program shall be enrolled. Enrollment of a child or youth into the state medical assistance program does not constitute automatic placement into the program.
- (7) No later than November 1, 2022, 2023, and 2024 ON OR BEFORE NOVEMBER 1, 2023, AND EVERY NOVEMBER 1 THEREAFTER, the state department shall submit a written report to the house of

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I	representatives public and behavioral health and human services
2	committee, the senate health and human services committee, or their
3	successor committees, and the joint budget committee. At a minimum, the
4	report must include:
5	(a) The number of applications received for placement of children
6	and youth in the program;
7	(b) The number of children and youth accepted for placement in
8	the program;
9	(c) The duration of each placement; and
10	(d) The daily rate paid to each provider for placement of children
11	and youth.
12	(8) This section is intended to provide enhanced emergency
13	services resulting from the increased need for services due to the
14	COVID-19 pandemic. No later than September 30, 2024, the state
15	department shall submit recommendations to the house of representatives
16	public and behavioral health and human services committee, the senate
17	health and human services committee, or their successor committees, and
18	the joint budget committee about how to provide necessary services for
19	children and youth in need of residential care, including hospital
20	step-down services on an ongoing basis.
21	(9) This section is repealed, effective July 1, 2025 JULY 1, 2028.
22	SECTION 3. In Colorado Revised Statutes, 27-60-103, add (1.5)
23	as follows:
24	27-60-103. Behavioral health crisis response system - services
25	- request for proposals - criteria - reporting - rules - definition -
26	repeal. (1.5) (a) BEGINNING JANUARY 1, 2023, THE STATE DEPARTMENT
27	SHALL CREATE IN-HOME AND DESIDENTIAL DESDITE CADE SERVICES AND

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1	FACILITIES FOR CHILDREN AND FAMILIES IN UP TO SEVEN REGIONS OF THE
2	STATE, AS DETERMINED BY THE STATE DEPARTMENT AND A COMMITTEE OF
3	INTERESTED STAKEHOLDERS.
4	(b) (I) For the 2022-23 budget year, the general assembly
5	SHALL APPROPRIATE MONEY FROM THE BEHAVIORAL AND MENTAL HEALTH
6	CASH FUND PURSUANT TO SECTION 24-75-230 TO THE STATE DEPARTMENT
7	TO FUND IN-HOME AND RESIDENTIAL RESPITE CARE ACROSS THE STATE AS
8	DESCRIBED IN THIS SUBSECTION (1.5) .
9	(II) Money spent pursuant to this subsection (1.5) must
10	CONFORM WITH THE ALLOWABLE PURPOSES SET FORTH IN THE FEDERAL
11	"AMERICAN RESCUE PLAN ACT OF 2021", PUB.L. 117-2, AS THE ACT MAY
12	BE SUBSEQUENTLY AMENDED. THE STATE DEPARTMENT SHALL EITHER
13	SPEND OR OBLIGATE SUCH APPROPRIATION PRIOR TO DECEMBER 30, 2024,
14	AND EXPEND THE APPROPRIATION ON OR BEFORE DECEMBER 31, 2026.
15	(III) This subsection (1.5)(b) is repealed, effective
16	SEPTEMBER 1, 2027.
17	
18	(c) (I) BEGINNING IN STATE FISCAL YEAR 2023-24, MONEY
19	APPROPRIATED TO THE STATE DEPARTMENT FOR THE PURPOSE OF THIS
20	SUBSECTION (1.5) MUST CONTINUE THE STATEWIDE ACCESS TO CRISIS
21	SYSTEM SERVICES FOR CHILDREN AND YOUTH UNTIL JUNE 30, 2026;
22	(II) BEGINNING IN THE STATE FISCAL YEAR 2022-23, MONEY
23	APPROPRIATED TO THE STATE DEPARTMENT FOR THE PURPOSE OF
24	IMPLEMENTING THIS SUBSECTION (1.5) MUST SUPPORT RESIDENTIAL
25	RESPITE CARE PROVIDED TO YOUTH INVOLVED IN THE FOSTER CARE
26	SYSTEM; AND
27	(III) RESPITE FOSTER CARE HOMES MUST BE IN COMPLIANCE WITH

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1	ALL OTHER APPLICABLE RULES REGULATING FOSTER CARE HOMES.
2	(d) THE STATE DEPARTMENT AND ANY PERSON THAT RECEIVES
3	MONEY FROM THE STATE DEPARTMENT SHALL COMPLY WITH THE
4	COMPLIANCE, REPORTING, RECORD-KEEPING, AND PROGRAM EVALUATION
5	REQUIREMENTS ESTABLISHED BY THE OFFICE OF STATE PLANNING AND
6	BUDGETING AND THE STATE CONTROLLER IN ACCORDANCE WITH SECTION
7	24-75-226 (5).
8	SECTION 4. In Colorado Revised Statutes, repeal 27-60-113.
9	
10	SECTION 5. In Colorado Revised Statutes, add 27-80-127 as
11	follows:
12	27-80-127. Children and youth in need of residential mental
13	health and substance use treatment -repeal. (1) ON OR BEFORE JULY
14	1,2023, the behavioral health administration, created pursuant
15	TO PART 2 OF ARTICLE 60 OF TITLE 27, SHALL CREATE, DEVELOP, OR
16	CONTRACT TO ADD ADDITIONAL RESIDENTIAL SUBSTANCE USE TREATMENT
17	BEDS FOR YOUTH. TO THE GREATEST EXTENT POSSIBLE, THE DEPARTMENT
18	SHALL ENSURE THAT BOTH MENTAL HEALTH AND SUBSTANCE USE
19	TREATMENT SERVICES ARE AVAILABLE IN ONE RESIDENTIAL LOCATION.
20	THE DEPARTMENT SHALL WORK COLLABORATIVELY WITH THE
21	BEHAVIORAL HEALTH ADMINISTRATION FOR LICENSING AND DETERMINING
22	THE GREATEST AREAS OF NEED.
23	(2) (a) (I) FOR THE 2022-23 BUDGET YEAR, THE GENERAL
24	ASSEMBLY SHALL APPROPRIATE FIVE MILLION DOLLARS FROM THE
25	BEHAVIORAL AND MENTAL HEALTH CASH FUND, CREATED PURSUANT TO
26	SECTION 24-75-230, TO THE DEPARTMENT TO EXPAND SUBSTANCE USE
2.7	RESIDENTIAL TREATMENT REDS FOR ADOLESCENTS AS DESCRIBED IN

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1	SUBSECTION (1) OF THIS SECTION.
2	(II) MONEY SPENT PURSUANT TO THIS SUBSECTION (2) MUST
3	CONFORM WITH THE ALLOWABLE PURPOSES SET FORTH IN THE FEDERAL
4	"AMERICAN RESCUE PLAN ACT OF 2021", PUB.L. 117-2, AS AMENDED
5	THE DEPARTMENT SHALL EITHER SPEND OR OBLIGATE SUCH
6	APPROPRIATION PRIOR TO DECEMBER 30, 2024, AND EXPEND THE
7	APPROPRIATION ON OR BEFORE DECEMBER 31, 2026.
8	(b) This subsection (2) is repealed, effective September 1
9	2027.
10	(3) THE DEPARTMENT OF HUMAN SERVICES AND ANY PERSON THAT
11	RECEIVES MONEY FROM THE DEPARTMENT OF HUMAN SERVICES SHALL
12	COMPLY WITH THE COMPLIANCE, REPORTING, RECORD-KEEPING, AND
13	PROGRAM EVALUATION REQUIREMENTS ESTABLISHED BY THE OFFICE OF
14	STATE PLANNING AND BUDGETING AND THE STATE CONTROLLER IN
15	ACCORDANCE WITH SECTION 24-75-226 (5).
16	(4) This section is known as the "Andy Campos-Padilla
17	ACT".
18	SECTION 6. In Colorado Revised Statutes, add 27-90-112 as
19	follows:
20	27-90-112. Youth neuro-psych facility - funding - repeal
21	(1) BEGINNING JULY 1, 2022, THE DEPARTMENT OF HUMAN SERVICES
22	SHALL BEGIN THE PROCESS TO CREATE, DEVELOP, OR CONTRACT FOR A
23	NEURO-PSYCH FACILITY. THE NEURO-PSYCH FACILITY MUST HAVE A
24	CAPACITY OF AT LEAST SIXTEEN RESIDENTIAL BEDS FOR COLORADO
25	YOUTH WHO ARE LESS THAN TWENTY-ONE YEARS OF AGE. THE
26	DEPARTMENT SHALL DEVELOP AND IMPLEMENT ADMISSION CRITERIA THAT
27	ENSURES THAT COLORADO CHILDREN AND YOUTH, PRIOR TO BEING

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1	ADMITTED, HAVE BEEN EVALUATED FOR THE LEAST RESTRICTIVE LEVEL OF
2	CARE AND THAT GEOGRAPHIC LOCATION, CURRENT HEALTH-CARE
3	PROVIDER, AND PAYER TYPE ARE NOT THE PRIMARY DETERMINING
4	FACTORS IN WHETHER A YOUTH HAS ACCESS TO A BED AT THE
5	NEURO-PSYCH FACILITY.
6	(2) (a) (I) FOR THE 2022-23 BUDGET YEAR, THE GENERAL
7	ASSEMBLY SHALL APPROPRIATE MONEY FROM THE BEHAVIORAL AND
8	MENTAL HEALTH CASH FUND PURSUANT TO SECTION 24-75-230 TO THE
9	DEPARTMENT OF HUMAN SERVICES TO FUND OPERATIONAL SUPPORT FOR
10	PSYCHIATRIC RESIDENTIAL TREATMENT FACILITIES FOR YOUTH AND
11	QUALIFIED RESIDENTIAL TREATMENT PROGRAMS FOR YOUTH ACROSS THE
12	STATE AS DESCRIBED IN THIS SUBSECTION (2).
13	(II) MONEY SPENT PURSUANT TO THIS SUBSECTION (2) MUST
14	CONFORM WITH THE ALLOWABLE PURPOSES SET FORTH IN THE FEDERAL
15	"AMERICAN RESCUE PLAN ACT OF 2021", PUB.L. 117-2, AS AMENDED.
16	THE DEPARTMENT OF HUMAN SERVICES SHALL EITHER SPEND OR OBLIGATE
17	SUCH APPROPRIATION PRIOR TO DECEMBER 30, 2024, AND EXPEND THE
18	APPROPRIATION ON OR BEFORE DECEMBER 31, 2026.
19	(b) This subsection (2) is repealed, effective September 1,
20	2027.
21	(3) THE DEPARTMENT OF HUMAN SERVICES AND ANY PERSON THAT
22	RECEIVES MONEY FROM THE DEPARTMENT OF HUMAN SERVICES SHALL
23	COMPLY WITH THE COMPLIANCE, REPORTING, RECORD-KEEPING, AND
24	PROGRAM EVALUATION REQUIREMENTS ESTABLISHED BY THE OFFICE OF
25	STATE PLANNING AND BUDGETING AND THE STATE CONTROLLER IN
26	ACCORDANCE WITH SECTION 24-75-226 (5).
27	SECTION 7. Appropriation. For the 2022-23 state fiscal year,

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1	\$11,628,023 is appropriated to the department of human services for use
2	by the division of child welfare. This appropriation is from the behavioral
3	and mental health cash fund created in section 24-75-230 (2)(a), C.R.S.,
4	and is of money the state received from the federal coronavirus state
5	fiscal recovery fund. The division may use this appropriation for respite
6	and residential programs. Any money appropriated in this section not
7	expended prior to July 1, 2023, is further appropriated to the division
8	from July 1, 2023, through December 30, 2024, for the same purpose.
9	These appropriations are based on the assumption that the office will
10	require 4.0 FTE in the 2022-23 state fiscal year and 4.0 FTE in the
11	2023-24 state fiscal year to implement the act.
12	SECTION 8. Appropriation. (1) For the 2022-23 state fiscal
13	year, \$7,500,000 is appropriated to the department of human services for
14	use by the behavioral health administration. This appropriation is from the
15	behavioral and mental health cash fund created in section 24-75-230
16	(2)(a), C.R.S., and is of money the state received from the federal
17	coronavirus state fiscal recovery fund. Any money appropriated in this
18	section not expended prior to July 1, 2023, is further appropriated to the
19	administration from July 1, 2023, through December 30, 2024, for the
20	same purpose. To implement this act, the department may use this
21	appropriation as follows:
22	(a) \$5,000,000 to expand substance use residential treatment beds
23	for adolescents pursuant to section 27-80-127, C.R.S.; and
24	(b) \$2,500,000 for crisis response system services.
25	SECTION 9. Appropriation. For the 2022-23 state fiscal year,
26	\$539,926 is appropriated to the department of human services for use by
27	the office of behavioral health. This appropriation is from the behavioral

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1	and mental health cash fund created in section 24-75-230 (2)(a), C.R.S.,
2	and is of money the state received from the federal coronavirus state
3	fiscal recovery fund. The office may use this appropriation for building
4	maintenance costs associated with the youth neuro-psych facility at the
5	Colorado mental health institute at Fort Logan established pursuant to
6	section 27-94-107, C.R.S. Any money appropriated in this section not
7	expended prior to July 1, 2023, is further appropriated to the
8	administration from July 1, 2023, through December 30, 2024, for the
9	same purpose.
10	SECTION 10. Capital construction appropriation. For the
11	2022-23 state fiscal year, \$35,000,000 is appropriated to the department
12	of human services. This appropriation is from the behavioral and mental
13	health cash fund created in section 24-75-230 (2)(a), C.R.S., and is of
14	money the state received from the federal coronavirus state fiscal
15	recovery fund. To implement this act, the department may use this
16	appropriation for capital construction related to the construction of a
17	neuro-psych facility at the Colorado mental health institute at Fort Logan.
18	Any money appropriated in this section not expended prior to July 1,
19	2023, is further appropriated to the administration from July 1, 2023,
20	through December 30, 2024, for the same purpose.
21	SECTION 11. Safety clause. The general assembly hereby finds,
22	determines, and declares that this act is necessary for the immediate
23	preservation of the public peace, health, or safety.

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