Potential CDC legislation that will need delayed permission from leadership when the drafts are completed:

1. **15-0649 Additional fixes to capital related statutes (HB14-1387 take II).**

   - Flexibility in the interim supplemental process to address scope change, etc.
   - Art in public places, adding a CDC approved waiver of the requirements in very limited circumstances.

2. **15-0650 Real property statutes**

   - Clean up the lease-purchase sections of law.
   - Reorganize each executive department's authority to acquire real property in one location in the statute.
   - Clarify an executive department's authority to dispose of real property.
   - Perhaps address the question of which executive department owns fee title to real property.

3. **15-0872 JR 45 change**

Draft attached. This is a two-word amendment to Joint Rule 45 that the General Assembly adopted last year to determine which body (JBC, CDC, JTC) will review which type of budget request. It has come to staff's attention that the dollar threshold for controlled maintenance projects is more appropriately described as $2M *per phase*, not per project. Adding the words "per phase" will bring the rule into parity with current practice by the state architect's office.

This type of rule change is historically carried by House and Senate leadership so please take the draft to your respective leaders and ask them nicely to carry the resolution on behalf of the CDC.

3. **15-0878 Regional center depreciation sub account in the capital co fund**

This is the bill you requested me to draft at your 2/5/15 meeting. The JBC analyst's recommendation is attached.

4. **15-0879 Refinance the Grand Junction CBI Lab**

The presentation regarding the need for this bill will be held on 2/19 by Jon Forbes, the new Deputy Treasurer. Mr. Chair okayed me to put in the bill request and draft the bill for the meeting on 2/19 so that we can be more efficient and potentially approve the bill the day that you hear Mr. Forbes' presentation.

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

DRAFT
2.4.15

DRAFT

LLS NO. R15-0872.01 Esther van Mourik x4215 **COMMITTEE Joint Resolution**

Capital Development Committee

BILL TOPIC: "Clarify Rule Phased Controlled Maint Projects"

COMMITTEE JOINT RESOLUTION

CONCERNING AN AMENDMENT TO JOINT RULE 45 OF THE SENATE AND HOUSE OF REPRESENTATIVES TO CLARIFY THAT THE DOLLAR THRESHOLD FOR A CAPITAL CONSTRUCTION BUDGET REQUEST FOR A CONTROLLED MAINTENANCE PROJECT IS DETERMINED PER PHASE.

Be It Resolved by the Senate of the Seventieth General Assembly of the State of Colorado, the House of Representatives concurring herein:

That in the Joint Rules of the Senate and House of Representatives, Joint Rule No. 45, **amend** (a) (2) (D) as follows:

45. Classification of a Budget Request

Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

(a) Commencing with budget requests for the 2015-16 state fiscal year and each state fiscal year thereafter, in order to facilitate the initial review of budget requests, the following rules apply:

(2) ***Capital construction budget requests reviewed and prioritized by the Capital Development Committee.*** Capital budget requests generally include projects that require a large and temporary outlay of funds for the acquisition, construction, renovation, and maintenance of capital assets. Capital budget requests are reviewed and prioritized by the capital development committee and include budget requests for:

(D) A controlled maintenance project with a total cost of more than $15,000 but less than $2 million in state funds PER PHASE.

Prioritized Supplemental Requests

SUPPLEMENTAL REQUEST, DEPARTMENT PRIORITY #9 GROUP HOME SAFETY RENOVATIONS AND ROLL FORWARD AUTHORITY

	Request	Recommendation
Total	**$600,600**	**$0**
General Fund	600,600	0

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	**No**
JBC staff and the Department do not agree that this request is the result of data that was not available when the original appropriation was made. The request states that the new safety codes were approved October 2013 and implemented January 2014. Therefore the information about new safety codes was effective prior to the close of the FY 2014-15 Long Bill in March 2014.	

Department Request: The Department requests $600,600 General Fund in FY 2014-15 for the capital construction costs to replace the heat-detection fire alarm systems at 28 Regional Center group homes and modify the systems at 12 Regional Center group homes.

Staff Recommendation: Staff recommends that the Committee refer the request to the Capital Development Committee pursuant to Joint Rule 45 (2) (a). Staff recommends the Joint Budget Committee include the following recommendations for consideration by the Capital Development Committee:

- The request be denied for FY 2014-15 because it does not meet supplemental criteria;
- The Joint Budget Committee and/or the Capital Development Committee sponsor legislation to:
  - Transfer the dollars (both General Fund and federal funds) earned for Regional Center depreciation to a new subaccount specifically for Regional Center depreciation and maintenance within the Capital Construction Fund; and
  - Require the Department to submit requests for funding from the new subaccount to the Capital Development Committee for each fiscal year; and
- Recommend the request be funded with depreciation dollars in FY 2015-16.

Staff Analysis: The analysis of this request has three components: (1) whether or not this request should be considered a capital construction request, (2) use of the Regional Center depreciation dollars, and (3) applicability of the request to the three vacant group homes.

Section 1 - Classification of Requests #9 and #10

There is a statutory definition and a joint legislative rule which govern what is classified as a capital construction and a controlled maintenance request and which legislative committee (i.e.

the Joint Budget Committee or the Capital Developmental Committee) is responsible for evaluating capital construction requests.

Section 24-30-1301 (2) (b), C.R.S., defines capital construction as "construction, demolition, remodeling, or renovation of real property necessitated by changes in the program, to meet standards required by applicable codes, to correct other conditions hazardous to the health and safety of persons which are not covered by codes, to effect conservation of energy resources, to effect cost savings for staffing, operations, or maintenance of the facility, or to improve appearance."

Section 24-30-1301 (4) (a), C.R.S., defines controlled maintenance as "corrective repairs or replacement, including improvements for health, life safety, and code requirements, used for existing real property." Therefore, based on the statutory definition of what projects should be classified as capital construction or controlled maintenance, requests #9 and #10 should be classified as either a capital construction or controlled maintenance requests because the funding would be used for renovations to meet standards required by applicable codes.

Joint Legislative Rule 45 (2) (a) requires the Capital Developmental Committee to review and prioritize capital budget requests for "a state-funded capital construction project when a capital construction project, including the cost of initial design, has a total cost of more than $500,000." Additionally the State Architect is required to review controlled maintenance requests. Therefore, both requests 9 and 10 should be reviewed by the State Architect and Capital Developmental Committee because those two bodies have the expertise to review these requests. The Department indicated that since each component of the request (i.e. each heat detection fire alarm system) was less than $500,000, the Office of State Planning and Budgeting had approved the request as operating and not capital.

Additionally, during last year's supplementals for FY 2013-14, the Department requested, and received, the ability to move $420,000 from the Grand Junction Regional Center and Pueblo Regional Center to the Wheat Ridge Regional Center for $420,000 worth of Regional Center group home flooring and cabinet repairs. The Department's supplemental indicated that there would be Medicaid revenues earned from fee-for-services in excess of allowable expenses at the Pueblo Regional Centers and pursuant to Medicaid rules those excess revenues could be used for other purposes as necessary at the Regional Centers. What ultimately happened was the Department transferred $420,000 from the Grand Junction Regional Center Personal Services line item to the Wheat Ridge Regional Center Operating Expenses line item. While within the authority granted to the Department by the General Assembly's footnote, using personal services dollars for capital improvements was not discussed by the Committee during the presentation of last year's request.

Based on the statutory definition and legislative rules, staff recommends the Committee refer both requests 9 and 10 to the Capital Development Committee for their consideration.

Section 2 - Use of the Regional Center Depreciation Dollars

From the FY 2014-15 figure setting document: "the Regional Center Depreciation line item in the Department of Health Care Policy and Financing is intended to enable the State to capture depreciation payments from federal authorities associated with the Regional Centers. The HCPF line item was added through the FY 2003-04 Supplemental Bill (HB 04-1320) to reflect historic department practice where the Department of Human Services (DHS) is required to conduct annual depreciation calculations as part of its federal cost reporting. Medicaid allowable costs are included in the Regional Center daily rates, but because depreciation is associated with a past expenditure and is not a current year operating expense, spending authority has never resided in the DHS budget and the funds appropriated in the HCPF budget (the General Fund and federal matching funds) have reverted to the General Fund at the end of the fiscal year. This process makes sense in terms of capital construction because the majority of capital construction is funded via General Fund transferred to the Capital Construction Fund.

Unfortunately it appears this explanation was not entirely correct. The Department of Human Services is now requesting spending authority for the depreciation dollars, and staff has learned that the dollars appropriated to the Depreciation line item have not reverted to the General Fund. Instead the dollars have been expended as a direct result of HCPF payments made to DHS for the Regional Centers. HCPF indicated the expenditures from the HCPF depreciation line item are not specifically for depreciation costs and are rolled into the payments for Medicaid allowable expenses.

Due to staff's inability to determine how much is actually being drawn down for Regional Center depreciation and maintenance and on what depreciation dollars are being spent **staff is recommending the Committee deny supplemental request #10 and instead the Joint Budget Committee and/or the Capital Development Committee sponsor legislation to transfer the dollars earned for Regional Center depreciation to a new subaccount specifically for Regional Center depreciation and maintenance within the Capital Construction Fund.** This will enable the General Assembly to know exactly how much is being drawn down for Regional Center depreciation and maintenance and would provide a funding source for group home maintenance and improvement projects.

In order to implement a more standardized process by which the General Assembly is able to evaluate capital construction projects for the group homes **staff recommends the legislation include the requirement that the Department of Human Services submit capital construction requests in order to access the funds in the subaccount.** This would help avert questions which have come up over the past two years regarding if a request exceeds the $500,000 threshold, but is comprised of multiple smaller projects, is the request considered operating or capital construction. The recommendation would provide the Department with a clear mechanism for how the General Assembly expects capital construction projects for the Regional Centers to be requested, and would ensure the General Assembly is using the staff and Committee with the expertise in the cost of capital projects to evaluate capital requests.

Since the request for heat detection fire alarm systems is a capital construction request and the depreciation and maintenance dollars are supposed to be used for capital construction projects, staff recommends the Joint Budget Committee include, for consideration by the Capital Development Committee, **the recommendation the funding for the heat detection fire alarm systems be funded from the depreciation dollars subaccount in FY 2015-16.**

Section 3 - Improvements at Vacant Group Homes
Due to a reduction in the number of individuals served by the Regional Centers, the Department has taken three group homes off-line and the request does not include heat detection fire alarm system modifications/replacements to those group homes. If those homes are going to be used again in the future to provide services for individuals that require Regional Center level of care, staff questions if omitting them from the improvements would impede the Departments ability to provide emergency services to individuals if the need arose.

SUPPLEMENTAL REQUEST, DEPARTMENT PRIORITY #10 REGIONAL CENTER SPENDING AUTHORITY

	Request	Recommendation
Total	**$932,429**	**$0**
Federal Funds	932,429	0

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	No
JBC staff and the Department do not agree that this request is the result of a technical error in calculating the original appropriation. The Office of State Planning and Budgeting did a March 17, 2014 comeback for FY 2014-15 figure setting for the Regional Center Depreciation line item and stated in that comeback, "HCPF needs more spending authority than DHS because HCPF must account for its payments to DHS for depreciation as an expense, while DHS does not have an associated expenditure. Although this creates an apparent discrepancy between the two departments' budgets, this methodology properly allows for reimbursement for depreciation to be return to the General Fund." The Department's supplemental request states, "Currently, the Regional Center Depreciation and Annual Adjustments line item is reflected in HCPF's budget as it must account for its depreciation payments to DHS however, the Regional Centers do not have associated depreciation expenditure."	

Department Request: The Department requests $932,429 Medicaid reappropriated funds for facilities maintenance and repair.

Staff Recommendation: Staff recommends the Committee deny the request.

Staff Analysis: See the Staff Analysis section for supplemental request #9.