

MEMORANDUM

TO: Joint Budget Committee Members

FROM: John Ziegler, JBC Staff

SUBJECT: Summary of Potential JBC Bills Discussed During the FY 2018-19 Briefing and Hearing Process

DATE: January 10, 2018

Attached for your consideration is a list of potential legislation that was discussed during the FY 2018-19 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 with two exceptions noted below. 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.

Given the significance of two items requested by the Office of State Planning and Budgeting in the Supplemental Submission letter dated January 2, 2018 concerning the Tax Cuts and Jobs Act, I added them to the Statewide section of the potential legislation list as items 41 and 42. These items have not yet been presented to the JBC by the JBC staff. However, given the significance of the issues in the request, I included them in the list to ensure the JBC is aware of the request.

2018 SESSION POTENTIAL BILLS FROM BRIEFINGS, HEARINGS, AND MEMBERS

CORRECTIONS

1. 12/20/2017 – Megan Davisson (COR-brf, - page 22) - Staff recommends the Committee sponsor legislation to remove the statutory prohibition on using Centennial South (Section 17-1-104.3 (1)(b.5), C.R.S) to house inmates. Staff also recommends the Committee fund the capital construction costs associated with the recommendations of the February 2016 Prison Utilization Study Update.
2. 12/20/2017 – Megan Davisson (COR-brf, - page 31) - Staff recommends the Committee sponsor legislation to eliminate the Department of Corrections personal services reversion transfers to the SERF and allow these funds to revert to the General Fund. This change would enable personal services reversions to pay for step increases in the following fiscal year.

EDUCATION

3. 12/11/2017 – Craig Harper (EDU-brf, - page 26) - Staff recommends that the General Assembly act to address the current inequities in the school finance property tax system. Specifically, staff recommends that the General Assembly refer a statewide measure to the voters that would:
 - Return the state to a uniform (statewide) mill levy for school finance property taxes such that each school district's total program mill levy would be the lesser of the statewide mill levy or the mill levy necessary to fully fund the district's total program with local revenues.
 - Allow mill levies in districts that are fully locally funded (at less than the statewide mill levy) to "float" on an annual basis below the uniform mill levy to continue to fully fund the district without requiring state funds.
4. 12/11/2017 – Craig Harper (EDU-brf, - page 43) - Staff recommends that the Committee sponsor legislation to eliminate the statutory appropriation of marijuana revenues to support school finance. Assuming the General Assembly maintains the transfer of marijuana sales tax revenue to the State Public School Fund to support total program funding, staff recommends: (1) ensuring that any such funds are subject to annual appropriation (like all other funds in the State Public School Fund); and (2) maintaining a system of appropriating marijuana funds in the year after the year of collection (e.g., appropriating funds collected in FY 2018-19 in FY 2019-20). If the General Assembly wishes to appropriate the funds in the year of collection, staff recommends increasing the targeted ending balance (reserve) in the cash fund to account for additional uncertainty.
5. 12/11/2017 – Craig Harper (EDU-brf, - page 45) – Staff recommends that the Committee and the General Assembly consider legislative sideboards for the early college program to

maximize the use of non-state revenues (such as Pell grants and local funds) where possible. For example, the General Assembly could require early colleges to officially graduate their students in four years to make them eligible for Pell Grant funds for years 5 and beyond, reducing pressure on the State budget.

6. 12/11/2017 – Craig Harper (EDU-brf, - page 64) – staff recommends that the Committee review the list of unfunded programs and that the General Assembly enact legislation repealing any programs that it does not intend to fund going forward. The Committee could sponsor such a “cleanup” bill as a JBC bill or (probably preferably) refer the issue to another committee. The General Assembly may also wish to consider including standard language in future grant program legislation that would either: (1) automatically repeal programs after five years of implementation (with the possibility of renewal at that time); or (2) repeal programs that are unfunded for a specific period of time (e.g., five years).
7. 12/19/2017 – Department of Education Hearing – During the hearing, the Department indicated that it would like the Committee to sponsor legislation to extend the continuous appropriation of the Educator Licensure Cash Fund, which is currently set to expire (and again become subject to annual appropriation) at the end of FY 2017-18.

GOVERNOR’S OFFICE

8. 11/17/2017 – Kevin Neimond (GOV-brf, - page 27) - Staff recommends that the Committee sponsor legislation allowing General Fund transferred into the Public Safety Communications Trust Fund to be used for new zone controller infrastructure on the western slope. Additionally, staff recommends that the Committee include a provision in this legislation that transfers \$2.0 million General Fund to the Public Safety Communications Trust Fund on an annual basis for two years for OIT to work in partnership with local and regional government entities to add additional radio tower sites in areas of the state that are experiencing critical coverage gaps.

HEALTH CARE POLICY AND FINANCING

9. 12/04/2017 – Eric Kurtz (HPF-brf, - page 48) – DEPARTMENT REQUESTED BILL - To contain costs, the Department proposes legislation to expand Medicaid benefits to include services designed to help people transition from an institutional long-term care setting to a community setting. The legislation would provide state authorization for services currently provided under a federal demonstration that is ending.
10. 12/04/2017 – Eric Kurtz (HPF-brf, - page 64) – DEPARTMENT REQUESTED BILL - In R9 Provider rates, the Department proposes that the JBC introduce legislation to reduce the projected increase in expenditures under current law by \$12.5 million total funds, including \$6.3 million General Fund, through limiting the allowable growth of nursing home rates for one year to 1.0 percent, instead of 3.0 percent. The Department proposes establishing the resulting rates as the new base that can grow by up to 3 percent in future years.
11. 12/04/2017 – Eric Kurtz (HPF-brf, - page 67) – In the issue brief "All-Payer Claims Database", the JBC staff explains that if the JBC wants to implement R13 All-Payer Claims

Database, then Legislative Legal Services recommends legislation. The Department anticipated the legal concerns with funding the request through the Long Bill and made a counter argument, but LLS does not agree with the counter argument and still indicates legislation is a better solution.

12. 12/04/2017 – Eric Kurtz (HPF-brf, - page 71) – Staff recommends the JBC consider legislation to make the revenue from the HAS Fee subject to annual appropriation.
13. 12/05/2017 – Robin Smart (HPF-OCL-brf, - page 17) – Joint Budget Committee (JBC) staff recommends the Committee consider sponsoring legislation as requested by the Department of Health Care Policy and Financing (HCPF) to modify Section 25.5-5- 306, C.R.S., and to remove the statutory requirement that children be placed in foster care prior to receiving services through the CHRP waiver. Such legislation will include the transfer of the program from the Department of Human Services to HCPF.

HIGHER EDUCATION

14. 12/18/2017 – Amanda Bickel (HED-brf, - page 73 - more detail on p. 84-85) - Staff recommends the Committee sponsor a bill to direct \$6.0 million General Fund of the Department's request for need-based financial aid to a program for first-time freshmen with need who proceed directly to full-time enrollment in a Colorado public higher education institution and follow a clear pathway toward a degree or certificate. [A bill with a broader title could potentially also include clean-up of financial aid statutes and authorize DHE's Request R4, discussed below.]
15. 12/18/2017 – Amanda Bickel (HED-brf, - page 91) - Staff recommends a bill to eliminate the current restriction that not more than ten percent of the money in the COSI fund in any fiscal year may be awarded for student success programs and that no more than 3.0 percent of the money in the fund may be used for administration. This change will allow the program to spend down its corpus while maintaining grants for student success programs and administration at the current level. If the General Assembly also authorizes a \$2.0 million General Fund increase (instead of the \$4.0 million requested), the program could continue to commit funds at the current level for an additional four years (through FY 2021-22). At that point, the General Assembly could either increase funding by an additional \$4.0 million or scale back the program.
16. 12/18/2017 – Amanda Bickel (HED-brf, - page 105) - Staff recommends the Committee adopt the recommendations of the OER Council and sponsor a bill to:
 - Provide a statewide grant program costing \$660,000 General Fund in FY 2018-19, annualizing to annualizing to \$1,079,350 for FY 2019-20 and \$1,080,720 in FY 2020-21.
 - Continue the statewide OER Council for the length of the program and add 1.0 FTE in the Department of Higher Education for the length of the initiative. The grant program would end in June 2021, unless extended by the General Assembly during the 2021 legislative session.

Staff recommends that the Committee also consider including a statutory requirement that by fall 2021, institutional course catalogs identify which courses use Open Educational Resources.

17. 11/1/2017 – email from OSPB staff/noted in HED-brf p26 - The Department requests legislation to implement its Request R4 (\$1,500,000 General Fund for Emergency Retention Grants).
18. 11/1/2017 - email from OSPB staff/noted in HED-brf p. 27 & 102 - The Department requests legislation to implement its request R5 (\$5,000,000 General Fund for Occupational Credential Capacity grant program).
19. 1/4/2017 - communication with DHE staff - The Department indicates that its BA1 (\$2,000,000 Marijuana Tax Cash Funds for Strategies for Educator Preparation Programs) will require new legislation.

HUMAN SERVICES

20. 11/16/2017 – Robin Smart (DHS-EDO/OPS/CW-brf, - page 26) - JBC staff recommends that the Committee sponsor legislation that:
 - Removes language in statute allowing counties that participate in the CMP and ICM to elect to keep their savings at the end of a fiscal year.
 - Allows every county to keep up to 30.0 percent of its under-expenditures as determined by the county close out process and use the savings specifically to fund state approved prevention and intervention programs and services, including Title IV-E waiver interventions; the remaining 70.0 percent of any under-expenditures will be available for surplus distribution.
 - Allows for the transfer of any remaining under-expenditures in the Child Welfare Block and Core Services allocations after county close out into a prevention and intervention services cash fund to be allocated by the department to counties for the purpose of sustaining Title IV-E waiver interventions; allow the department to add new evidence-based interventions and prevention initiatives to the list of approved interventions that can be funded from the cash funds. Authorizes spending authority through a separate line item in the Long Bill.
 - Allows for the transfer of any unspent Medicaid General Fund appropriated to the Department of Health Care Policy and Financing for child welfare services, that remains after county close out, to the cash fund for Title IV-E waiver intervention sustainability.
 - Requires reporting of intervention and prevention activities in Trails and requires an annual evaluation of outcomes and cost savings resulting from existing and newly added interventions and prevention initiatives.
 - For counties that are unable to increase local capacity through the above opportunities, provide each Board of County Commissioners with the choice of asking the State of Colorado to administer the child welfare system in its county if it is determined in the best interest of the county and its children and families; allows the Department of Human Services to submit a supplemental budget request for funding to fulfill the county's request.
21. 12/06/2017 – Carolyn Kampman (DHS Behavioral Health-brf, - pages 20-22) – The Department's FY 2018-19 budget request includes a total of \$13.1 million General Fund to address the increasing number of court orders for inpatient competency restoration. Staff

identified a number of potential statutory changes to reduce the need to expand the State's inpatient psychiatric bed capacity, including the following:

- If the Court orders that a competency *evaluation* occur in an inpatient setting, require the Court to make findings identifying the relevant statutory criteria (pursuant to H.B. 16-1410);
- Expand the minimum information a competency evaluator must include in a written report to the Court;
- Limit the Court's discretion to order that a defendant receive competency *restoration* services in an inpatient setting; and
- Reduce the maximum allowable term of confinement for a defendant to receive competency *restoration* services.

Staff also recommended allowing county sheriffs to use funding available through the Jail-based Behavioral Health Services appropriation to the Office of Behavioral Health to provide services for adult inmates who have a mental health disorder, whether or not they have a substance use disorder. [While a statutory change may not be required, it may be helpful to clarify the General Assembly intent.] Increase the appropriation to cover these additional services and prioritize this funding for rural and frontier jurisdictions.

22. 12/06/2017 – Carolyn Kampman (DHS Behavioral Health-brf, - page 35) - Staff recommends the Committee introduce legislation to amend Section 27-80-107.5 (4)(c), C.R.S., to clearly authorize managed service organizations to spend the annual disbursement from the Marijuana Tax Cash Fund for increasing access to effective substance use disorder services (authorized by S.B. 16-202) in the fiscal year received or in the subsequent fiscal year.
23. 12/20/2017 – Vance Roper (DHS Early Childhood-brf, - page 7) - Staff recommends that the Joint Budget Committee sponsor legislation to move responsibilities for Part C Child Find, and the corresponding funding, from the Department of Education to the Department of Human Services, Office of Early Childhood. This will result in a net savings of General Fund for the state, improved compliance with federal and state regulations, and better outcomes for families.
24. 12/18/2017 – Kevin Neimond (DHS OIT/CA/OSS/AAP/DYS-brf, - page 15) - DEPARTMENT REQUESTED BILL - The request asks the Joint Budget Committee to sponsor legislation to eliminate the end date for the Department's transitional jobs program, known as ReHire Colorado, and provide an increase of \$1.3 million General Fund and 1.0 FTE for FY 2018-19 to continue the program through the final six months of the fiscal year. ReHire Colorado is statutorily required (Section 26-2-1103, C.R.S.) to stop offering new transitional jobs after December 31, 2018 and is slated to end on June 30, 2019. The Department's proposal puts forth a plan to continue subsidizing wages of 237 program participants through the back half of FY 2018-19 and eliminate the end date for program operation.
25. 12/18/2017 – Kevin Neimond (DHS OIT/CA/OSS/AAP/DYS-brf, - page 29) - Staff recommends that the Joint Budget Committee work with its colleagues from the relevant

committees of reference to determine if it is preferable for the Department to unilaterally adjust eligibility standards for SNAP or if the General Assembly wishes to provide statutory guidance to the Department in defining eligibility standards for SNAP that comport with federal requirements.

JUDICIAL

26. 12/11/2017 – Steve Allen (JUD-brf, - page 24) - Staff recommends that the JBC sponsor a bill to create a dedicated controlled maintenance cash fund for the Carr Center.

LABOR AND EMPLOYMENT

27. 12/06/2017 – Amanda Bickel (LAB-brf, - page 9) - Staff recommends that the General Assembly consider legislation to improve solvency of the UI Trust Fund, such as raising the chargeable wage base. If no action is taken now, employers will face steep surcharges during a recession, when they can least afford it.

LOCAL AFFAIRS

28. 11/30/17 – Carolyn Kampman (Local Affairs-brf, pg. 9) – The Department of Local Affairs' FY 2018-19 budget request includes a proposal to eliminate funding for the Local Government Marijuana Impact Grant Program, resulting in a \$1.1 million reduction in appropriations from the Marijuana Tax Cash Fund. Staff recommends that the Committee consider introducing legislation to repeal this grant program, effective June 30, 2018.

MILITARY AFFAIRS

29. 11/14/17 – Amanda Bickel (MIL-brf, pg. 10) - Staff recommends that the Committee sponsor legislation providing more explicit statutory authorization for the one-stop. Such legislation should: enable the DMVA to either staff such facility directly or contract for management of such a facility; require input from a local board including entities currently housed in the building; require the Department to develop outcome measures in consultation with the local board; establish a sunset review process so that the efficacy of the model is reviewed periodically; and create a cash fund specifically for one-stop center lease payment receipts to help support the facility's operating costs.

PUBLIC HEALTH

30. 12/21/17 – Tom Dermody (Pub Hea-Enviro-brf, pg. 8) - Staff recommends the Committee sponsor legislation to amend the hourly rate dictated in Section 25-7-114.7 (2)(a)(III), C.R.S., for FY 2018-19. This recommendation is in accordance with Section 25-7-114.7 (2)(c), C.R.S., which authorizes the General Assembly to "annually adjust the fees established in this section...as necessary to cover the reasonable costs, both direct and indirect, of the stationary source program and...to administer the permit program." If the Committee decides to proceed with this recommendation, staff will recommend a specific rate during the drafting of the bill.

REGULATORY AGENCIES

31. 11/15/2017 – Vance Roper (REG-brf, - page 13) - Staff recommends the JBC sponsor legislation to authorize the Broadband Development Board to apply, and expend through grants, funds from the Connect America Fund Phase II Auction.
32. 11/15/2017 – Vance Roper (REG-brf, - page 15) - Staff recommends the JBC sponsor legislation to modify the High Cost Support Mechanism to include data components as part of the fee structure and to have those fees directed to broadband in underserved areas.
33. 11/15/2017 – Vance Roper (REG-brf, - page 15) - Staff's final recommendation is for changes to the Right of First Refusal policy. As discussed above, the RFR policy, while well intentioned, creates negative unintended consequences. The results of the policy allows inferior products to replace superior ones, and creates a disincentive for qualified companies to apply for the grants. This in turn, reduces the selection pool and has the potential to increase costs or prevent entire areas from realizing broadband. Therefore, staff recommends the JBC sponsor legislation requiring a party claiming the right of first refusal to be a bidder in the grant cycle, removing the one-year project completion requirement, and changing the terminology on “substantially”.

STATE

34. 11/15/2017 – Scott Thompson (STA-brf, - page 14) - Staff recommended the Committee sponsor legislation to allow the Local Election Reimbursement line item to be continuously appropriated to the Department for the purpose of making statutory required reimbursements and include an informational appropriation in the Long Bill, to guide the Department's annual fee-setting. Staff is revising the previous recommendation and will present the revised recommendation during figure setting.

TRANSPORTATION

35. 11/29/2017 – Steve Allen (TRA-brf, page 16) - Staff recommends the Committee carry a bill to repeal Section 43-1-112.5, C.R.S., and related provisions in Title 43. Section 43-1-112.5, C.R.S., directs the General Assembly, in the Long Bill or in a special bill, to limit the total amount of revenues that may be collected and expended by the Department of Transportation for the fiscal year.

CAPITAL CONSTRUCTION

36. 11/14/2017 - Alfredo Kemm (CAP-brf, page 21) - Staff recommends that the Committee pursue legislation to eliminate depreciation-lease equivalent payment transfers to the Controlled Maintenance Trust Fund to preserve the purpose of this funding mechanism intended for capital replacement and controlled maintenance. Specifically, staff recommends that the legislation: Eliminate the depreciation-lease equivalent payment transfer included in Sections 24-30-1310 (2)(b), C.R.S., to the Controlled Maintenance Trust Fund; and Redirect the financing arrangement annual payment for controlled maintenance included in Section 24-30-1310 (2)(c)(II) to the Capital Construction Fund.

37. 11/14/2017 - Alfredo Kemm (CAP-brf, page 25) - Staff recommends that the Committee pursue legislation to repeal the exemptions from the calculation of the General Fund reserve included in Sections 24-75-201.1 (2)(b) and (2)(c), C.R.S., for lease-purchase agreements and depreciation-lease equivalent payments, respectively.
38. 11/14/2017 - Alfredo Kemm (CAP-brf, page 27) - Staff requests that the Committee give staff guidance on its preferred level of participation in development and its preferred timing of Committee consideration and decision making for recommendations to meet this requirement over the next year; or pursue legislation to repeal the requirement.
39. 11/14/2017 - Alfredo Kemm (CAP-brf, page 31) - Staff recommends that the Committee propose legislation to create a capital asset management and finance authority for state agency buildings.
40. 11/14/2017 - Alfredo Kemm (CAP-brf, page 37) - Staff recommends that the Committee propose legislation and adopt Committee policies to fund institution of higher education capital construction and controlled maintenance through a funding formula distribution in fee-for-service contract payment appropriations. Staff also recommends that the Committee propose a concurrent resolution to amend the State Constitution to distribute 50 percent of net lottery proceeds for institution of higher education capital construction to provide a consistent level of funding regardless of the availability of General Fund in a given year. Staff recommends that the Committee consider companion legislation or Committee policy to establish a proportional funding match of half of the lottery proceeds total from the General Fund as a shared commitment to the primary fund stream from lottery proceeds.

STATEWIDE ISSUES

41. 1/2/2018 – (1/2/2018 Letter from Henry Sobanet, page 2) - OSPB requested that the Committee sponsor legislation that would:
 - Increase the FY 2018-19 statutory reserve requirement to 8.0 percent, an estimated increase of \$108.3 million General Fund (this was originally requested as an increase to 7.0 percent in the November 1, 2017 budget submission) and,
 - Transfer \$148.2 million from the General Fund to the State Highway Fund for high priority state transportation projects in FY 2018-19.

The source of the funds for this would be anticipated General Fund revenue increases from the Tax Cuts and Jobs Act (TCJA).

42. 1/2/2018 – (1/2/2018 Letter from Henry Sobanet, page 3). - OSPB requested that the Committee sponsor legislation to allocate anticipated increases in General Fund from the TCJA in future years based on a formula established in statute. The framework suggested in the letter has several components including:
 - After any existing certificate of participation payments are made from the General Fund to support transportation projects, grow the required reserve requirement in

the General Fund to 10.0 percent by FY 2022-23 in 0.5 percentage point increments starting in FY 2019-20;

- In years when the reserve requirement is met and the Budget Stabilization Factor in the School Finance Act is unchanged, allocate two-thirds of the remaining new funds to State high-priority infrastructure needs, and one-third to the State Education Fund; and
- 75 percent of the two-thirds allocation for state infrastructure spending should focus on transportation needs via the State Highway Fund, and the remainder to the following priorities: statewide water projects that support the state water plan (9 percent); State and Higher Education building controlled maintenance (6 percent), statewide affordable housing tax credit enhancements (6 percent), rural broadband projects (4 percent).

MEMORANDUM



JOINT BUDGET COMMITTEE

TO Joint Budget Committee
FROM Tom Dermody, JBC Staff (303-866-4963)
DATE January 10, 2018
SUBJECT Potential Bill #30 - Stationary Sources Control Fund Fees

The Stationary Sources Control Fund, created in Section 25-7-114.7 (2)(b)(I), C.R.S., experienced a write-off of accounts receivables that has resulted in a significant reduction of the Fund's balance. While the Fund has sufficient cash resources to support the Air Pollution Control Division's programming in FY 2017-18, substantial programmatic cuts will be necessary beginning in FY 2018-19. The APCD funds a large portion of its regulatory programs from emissions and permitting fees paid into the Stationary Sources Control Fund. From FY 2008-09 to FY 2017-18, the revenue generated by these fees increased by about 30.0 percent; however, over the same period expenditures from the Fund have increased by almost 48.0 percent.

Stationary Sources Control Fund 10-year Cash Flow		
	REVENUE	EXPENDITURES
FY 2008-09	\$9,586,556	\$9,481,446
FY 2009-10	9,788,990	9,567,689
FY 2010-11	9,871,908	9,003,114
FY 2011-12	10,776,380	9,020,637
FY 2012-13	12,473,058	10,610,729
FY 2013-14	13,241,571	12,192,083
FY 2014-15	12,754,769	12,960,452
FY 2015-16	13,069,281	13,835,031
FY 2016-17	12,303,458	13,701,441
FY 2017-18*	\$12,363,799	\$14,019,690

*These totals are estimated.

During the briefing for the Department of Public Health and Environment, JBC Staff recommended that the Committee sponsor legislation amending the hourly rate cap for permit application processing (\$76.45) dictated in Section 25-7-114.7 (2)(a)(III), C.R.S., for FY 2018-19. While the Department expressed support for staff's recommendation, it voiced some concern regarding its temporary and limited nature. In discussions with staff, the Department has requested that the Committee consider sponsoring legislation that more permanently addresses the revenue problem facing the Stationary Sources Control Fund. The Department has asked that the Committee consider amending the regulated pollutants fee cap (\$22.90; Section 25-7-114.7 (2)(a)(I), C.R.S.) and the hazardous pollutants fee cap (\$152.90; Section 25-7-114.7 (2)(a)(II), C.R.S.).

Staff believes this request has merit, but has concerns regarding the progress the Department has made in its stakeholder outreach efforts. An informal outreach effort to the largest fee payers has been pursued for several months and a more general outreach effort began in December. Only one large format stakeholder meeting, which allowed participants to attend in person or via the web, has been held to date. The Department has also conducted a stakeholder survey, the results of which are still being compiled. A multi-year stakeholder outreach effort is impractical considering the health of the Fund and the anticipated disparity in revenue and expenditures in future fiscal years. However, staff believes that further consultation with those who are affected by changes in these fees is necessary prior to recommending specific fee adjustments.