

CHAPTER 431

HUMAN SERVICES - SOCIAL SERVICES

SENATE BILL 21-027

BY SENATOR(S) Pettersen and Danielson, Bridges, Buckner, Fenberg, Gonzales, Hansen, Jaquez Lewis, Kolker, Lee, Moreno, Rodriguez, Story, Winter, Garcia;
also REPRESENTATIVE(S) Gonzales-Gutierrez and Tipper, Amabile, Bacon, Benavidez, Burnett, Bird, Boesenecker, Caraveo, Cutter, Daugherty, Duran, Esgar, Exum, Froelich, Gray, Herod, Hooton, Jackson, Jodeh, Kipp, Lontine, McCluskie, McCormick, McLachlan, Michaelson Jenet, Mullica, Ortiz, Ricks, Roberts, Sirota, Snyder, Sullivan, Titone, Valdez A., Valdez D., Weissman, Woodrow, Young, Garnett.

AN ACT

CONCERNING EMERGENCY SUPPLIES FOR COLORADO BABIES AND FAMILIES, AND, IN CONNECTION THEREWITH, PROVIDING DIAPERING ESSENTIALS THROUGH DIAPER DISTRIBUTION CENTERS AND MAKING AN APPROPRIATION.

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

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

(a) Prior to the COVID-19 pandemic, one in three families reported needing more diapering essentials and with unprecedented unemployment rates due to the pandemic, this need is drastically higher. With 202,608 children under the age of three in Colorado, 67,536 of them experienced the negative effects of diapering-essential needs.

(b) The National Diaper Bank Network has seen the demand for diapering essentials increase by as much as 300 percent in some areas of the country and Colorado diaper banks report seeing four times the need for diapering essentials due to the COVID-19 pandemic's impacts on families;

(c) Thirty-five percent of Coloradans reported finding it difficult or somewhat difficult to pay for basic necessities after the COVID-19 pandemic began, and parents are having to cut back on necessities such as food and rent in order to afford diapering essentials;

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(d) According to the National Diaper Bank Network, it costs at least \$80 a month to diaper a child and diapering essentials cannot be purchased through other public assistance programs such as the supplemental nutrition assistance program or the women, infants, and children program. Diaper banks' distribution of diapers to low-income families is associated with increases in the personal income of recipients, the elimination of medical expenses, and increases in state tax revenue.

(e) Parents report reusing disposable diapers, plastic bags, and toilet paper when they run out of money for diapering essentials, leading to painful diaper rash and health complications for children; and

(f) An adequate supply of diapers may prove to be a tangible way of reducing parenting stress, which is a critical factor that influences child health and development.

(2) Therefore, the general assembly finds and declares that it is imperative to provide emergency diapering essentials to Colorado babies and families in need.

(3) (a) In addition, the general assembly further finds and declares that:

(I) The federal government enacted the "American Rescue Plan Act of 2021" to provide support to state, local, and tribal governments in responding to the impact of COVID-19 and to assist their efforts to contain the effects of COVID-19 on their communities, residents, and businesses. Under the federal act, the state of Colorado received over three billion dollars to be used for the purposes identified in the federal act.

(II) Regulations construing the federal act promulgated by the United States treasury identify a nonexclusive list of uses that address a broad range of public health needs exacerbated by the pandemic. Under these regulations, funds may be used for addressing the negative economic impacts caused by the public health emergency, including food assistance for households facing food insecurity.

(III) The COVID-19 public health emergency has created an exponential need for emergency food resources for all emergency food providers and has upended many Colorado families' economic security and resulted in hunger insecurity.

(b) Therefore, the general assembly declares that the food pantry assistance program funded by transfers in this bill are appropriate uses of the money transferred to Colorado under the federal act. This money will be put to expeditious and efficient use in expanding access to food assistance across the state.

SECTION 2. In Colorado Revised Statutes, **add** 26-2-140 as follows:

26-2-140. Colorado diaper distribution program - diapering essentials - report - rules - definitions. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "DIAPER DISTRIBUTION CENTER" MEANS A COMMUNITY-BASED DIAPER BANK OR DISTRIBUTION CENTER OPERATING IN COLORADO, A PUBLIC HEALTH AGENCY CREATED PURSUANT TO SECTION 25-1-506, OR A COLORADO NONPROFIT

ORGANIZATION WITH A MINIMUM OF THREE YEARS EXPERIENCE DISTRIBUTING BABY OR TODDLER PRODUCTS.

(b) "DIAPERING ESSENTIALS" INCLUDES DIAPERS, WIPES, AND DIAPER CREAMS.

(c) "ELIGIBLE INDIVIDUAL" MEANS A PARENT, GUARDIAN, OR FAMILY MEMBER OF A CHILD WHO WEARS DIAPERS AND RESIDES IN COLORADO.

(d) "PROGRAM" MEANS THE COLORADO DIAPER DISTRIBUTION PROGRAM CREATED IN SUBSECTION (2) OF THIS SECTION.

(2) THERE IS CREATED IN THE STATE DEPARTMENT THE COLORADO DIAPER DISTRIBUTION PROGRAM TO PROVIDE DIAPERING ESSENTIALS TO ELIGIBLE INDIVIDUALS.

(3) (a) NO LATER THAN THIRTY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION, THE STATE DEPARTMENT SHALL SOLICIT INTEREST AND COST DISTRIBUTION PROPOSALS FROM DIAPER DISTRIBUTION CENTERS TO ADMINISTER THE PROGRAM. UPON THE STATE DEPARTMENT'S APPROVAL, THE DIAPER DISTRIBUTION CENTERS MAY SUBCONTRACT MONEY RECEIVED PURSUANT TO THIS SECTION TO THEIR PARTNERS AS NECESSARY TO SERVE ELIGIBLE INDIVIDUALS. THE SELECTED DIAPER DISTRIBUTION CENTERS MUST BE OPERATIONAL NO LATER THAN THIRTY DAYS AFTER ENTERING INTO A CONTRACT WITH THE STATE DEPARTMENT. THE SELECTION PROCESS DESCRIBED IN THIS SUBSECTION (3) IS NOT SUBJECT TO THE "PROCUREMENT CODE", ARTICLES 101 TO 112 OF TITLE 24.

(b) NOTWITHSTANDING THE REQUIREMENT IN SUBSECTION (3)(a) OF THIS SECTION, THE SELECTED DIAPER DISTRIBUTION CENTERS MAY OPERATE FOR NOT MORE THAN TWELVE MONTHS AFTER WHICH THE STATE DEPARTMENT MUST COMMENCE A SELECTION PROCESS THAT COMPLIES WITH THE "PROCUREMENT CODE", ARTICLES 101 TO 112 OF TITLE 24.

(4) THE STATE DEPARTMENT MAY PROMULGATE RULES FOR THE IMPLEMENTATION OF THIS SECTION.

(5) FOR THE 2021-22 STATE FISCAL YEAR, THE STATE DEPARTMENT SHALL SUBMIT A PRELIMINARY REPORT, AND BEGINNING IN STATE FISCAL YEAR 2022-23, AND EACH FISCAL YEAR THEREAFTER, THE STATE DEPARTMENT SHALL REPORT TO THE PUBLIC THROUGH THE ANNUAL HEARING, PURSUANT TO THE "STATE MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT (SMART) GOVERNMENT ACT", PART 2 OF ARTICLE 7 OF TITLE 2. AT A MINIMUM, THE REPORT MUST INCLUDE:

(a) THE TOTAL NUMBER OF DIAPER DISTRIBUTION CENTERS CONTRACTED WITH THE STATE DEPARTMENT PURSUANT TO SUBSECTION (3) OF THIS SECTION, INCLUDING ANY SUBCONTRACTORS;

(b) THE TOTAL AMOUNT OF MONEY AWARDED TO EACH DIAPER DISTRIBUTION CENTER;

(c) THE LOCATION OF EACH DIAPER DISTRIBUTION CENTER AND THE COUNTIES SERVED; AND

(d) THE TOTAL NUMBER OF ELIGIBLE INDIVIDUALS WHO RECEIVED DIAPERING ESSENTIALS EACH YEAR, DISAGGREGATED BY EACH MONTH.

(6) FOR STATE FISCAL YEAR 2021-22, THE GENERAL ASSEMBLY SHALL APPROPRIATE TWO MILLION DOLLARS FROM THE GENERAL FUND TO THE STATE DEPARTMENT FOR USE BY THE DIAPER DISTRIBUTION CENTERS FOR THE IMPLEMENTATION OF THIS SECTION. THE STATE DEPARTMENT MAY USE UP TO ONE HUNDRED THOUSAND DOLLARS OR SEVEN AND A HALF PERCENT OF ANY MONEY APPROPRIATED BY THE GENERAL ASSEMBLY FOR ADMINISTRATIVE COSTS INCURRED BY THE STATE DEPARTMENT PURSUANT TO THIS SECTION.

SECTION 3. In Colorado Revised Statutes, 26-2-139, **amend** (2), (3), and (4)(a) introductory portion; and **add** (4.5) as follows:

26-2-139. Food pantry assistance grant program - created - timeline and criteria - grants - definitions - repeal. (2) There is created in the state department the food pantry assistance grant program. The purpose of the grant program is to aid Colorado food pantries and food banks in the purchase of foods that better meet the needs of their clientele, which has expanded significantly as a result of the COVID-19 public health emergency. It is the intent of the general assembly that all money awarded by the grant program is expended by ~~July 31, 2021~~ JULY 1, 2022.

(3)(a) ~~The state department may create a process for soliciting, vetting, awarding, and monitoring grants, pursuant to the sole source procurement authority specified in section 24-103-205~~ CONTRACT WITH A THIRD PARTY VENDOR TO SOLICIT, VET, AWARD, AND MONITOR GRANTS. THE SELECTION OF ANY VENDOR PURSUANT TO THIS SUBSECTION (3)(a) IS EXEMPT FROM THE REQUIREMENTS OF THE "PROCUREMENT CODE", ARTICLES 101 TO 112 OF TITLE 24.

(b) The state department is authorized to use ~~seventy thousand dollars~~ UP TO FIVE PERCENT of the total funds appropriated to the grant program for the direct and indirect costs of administering and monitoring the grant program.

(4) (a) ~~On or before December 30, 2020, but as soon as practicable after June 22, 2020,~~ The state department OR THIRD PARTY VENDOR shall award one or more grants ~~out of the federal CARES Act~~ to eligible entities ~~On or before March 31, 2021, but~~ as soon as practicable after the effective date of this section ~~the state department shall award one or more grants to eligible entities~~ using state money appropriated to the grant program. In awarding grants, the state department shall, at a minimum, consider:

(4.5) (a) FOR STATE FISCAL YEAR 2021-22, THE GENERAL ASSEMBLY SHALL APPROPRIATE FIVE MILLION DOLLARS FROM THE ECONOMIC RECOVERY AND RELIEF CASH FUND, CREATED IN SECTION 24-75-228, AS ENACTED BY SENATE BILL 21-291, ENACTED IN 2021, TO THE STATE DEPARTMENT FOR THE GRANT PROGRAM THAT CONFORMS WITH THE ALLOWABLE PURPOSES SET FORTH IN THE FEDERAL "AMERICAN RESCUE PLAN ACT OF 2021", PUB.L. 117-2, AS THE ACT MAY BE SUBSEQUENTLY AMENDED.

(b) THIS SUBSECTION (4.5) IS REPEALED, EFFECTIVE JULY 1, 2023.

SECTION 4. Appropriation. (1) For the 2021-22 state fiscal year, \$2,000,000 is appropriated to the department of human services for use by the office of self sufficiency. This appropriation is from the general fund and is based on an assumption that the office will require an additional 1.9 FTE. To implement this act, the office may use this appropriation for the Colorado diaper distribution program.

(2) For the 2021-22 state fiscal year, \$5,000,000 is appropriated to the department of human services for use by the office of self sufficiency. This appropriation is from the economic recovery and relief cash fund created in section 24-75-228, C.R.S., and of money the state receives from the federal coronavirus state fiscal recovery fund. To implement this act, the office may use this appropriation for the food pantry assistance grant program created in section 26-2-139 (2), C.R.S.

SECTION 5. Effective date. Section 3 of this act takes effect only if Senate Bill 21-288 becomes law, and, in which case, section 3 of this act takes effect either upon the effective date of this act or one day after the effective date of Senate Bill 21-288, whichever is later.

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

Approved: July 6, 2021