MEMORANDUM

TO: Joint Budget Committee Members

FROM: John Ziegler, JBC Staff

SUBJECT: Summary of Potential JBC Bills Discussed During the FY 2015-16 Briefing and Hearing Process

DATE: January 8, 2015

Attached for your consideration is a list of potential legislation that was discussed during the FY 2015-16 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.

2015 Session Potential Bills from Briefings, Hearings, and Members

CORRECTIONS

1. Steve Allen (Cor-brf, page 33) - Staff recommends that the Committee sponsor legislation that fixes the amount appropriated to the Department of Corrections as a consequence of H.B. 12-1223 savings. Staff recommends $5.0 million but recommends that the Department be asked what it considers to be the best level.

EDUCATION

2. Craig Harper (EDU-brf, page 45) - Staff recommends that the Committee sponsor legislation during the 2015 Session to eliminate the minimum state aid provision of the School Finance Act or, at a minimum, further delay the provision's reinstatement. Current law would reinstate the provision in FY 2015-16, requiring disbursements of state funding to several school districts that would not otherwise receive state funding in FY 2015-16 and reductions to funding for the majority of school districts in the State.

3. Craig Harper (EDU-brf, page 80) - Staff recommends that the Committee sponsor legislation in the 2015 Session to:

    a. Eliminate the dual appropriation structure (in which one line item appropriates moneys into a cash fund and a separate line item reappropriates those funds out of the cash fund to support the program) from five of the six programs using that structure in FY 2014-15, including: (1) the Adult Education and Literacy Grant Program; (2) the English Language Learners Professional Development and Student Support Program; (3) the English Language Proficiency Act Excellence Awards Program; (4) the School Turnaround Leaders Development Program; and (5) the State Grants to Publicly-Supported Libraries Program.
    b. Eliminate the following three cash funds: (1) the English Language Learners Professional Development and Student Support Fund; (2) the [English Language Proficiency Act] Excellence Awards Fund; and (3) the School Turnaround Leaders Development Fund. The Committee may wish to repeal the funds after all funds appropriated in FY 2014-15 are spent or transfer any remaining funds back to the "source" fund (General Fund or SEF).

4. Sen. Steadman (Department of Education Hearing) – During the Department's hearing on December 18, 2014, the Committee discussed sponsoring legislation to extend the continuous appropriation for the Office of Professional Services (the educator licensure program) beyond FY 2014-15. Current law continuously appropriates the Educator Licensure Cash Fund (supported by educator license fees) to the Department for FY 2010-11 through FY 2014-15. Without a change in statute, the licensure program will be subject to legislative appropriation beginning in FY 2015-16.

HEALTH CARE POLICY AND FINANCING

5. Megan Davisson - Sen. Lambert/Rep. Young (12-12-2014; 11:00) – Bill to eliminate the current gap that exists regarding mandatory reporting of abuse and exploitation to include at-risk adults with disabilities that are between the ages of 18 and 70 so that abuse and exploitation of at-risk

adults with disabilities is subject to the same mandatory reporting as that of abuse and exploitation of at-risk elders. <u>This bill could impact either the Department of Health Care Policy and Finance (HCPF) or the Department of Human Services. It is being placed in HCPF as a placeholder on the list but will be assigned accordingly if the bill is drafted.</u>

HIGHER EDUCATION

1. Amanda Bickel (HED-brf, page 27) - Staff recommends the JBC sponsor legislation to create a targeted grant program, requiring some degree of institutional match, for programs designed to address areas in which institutions struggle to achieve state goals. This would be supported by a portion of the $15 million requested by the Governor's Office for transitional funding. The Department also indicates, in its hearing response, that it would like to use a portion of the $15 million in transitional funding (after bringing all institutions up to at least at 10 percent increase) for a "CCHE-directed, competitive, performance-based fee-for-service program." Governing boards would apply by "developing and submitting a clear plan outlining how the governing board proposes to invest the funds to further the Master Plan's goals and improve performance under the H.B. 14-1319 model." Staff believes that new legislation would be required to initiate such a program.

2. Sen. Lambert (In HE briefing, 9:55) - Sen. Lambert proposes a possible JBC bill to modify H.B. 14-1319 to limit state funding to support for resident students. This would modify the way funding is allocated among the institutions in both the performance and role and mission components of the H.B. 14-1319 model.

3. Sen. Lambert (In HE briefing, 11:10) – Staff and Committee members asked, during the briefing, whether statute should be modified to eliminate the old performance metrics & performance funding system established through S.B. 11-052. In its hearing responses, the Department indicated that it believes portions of S.B. 11-052 should be repealed to eliminate ongoing measurement of performance metrics other than those identified in H.B. 14-1319. However, during hearings for the research institutions, the research governing boards appeared to support *retaining* the performance contracts established based on S.B. 11-052.

4. Sen. Lambert (In HE hearing, 12:10) - Explore a bill to create a new cash fund called a "sovereign trust" that would hold gifts, grants, and donations to support a new Center for Native American Education and Cultural Affairs at Fort Lewis College.

HUMAN SERVICES

5. Robin Smart (HUM-CW/CA/EC-brf, page 22) - Staff recommends that the Committee consider sponsoring legislation that requires the Department to utilize General Fund to pay for appropriately billed and eligible early intervention services and service coordination by Community Centered Boards without the requirement of a Medicaid *denial*.

6. Robin Smart (HUM-CW/CA/EC-brf, page 30) - Staff recommends that the Committee consider sponsoring legislation to:

    a. Move responsibilities for Part C Child Find from the Department of Education to the Department of Human Services;

b. Allow the option for Community Centered Boards to either conduct their own early intervention evaluations or contract with the local school district or Board of Cooperative Educational Services or another party to perform the early intervention evaluations; and
c. Appropriates necessary funding to the Department of Human Services for costs associated with this transfer.
d. *Update: Staff's original recommendation included the transfer of associated funding for Part C (only) Child Find from the Department of Education (CDE) to the Department of Human Services; however, funding for Child Find is included in categorical funding within CDE's budget. Categorical funding in CDE is unable to be reduced; therefore this legislation would require appropriation of new dollars.*

7. Robin Smart (HUM-CW/CA/EC-brf, page 35) - In order to provide ongoing services and supports to three and four year old children and their families as they transition from Part C IDEA to Part B IDEA, staff recommends that the Committee consider sponsoring legislation to fund a 3+ Initiative pilot project for three years that will:

   a. Ensure the ongoing case management and delivery of early intervention services and supports to families as they transition from Community Centered Boards (CCBs) to Special Education;
   b. Create an opportunity for families to gradually transition from CCB service providers to the educational environment thereby reducing the trauma to children and families, and increasing opportunities for success in school environments;
   c. Establish an ongoing annual evaluation process including clearly defined and appropriate performance measures and outcomes in order to determine the effectiveness of the pilot project.

8. Robin Smart (HUM-CW/CA/EC-brf, page 52) - If the Committee would like to continue funding the Collaborative Management Program, staff recommends that the Committee consider sponsoring legislation that:

   a. Defines the program infrastructure and specifies components of the *uniform* system of collaborative management to ensure statewide program consistency;
   b. Clearly defines the target population of the program;
   c. Requires the Department to specify the performance measures that are evaluated and incentivized and remove all local performance measures from the state-wide reporting process; and include language that states that the removal of such measures will not preclude local collaboratives from monitoring additional local measures;
   d. Strengthens the language in statute concerning the evaluation of the program to include guidance on what should be considered when allocating incentive funds;
   e. Establishes an interagency team that reviews and approves each county's annual Memorandum of Understanding;
   f. Requires the Department to substantially modify the incentive fund formula to eliminate the weighted distribution of incentive funds related to county size and ensure that it is based on actual number of children served rather than estimates; and
   g. Provides an option for interagency oversight groups to designate one of the following as the fiscal agent for the receipt of incentive fund allocations: county department of human/social services, a local school district, or a designated mental health organization.

9. Sen. Lambert (12-8-2014; 3:15) – Bill to clarify the level of transparency required when reporting incidents at Division of Youth Corrections' facilities.

10. Sen. Lambert (12-12-2014; 11:00, from Megan's HUM-EDO-Disabilities-brf page 37) – Committee could consider the following four options to improve the service delivery of vocational rehabilitation services by the Division of Vocational Rehabilitation:

    a. Move the Programs to another department within the Executive Branch, possibly the Department of Labor and Employment.
    b. Move the Program to another Department and delegate the administration of the Programs to the counties.
    c. Create new independent non-profits, similar to Community-Centered Boards, and delegate the responsibility for administering the Programs.
    d. Expand the responsibilities of the Centers for Independent Living to include providing Vocational Rehabilitation Services.

JUDICIAL

11. Carolyn Kampman (JUD-brf, page 25) – Senate Bill 14-203 created a new independent agency within the Judicial Branch, the "Office of the Respondent Parents' Counsel", to oversee court appointments for state-paid attorneys to represent parents who are involved in child dependency and neglect cases. As required, the Judicial Department submitted a decision item to fund the new Office beginning in FY 2015-16. The Joint Budget Committee should consider sponsoring legislation to make the statutory changes recommended by the Respondent Parents' Counsel Work Group pursuant to S.B. 14-203, including delaying by six months the transfer of respondent parent counsel appointments to the new Office.

12. Carolyn Kampman (JUD-brf, page 32; Courts/Probation hearing responses, pages 30-33; Office of the Child's Representative (OCR) hearing responses, pages 1-2) – The oversight of child and family investigators (CFIs) that are appointed in domestic relations cases is currently shared by two judicial agencies, with the OCR overseeing *attorney* CFIs and the State Court Administrator's Office overseeing *non-attorney* CFIs. Both agencies have agreed that oversight of all CFIs should be consolidated under the Office of the State Court Administrator. The Committee should consider sponsoring legislation to make the statutory changes recommended by the two agencies and transfer the associated funding from OCR to the State Court Administrator's Office.

LAW

13. Craig Harper (LAW-brf, page 20) – During the briefing, staff recommended that the Committee discuss the Violent Crime Assistance Team (VCAT) request with the Department at the hearing, including the unit's increasing workload, the appropriate role of the VCAT going forward, and whether legislation defining the General Assembly's intended role for the VCAT would be beneficial. The Department is requesting $266,520 General Fund and 1.8 attorney FTE to add two additional attorneys to the VCAT in FY 2015-16. However, the VCAT is neither discussed nor defined in statute. During the briefing and hearing, the Committee discussed the potential need for legislation to define the role of the VCAT in assisting local district attorneys.

LOCAL AFFAIRS

14. Amanda Bickel (LOC-brf, page 9) - Staff recommends that in lieu of providing a General Fund appropriation for the Department's inspection and certification of factory-built residential and commercial structures program, the JBC sponsor legislation to repay the Building Regulation Fund at least $500,000 in General Fund that was transferred from this Fund to the General Fund in FY 2008-09.

MILITARY AFFAIRS

15. Tom Dermody (MIL-brf, page 12) - Staff recommends the Committee sponsor legislation to clarify the language regarding county service officers in Section 28-5-707, C.R.S., to ensure that program operations and statute are harmonized. Staff further recommends the Committee fund the Department's request regarding county service officers through that bill. Coupling the adjustments to statute with the funding will mitigate any potential negative impacts on the program. Staff will work with the Committee to ensure that statutory language meets the programmatic requirements.

NATURAL RESOURCES

16. Carly Jacobs (NAT-brf, page 23) - Splitting programs supported by the Severance Tax Operational Fund into two tiers helps protect funding for FTE and ongoing programs by prioritizing those expenditures (Tier I) over programs that have the flexibility to absorb changes in funding over time (Tier II), e.g. grants, loans, construction projects. Although the Division of Reclamation, Mining, and Safety is designated as a Tier I program, staff believes reclamation projects at post-law mine sites could withstand any proportional reductions if funded as a Tier II expenditure. If the Committee would like to fund reclamation projects at forfeited mine sites as a Tier II expenditure, the Committee would need to sponsor legislation to change statute.

PERSONNEL

17. Alfredo Kemm (PER-brf, page 17) - Staff recommends that the Committee pursue legislation to amend Section 24-75-402, C.R.S., as follows:

    a. Change the name from target reserve to maximum reserve and alternative target reserve to alternative maximum reserve.
    b. Add a provision that requires cash funds to identify a capital outlay reserve for accumulated depreciation exempt from the maximum reserve.
    c. Add a provision that allows programs with multi-year revenue-collection cycles or revenue-contract periods to request that uncommitted reserves be averaged over the multi-year revenue-cycle period for the purpose of determining compliance with excess reserve requirements.
    d. Change the waiver process to allow a maximum 3-year waiver by the JBC, rather than by a statutory waiver.
    e. Increase the minimum uncommitted reserves for cash funds considered in the report to $200,000 from the current $50,000 exclusion.

f. Add repeal dates to all excluded cash funds listed in Section 24-75-402, (5), C.R.S., requiring excluded funds to be reconsidered and extended prior to their repeal.
g. Exclude the Division of Professions and Occupations Cash Fund from the requirements of Section 24-75-402, C.R.S., including automatic repeal in seven years.
h. Require the State Controller to restrict spending authority following the third consecutive year of excess reserves, equal to the lesser of the excess reserve or the maximum reserve, until a waiver is approved or the fund is in compliance.

CAPITAL CONSTRUCTION

18. Alfredo Kemm (Cap-brf. Page 12) - Staff recommends that the Committee reconsider last year's decision to fund IT capital projects with General Fund and sponsor legislation to fund IT capital projects with Capital Construction Funds through the creation of a dedicated IT capital account within the Capital Construction Fund.

19. Alfredo Kemm (Cap-brf. Page 16) - Staff recommends that the Committee sponsor legislation to add a planning unit in the Office of the State Architect (OSA) to improve the building capital planning and budget process and provide capital planning oversight and expertise to state agencies.

20. Alfredo Kemm (Cap-brf. Page 19) - Staff recommends that the Committee sponsor legislation to require a funding mechanism for controlled maintenance costs as part of the building capital budget process as follows:
    - Cash-funded: Staff recommends that non-state-funded (cash-funded) building projects annually set aside actual depreciation for the depreciation period in a capital outlay reserve for the purpose of independently cash-funding future controlled maintenance or capital renewal projects related to the capital project.
    - COP-financed: Staff recommends that cash-funded, COP-financed building projects set aside 1.0 percent of building cost annually in a capital outlay reserve. Staff recommends that state-funded, COP-financed building projects pay 1.0 percent of building cost annually into the Controlled Maintenance Trust Fund.
    - State-funded: Staff recommends that state-funded building projects include a depreciation-based, state lease payment system. Such a system would provide up-front payment for project construction with Capital Construction Funds and require an ongoing, annual State Lease Payment line item in the operating budget. The lease payment amount and its duration would be equal to the depreciation allowed for the project. The equivalent of 1.0 percent of project cost would be paid into the Controlled Maintenance Trust Fund with the balance paid into the Capital Construction Fund. Controlled maintenance projects would pay depreciation entirely into the Controlled Maintenance Trust Fund.

    Alternatively, staff recommends that the Committee pursue legislation to require that all state agencies pay annually, 1.0% of building cost or building value into a dedicated capital outlay reserve for cash-funded facilities or into the Controlled Maintenance Trust Fund for state-funded facilities through a Controlled Maintenance Payment in the operating budget.

21. Alfredo Kemm (Cap-brf. Page 29) - Staff recommends that the Committee pursue legislation to require that IT capital requests clearly identify and quantify anticipated administrative and operating efficiencies or program enhancements and service expansion through cost-benefit analyses and return on investment calculations.

22. Alfredo Kemm (Request from Sen. Lambert at CORE 1331 presentation on 1/5/15) – Staff recommends that the Committee pursue legislation to include information technology budget requests and the Joint Technology Committee's (JTC) review in the interim supplemental process in Section 24-75-111, C.R.S. The JTC process for review should mirror the provisions for capital requests and the CDC process.

2015 Session Legislation Approved by JBC During the 2014 Interim

23. Carolyn Kampman (JBC staff) and Ed DeCecco (OLLS staff) (OLLS Memorandum to JBC dated 9/18/14 concerning Proposed New Format for Appropriation Clauses) – In September 2014 the JBC voted to authorize staff to adopt a new format for legislative appropriation clauses beginning with the 2015 legislative session. The new format improves readability without changing the meaning of the clauses. The JBC also voted to sponsor legislation to codify provisions from the existing clauses. The JBC approved a bill draft at that time and authorized OLLS staff to continue working with the Controller's Office to finalize the bill draft. The bill draft has been finalized with one minor change from the prior version.

Additional Bills for Committee Consideration Not Included Above

HEALTH CARE POLICY AND FINANCING

24. Eric Kurtz (HCPF-brf, page.51) – The Department of Health Care Policy and Financing requests that the JBC sponsor legislation to expand and modify the Children with Autism (CWA) waiver. Specifically, the Department proposes eliminating the enrollment cap of 75, expanding eligibility to add children ages 6 to 8, allowing children who begin receiving services before age 8 to receive a full three years of services (and no more than three years), increasing the $25,000 annual expenditure cap to $30,000, allowing the annual expenditure cap to be adjusted in future years through the budget process rather than requiring a statutory change, and providing for an annual independent evaluation of the effectiveness of services for people with autism. Based on the implementation schedule and the availability of a fund balance in the Autism Treatment Cash Fund, the projected General Fund costs in the first year are significantly lower than expected costs in future years.

R8 Children with Autism Waiver Expansion		
	FY 2015-16	FY 2016-17
Total	$10,616,568	$19,042,713
General Fund	367,564	8,830,589
Cash Funds	4,840,203	508,566
Federal Funds	5,408,801	9,703,558

LOCAL AFFAIRS:

25. Rep. Rankin (LOC-brf, page 39) – In the Governor's November 2014 letter the JBC, the Governor requested that $8.0 million General Fund be set aside for legislation to backfill anticipated reductions in Federal Mineral Lease (FML) Revenue. The Office of State Planning and Budgeting has confirmed that this amount continues to be set aside Governor's more recent January 2 request.

    The oil and gas industry, environmental groups, and the federal Bureau of Land Management have now settled the longstanding legal dispute over drilling on the Roan Plateau. As part of the settlement, a portion of the FML bonus payments received by Colorado in FY 2008-09 will be refunded to leaseholders (approximately $24 million). The Governor's November request was to ensure that local governments that benefit from FML allocations are not negatively affected by the refund. Staff understands that the proposed bill would transfer approximately $8.0 million per year for three years from the General Fund to the Mineral Impact Fund.

HUMAN SERVICES

26. Megan Davisson (HUM-EDO-Disabilities-brf, page 24) - During the briefing, staff recommended the Committee discuss the pros and cons of implementation a funding formula for Centers for Independent Living in statute. At the Department of Human Services' hearing on December 12, 2014 the Department stated that they "would support the establishment of a statutory directive to the Department to have a process for developing a funding formula" (question 28 of the hearing agenda). The Committee should consider sponsoring legislation which would either:

- Place a funding formula for Centers for Independent Living in statute, or

- Place a requirement the Department develop a formula in collaboration with the Statewide Independent Living Council and Centers for Independent Living.