

MEMORANDUM

TO: Joint Budget Committee Members

FROM: John Ziegler, JBC Staff

SUBJECT: Summary of Potential JBC Bills Discussed During the FY 2014-15 Briefing and Hearing Process

DATE: January 15, 2014

Attached for your consideration is a list of potential legislation that was discussed during the FY 2014-15 briefing and hearing process. This potential legislation may have been requested by the department, recommended by the staff, or suggested by a JBC member. Pursuant to the Joint Budget Committee rules, a unanimous vote of the JBC is necessary for a bill to be considered a JBC bill.

Please note that this list only includes items discussed during the briefing and hearing process. There may be other bills requested or recommended during the supplemental and figure setting processes upon which the JBC will take action. I have included the name of the staff analyst that is assigned to the particular issue on the list. I have also included the file document name and page number if the request was a recommendation made during a staff briefing.

CORRECTIONS

1. Steve Allen (Cor-brf, page 24) - Staff recommends that the committee sponsor a bill to clarify the situations under which S.B. 13-210 overtime is paid and to eliminate some of the unintended overtime consequences of the bill, thus aligning costs more closely with the fiscal note. *Please Note – During the hearing for the Department of Corrections, the Executive Director of the department indicated that the department would administer overtime in a manner consistent with the fiscal note from S.B. 13-210 and absorb, in the department's existing budget, the additional overtime that occurred prior to the decision. Given this development, does the JBC still wish to pursue this matter legislatively?*

EDUCATION

2. Craig Harper (EDU-brf, page 49) - Staff recommends that the General Assembly enact legislation to change the ELPA program to: (1) increase the Department's oversight and technical assistance regarding ELL programs; (2) increase the number of years that districts may receive funding for services provided to ELL students; and (3) provide additional funding to school districts serving ELL students, either through the categorical program or by incorporating ELL students directly into the school finance formula.
3. Craig Harper (EDU-brf, page 75) - Staff recommends that the General Assembly enact legislative changes to the Building Excellent Schools Today Program (BEST) during the 2014 Session. First, in light of the additional marijuana excise tax revenues anticipated to support the program in FY 2013-14 and beyond and concerns raised in the State Auditor's Office report, staff recommends that the General Assembly increase oversight of the cash grants program and make the annual cash grants subject to annual appropriation. Second, as recommended in the State Auditor's Office report, staff recommends that the General Assembly work with the Department to adjust the local matching fund calculations to better reflect districts' ability to pay. Staff recommends that the Committee discuss the program with members of the Legislative Audit Committee, as that committee may be considering bills related to BEST.
4. Craig Harper - At the Department of Education Hearing, JBC members discussed sponsoring legislation to change the calculation of salary increases for teachers at the Colorado School for the Deaf and the Blind (CSDB). Current law ties CSDB teacher salary increases to Colorado Springs District 11 salaries from the prior school year, and Committee members discussed changing the timing of increases and/or changing the reference point for salary increases to something other than District 11.

OFFICE OF THE GOVERNOR

5. Kevin Neimond (Gov-brf, page 54) - Staff recommends that the JBC sponsor legislation to provide long-term funding for the software and hardware needed to maintain the State's infrastructure on the public safety communication network (Digital Trunked Radio System).

The annual cost associated with this level of maintenance is \$3.7 million. Currently, OIT has funds in this amount in the Capital Construction budget for this purpose for FY 2013-14, and have requested a continuation level of funds through FY 16-17. Staff recommends that the JBC provide the Public Safety Communications Trust Fund with \$3.7 million each year from FY 2017-18 through FY 2024-25. Additionally, staff recommends that the JBC work with the Capital Development Committee to dedicate funding to the physical infrastructure needs of the DTRS. Finally, staff recommends that the Committee consider if there is value in moving the State's DTRS operations from OIT to the Department of Public Safety or another agency to remedy ongoing management issues.

HEALTH CARE POLICY AND FINANCE

6. Eric Kurtz (HCP-brf, page 55) - Staff recommends that the JBC sponsor legislation to renew several statutes that authorize transfers or overexpenditures of line items when certain conditions are met. These statutes are scheduled to repeal at the end of FY 2013-14. The portions of statute most commonly used and for the largest dollar amounts relate to the Medicaid program. As part of the reauthorization staff recommends that the JBC consider limiting the overexpenditure authority for Medicaid to disallow overexpenditures for administrative costs.
7. Eric Kurtz - The Department requests that the JBC sponsor legislation to allow adjustments to a prior year's nursing facility per dim rates, whether through appeals or through finalization of the cost report audit process, to be handled through the Nursing Facility Provider Fee in the following year in order to avoid the need for frequent technical supplementals. This change was recommended by the JBC staff last year, but the JBC decided not to move forward to allow time for stakeholder analysis. According to the Department, the Colorado Health Care Association Board and the Nursing Facility Provider Fee Advisory Board have endorsed the proposed legislation.

HIGHER EDUCATION

8. Amanda Bickel (HED-brf, page 40) - Staff recommends the Committee sponsor legislation to modernize and clarify financial aid statutes. Current language is not always consistent with current practice, and statutory direction in certain areas is vague. For example, it is not apparent from statute what constitutes or who defines "Need Based Grants" or "Merit Based Grants" that are appropriated in the Long Bill. Staff recommends some changes to reflect current practice and other changes to clarify roles and responsibilities in determining how financial aid appropriations may be used. The following options could be considered.

Option 1: Add statutory language requiring that funds be spent by the institutions consistent with the purposes specified by Long Bill line item titles, footnotes and the definitions in the article. Then, add definitions to the statute for "Need-based Grants", "Work Study" and "Merit Based Grants". Such definitions could be extremely broad, leaving institutions with substantial flexibility.

Option 2: Add language to clarify the Commission's authority to establish broad parameters for institutions' use of appropriated financial aid. This might include, for example, clarifying Section 23-3.3-102 (1), C.R.S., to specify that the Commission may establish, in consultation with the institutions, general guidelines within which institutionally-administered programs must operate.

Option 3: *[Could be combined with Options 1 or 2]* Provide the Commission authority to review/approve financial assistance program policies and procedures established by the governing boards. Staff recognizes that this might be controversial, but it would restore a mechanism by which CCHE could test institutional policies to ensure they are consistent with legislative intent as expressed in Long Bill line item titles and footnotes. [Note that the Department appears reluctant to take on this role, based on hearing responses.]

9. Amanda Bickel (HED-brf, page 31) - Staff recommended that in return for funding increases in FY 2014-15, the Committee require formal letters from the higher education governing boards committing to limits on tuition increases. Staff also recommended that institutions be asked to maintain institutional aid for low-income students in FY 2014-15 and to limit increases in fees. *The Committee expressed interest in legislation for this purpose.* As indicated in press releases, legislation will be introduced this session to limit tuition increases to 6.0 percent. However, the legislation does not appear likely to address fees or maintenance-of-effort for institutional aid for low-income students. The Committee could consider working with the bill's sponsors, offering separate legislation, or pursuing separate assurances from institutions related to fees and institutional support for low-income students. For example, statute could be modified to require that, for FY 2014-15, institutions will "maintain effort"/not reduce the total amount of institutional need-based aid they provide for resident students, unless authorized by CCHE pursuant to a Financial Accountability Plan.
10. Amanda Bickel - Consider modifying statutory triggers for performance-based funding. Currently performance funding for higher education institutions will not be implemented before FY 2016-17 and then only when General Fund operating support for the institutions reaches \$706 million. At that point, only 25 percent of the difference between \$650 million and total funding (\$14 million or less than 2% if \$706 is provided) would be allocated for performance funding. The Governor's request for FY 2014-15 would provide \$605 million in General Fund support for the institutions or \$101 million short of the \$706 million trigger. Staff suggests, at a minimum, eliminating the requirement that funding be restored to \$706 million before performance funding is implemented. This would likely mean that modest performance funding allocations would begin FY 2016-17.

JUDICIAL

11. Carolyn Kampman (JUD-brf, page 26) - *Reminder concerning future consideration of potential legislation:* Consistent with staff's recommendation, the Committee is scheduled to meet with members of the Discovery Task Force on February 20 to discuss the Task Force's final report (due January 31). This meeting is intended to allow the Committee to understand the recommendations of the Task Force, including potential statutory changes.

LAW

12. Craig Harper (LAW-brf, page 12) - Staff recommends that the Committee consider sponsoring legislation to extend the Department's continuous spending authority for gifts, grants, and donations beyond FY 2014-15.

LOCAL AFFAIRS

13. Scott Thompson (LOC-brf, page 16) - The Committee could consider legislation to modify the statutory deadline of Direct Distribution payments when Permanent Fund appropriations are available, or allow for expenditures in the following fiscal year to eliminate the timing issue. The legislation could also allow DOLA to bring the backfill request during the ordinary budget or supplemental budget cycle.

NATURAL RESOURCES

14. Joy Huse (NAT-brf, page 16) - Staff recommends that the Committee sponsor legislation to eliminate the portion of cash funds revenues from the Water Administration Cash Fund and Well Inspection Cash Fund that are deposited to the General Fund. This action would decrease General Fund revenues by approximately \$115,000 per year.

PERSONNEL

15. Alfredo Kemm (PER-brf, page 15) - Staff recommends that the Committee pursue legislation to continue the Legislative Digital Policy Advisory Committee (LDPAC) for at least a two-year period, to include reports to the Committee on October 1 of each year.
16. Alfredo Kemm – Department requests that the Committee pursue legislation to provide continuous spending authority for workers' compensation claims-related payments equivalent to what is currently provided for the property and liability programs.
17. Alfredo Kemm – Department requests that the Committee pursue legislation to exempt the Integrated Document Solutions – Department of Personnel Revolving Fund and the Capitol Complex Fund from the 16.5 percent excess reserve limit to allow the accumulation of funds for future capital equipment replacement and improvement expenditures.
18. Joy Huse (Compensation Common Policies-brf, page 19) - **Statewide Issue** - Staff recommends the Committee sponsor legislation to reverse the payday shift for monthly employees with General Fund salaries. This action will result in an increase of approximately \$94.0 million General Fund.
19. Joy Huse (Compensation Common Policies-brf, page 9) - **Statewide Issue** - Staff recommends that the Committee sponsor legislation to require periodic analysis of how state retirement benefits compare to prevailing market retirement benefits through a comprehensive study of the benefit.

PUBLIC HEALTH AND ENVIRONMENT

20. Megan Davisson (PHE-brf, page 18)- Staff recommends the Committee sponsor legislation to require the State Board of Health to revisit the fee every six months for two years, then every twelve months thereafter to ensure the fee revenue is sufficient to cover the Registry's cost but not excessive.
21. Megan Davisson (PHE-brf, page 40) - Staff recommends the Committee sponsor legislation to make the following changes to the funding structure of the Water Quality Control Division:
- a. Eliminate the Water Quality Control Fund and establish the following five cash funds:
 - i. Public and Private Utilities Clean Water Fund;
 - ii. Construction Clean Water Fund;
 - iii. Commerce and Industry Clean Water Fund;
 - iv. Pesticides Fund; and
 - v. Water Quality Certifications Fund.
 - b. Allow the Water Quality Control Commission to set and adjust annual fees and develop a fee-for-service structure.
22. Megan Davisson(PHE-brf, page 47) - Staff recommends the Committee sponsor legislation to make the following statutory changes to the Waste Tire Program:
- a. Move the statutory language governing the Waste Tire Program from Title 25 to Title 30;
 - b. Change the definition of a tire to clearly define what a tire is and make associated changes to identify which tires are subject to the fee
 - c. Modify the statutory limits on the use of the Waste Tire Cleanup Fund;
 - d. Eliminate all fiscal year end roll-overs to the Processor and End Users Fund;
 - e. Combine the Law Enforcement Grant Fund and the Waste Tire Fire Prevention Fund into the new Law Enforcement and Waste Tire Fire Prevention Fund;
 - f. Adjust the fee distribution to the waste tire cash funds;
 - g. Clarify that the Department of Revenue receives 2.0 percent of the fee revenue;
 - h. Require the Department of Revenue to report on the work being done to ensure the fee is being collected on all eligible tires; and
 - i. Require the processor and end user reimbursement to be a percent of the actual cost to recycle the waste tires up to a reasonable cap.
- Option:* Due to the contentious nature of the rebate, and if the Committee decides to sponsor the legislation, the Committee could opt to have two bills, one to make the structural changes excluding the processor and end user reimbursement and the second bill would address only the processor and end user reimbursement.
23. Megan Davisson (PHE-brf, page 60) - Staff recommends the Committee sponsor legislation to eliminate the transfer of \$2.0 million from the Prevention, Early Detection, and Treatment

Fund to the Department of Health Care Policy and Financing thus allowing an additional \$2.0 million for cancer, cardiovascular, and chronic pulmonary disease grants.

24. Megan Davisson (PHE-brf, page 60) - Staff recommends the Committee sponsor legislation to transfer Department of Human Services staff responsible for licensure and regulatory oversight of group homes for individuals with intellectual and developmental disabilities to the Department of Public Health and Environment's Health Facilities Division.
25. Megan Davisson (PHE-brf, page 18) - If the Committee wishes to sponsor legislation to establish clear guidelines and a structure for a program to fund marijuana health research projects, staff recommends the legislation contain the following components...:
 - The creation a subaccount of the Medical Marijuana Cash Fund and provide the subaccount with continuous spending authority;
 - A repeal of the subaccount in five years and require any unspent funds remaining in the subaccount to revert to the Medical Marijuana Cash Fund;
 - The ability of the Department to transfer funds from the Medical Marijuana Cash Fund to subaccount based on the cost of health research projects approved by the Taskforce;
 - A cap on the total amount of funds that can be approved for health research projects;
 - An administrative structure for the Department so there are clear deliverables and accountability both for the Department and the General Assembly;
 - The creation of a Taskforce, and a defined structure for the Taskforce which ensures that individuals qualified to make recommendations on health research projects are the individuals making the funding recommendations;
 - Initial transfer to the subaccount for first year cost of 1.0 FTE

PUBLIC SAFETY

26. Viktor Bojilov - In a November 18, 2013 letter, the Department of Public Safety requested that the Committee sponsor legislation to address two issues with funds affected by the transfer of wildland firefighting functions from Colorado State University (CSU) to the Division of Fire Prevention and Control (DFPC) pursuant to H.B. 12-1283. The Department requests that the legislation be part of the supplemental appropriation bills package. The proposed legislation would do two things: expand the purpose of the Wildland Urban Interface Training Fund (WUI Training Fund) and exempt the Wildfire Preparedness Fund (WPF) and the Wildfire Emergency Response Fund (WERF) from the statutory limits on uncommitted cash funds reserves.
27. Steve Allen (DCJ-brf, page 31) - Staff recommends that the Committee introduce a bill that enables performance contracting between local community corrections boards and community corrections providers.

REGULATORY AGENCIES

28. Alfredo Kemm (REG-brf, page 10) - Staff recommends that the Committee pursue legislation to repeal the Voluntary Licensure of Private Investigators Program. If the

Committee prefers to allow another solution to be pursued by other legislators, staff recommends that the Committee begin the repeal legislation and allow it to be held in the second house appropriations committee until a deadline date for an alternate solution is reached, ensuring the resolution of this issue.

29. Alfredo Kemm (REG-brf, page 12) - Staff recommends that the Committee sponsor legislation to clarify the different appropriations mechanisms for funding the Division of Insurance from insurance premium tax collections and for diverting funds from insurance premium tax collections to the Wildfire Emergency Response Fund and the Wildfire Preparedness Fund through line item appropriations.

STATE

30. Alfredo Kemm (STA-brf, page 10) - Staff recommends that the Committee pursue legislation to repeal the provision that requires the exhausting of the Department of State Cash Fund before General Fund may be appropriated for reimbursements to county clerks for statewide ballot issues.
31. Alfredo Kemm (STA-brf, page 16) - Staff recommends that the Committee pursue legislation to amend the line-by-line signature verification process within the ballot petition signature verification process and replace the 90 to 110 percent thresholds with a 95 to 105 percent threshold.

REVENUE

32. Viktor Bojilov - The Department of Revenue requests that the Committee sponsor a packet of changes titled "Division of Motor Vehicles Modernization Bill". The Department requests six specific changes as part of the proposed legislation:
- a. Eliminate the Identification Security Fund (IDSF) and transfer the fund balance to the Licensing Services Cash Fund (LSCF). The \$0.60 imposed on a driver's license for the purpose of enhancing security of driver's licenses and identification cards would remain unchanged, but instead be credited to the LSCF rather than to the IDSF;
 - b. Eliminate the Motorist Insurance Identification Account (MIIA) and credit the \$0.10 motorist insurance identification fee to the Colorado State Titling and Registration Account (CSTARS) Account rather than to the MIIA on a permanent basis;
 - c. Delete the provision that requires a sweep of the Licensing Services Cash Fund balance less 16.5 percent of the appropriation to the Highway Users Tax Fund (HUTF);
 - d. Delete the provision that requires a sweep of the License Plate Cash Fund (LPCF) balance to the HUTF;
 - e. Modify the distribution of the \$95 reinstatement fee for a suspended, cancelled, or revoked license or other privilege to operate a motor vehicle pursuant to Section 42-2-132 (4)(a)(I), C.R.S. Of the \$95 reinstatement fee, \$60 is credited to the Driver License Administrative Revocation Account (DLARA). This fee pays for the direct and indirect costs of administering driver's license restraints (suspensions, cancellations, and revocations), including, but not limited to, providing administrative hearings. The

remaining \$35 is credited to the First Time Drunk Driving Offender Account (FTDDOA). This account pays for oversight of the Ignition Interlock Program including interlock installation services for qualifying low-income applicants. In addition, \$1.5 million is allocated to CDOT to pay for high-visibility drunk driving law enforcement activities. While the total reinstatement fee would remain unchanged under this proposal, the fee credited to the DLARA would increase from \$60 to \$73 and the fee credited to the FTDDOA would decrease from \$35 to \$22;

- f. Modify the electronic renewal of driver's licenses to be available for two consecutive renewal periods (10 years) as opposed to every other renewal period.

CAPITAL CONSTRUCTION

33. Amanda Bickel - *Reminder concerning future consideration of potential legislation:* The JBC indicated that it would like to take the lead on statutory modifications to S.B. 09-228, which specifies triggers for automatic transfers from the General Fund for capital construction and transportation funding and also requires a study on future methods for financing the state's capital construction and controlled maintenance needs. The Committee has indicated that, at a minimum, it wishes to modify the statutory date for the required study. Decisions regarding other changes are pending.

34. Amanda Bickel - *Reminder concerning future consideration of potential legislation:* The Committee may meet again with the Capital Development Committee in January to discuss the capital "clean up" bill and, in particular, any changes the committees would like to make on which requests flow through the CDC versus going directly to the JBC. Staff anticipates that this legislation will be sponsored by the CDC, but with JBC agreement on work-flow processes.

TOBACCO

35. Amanda Bickel (TOB-brf, page 7) - Pursuant to current statute, any special payments received from tobacco manufacturers and escrow accounts (disputed payments previously withheld) will be deposited to the General Fund. Staff believes this is reasonable given the unpredictable nature of such payments. However, the JBC could consider a statutory change to credit some disputed payments to the Tobacco Litigation Settlement Cash Fund, instead of the General Fund, to reduce or eliminate the amount of tobacco settlement moneys spent before they are received ("accelerated payments"). Under this proposal, the additional moneys would *not* be distributed to tobacco programs but would simply be retained in the Tobacco Litigation Settlement Cash Fund to reduce the annual General Fund loan for tobacco programs. About \$2-3 million in disputed payments is anticipated to be received in FY 2013-14, but more could be received in future years.