JOINT BUDGET COMMITTEE

STAFF BUDGET BRIEFING
FY 2022-23

INFORMATION TECHNOLOGY PROJECTS (IT CAPITAL)

JBC WORKING DOCUMENT - SUBJECT TO CHANGE
STAFF RECOMMENDATION DOES NOT REPRESENT COMMITTEE DECISION

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INFORMATION TECHNOLOGY PROJECTS (IT CAPITAL)

IT CAPITAL OVERVIEW

The *Information Technology Projects* or "IT Capital" section of the Long Bill includes appropriations to state departments and institutions of higher education for information technology projects. In 2020, the JBC approved the addition of a separate *Information Technology Projects* section of the Long Bill for the 2021 Long Bill.

Pursuant to Section 2-3-1704 (11)(a), C.R.S., the Joint Technology Committee, or JTC, is tasked with producing a report to the JBC setting forth recommendations and prioritization for information technology budget requests submitted for inclusion in the Long Bill by February 15th each year.

The Joint Budget Committee is required to consider the prioritized list of information technology budget requests made by the Joint Technology Committee. If the Joint Budget Committee alters the determinations of priority established by the Joint Technology Committee, the JBC is required to notify the JTC and allow for a joint meeting to discuss the differences.

Senate Joint Resolution 14-039 created *Joint Rule 45*, which added guidelines and threshold amounts ($500,000 for IT projects) for the categorization of operating, building capital, and IT budget requests. It also establishes a generally open referral process for budget requests that may be more appropriately reviewed or referred for technical review by one of the other committees.

JOINT TECHNOLOGY COMMITTEE

Established in 2013 in H.B. 13-1079, *Creation of the Joint Technology Committee*, the JTC is a statutory, six-member committee of the Colorado Senate and House of Representatives. The JTC was created to provide legislative oversight for the Governor's Office of Information Technology (OIT).

Additionally, prior to FY 2015-16, IT budget requests were submitted and considered as capital construction budget requests and were reviewed and prioritized by the Capital Development Committee (CDC) alongside building capital requests. House Bill 14-1395, *Information Technology Budget Requests*, transferred review of IT capital budget requests to the JTC. The JBC also occasionally seeks the JTC's review of operating budget requests for IT.

STATUTORY DEFINITIONS

Definitions were amended in legislation related to the creation of the JTC in H.B. 14-1395, *Information Technology Budget Requests*. Joint Technology Committee responsibilities and definitions are located at Part 17 of Article 3 of Title 2, C.R.S. Additionally, H.B. 21-1236, a JTC bill, most recently amended definitions to additionally provide for IT-related "maintenance" and repealed prior restrictions on post-implementation support, hardware life-cycle replacement, or maintenance. Sections 2-3-1701 (2) and (2.5), C.R.S., now define *information technology* and *information technology budget request* as follow (emphasis added):

(2) (a) "Information technology" means technology, infrastructure, equipment, systems, software, controlling, displaying, switching, interchanging, transmitting, and receiving data or information, including audio, video, graphics, and text. "Information technology" shall be construed broadly to incorporate future technologies that change or supplant those in effect as of September 7, 2021.

(2.5) "Information technology budget request" means a budget request from a state agency or state institution of higher education for the installation, development, maintenance, or upgrade of information technology, including the purchase of services from the office of information technology on the condition that the use of such services is the most cost beneficial option or falls within the duties and responsibilities of the office of information technology or the office's chief information officer as described in sections 24-37.5-105 and 24-37.5-106. "Information technology budget request" does not include budget requests that are primarily operational in nature or a budget request where the majority of funding will be used to support or modify state staffing levels.

Critically, for purposes of understanding statewide agency access to IT Capital funding, subsection (5) of the provision defines *state agency* exclusively as state agencies within the executive branch. However, subsection (2.5) also provides access to IT Capital to institutions of higher education.

FUND SOURCES AND THE IT CAPITAL ACCOUNT

House Bill 15-1266, *Information Technology Budget Request Process*, created the Information Technology Capital Account in the Capital Construction Fund (IT Capital Account) in Section 24-75-302 (3.7), C.R.S. This account was created to provide dedicated state funding for information technology projects in the capital construction budget while keeping such funding distinct from dedicated funding for building capital projects. The IT Capital Account earns interest and is credited for reversions which incrementally increase funds available for projects in a given fiscal year. IT capital projects may also be funded from cash funds, reappropriated funds, or federal funds.

IT CAPITAL BUDGET: RECENT APPROPRIATIONS

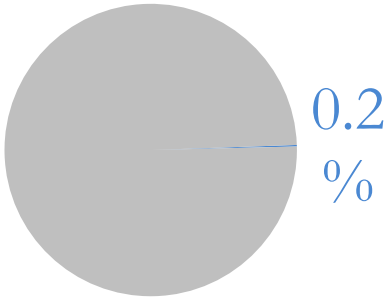
FUNDING SOURCE	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23*
Capital Construction Fund	$19,804,324	$445,000	$28,711,790	$74,780,947
Cash Funds	4,597,441	3,685,795	29,977,393	13,055,157
Reappropriated Funds	8,911,836	0	0	0
Federal Funds	14,199,193	4,005,000	7,246,200	5,489,004
TOTAL FUNDS	**$47,512,794**	**$8,135,795**	**$65,935,383**	**$93,325,108**

*All requested appropriations from OSPB and institutions of higher education.

Capital Construction funding for FY 2021-22 consists of 43.5 percent Capital Construction Fund, 45.5 percent cash funds, and 11.0 percent federal funds.

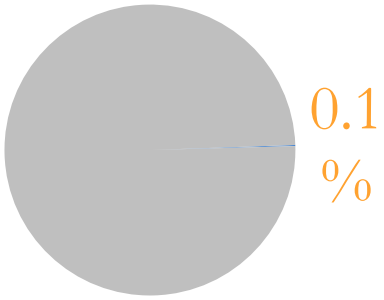
IT CAPITAL BUDGET: GRAPHIC OVERVIEW

IT CAPITAL'S SHARE OF STATEWIDE GENERAL FUND



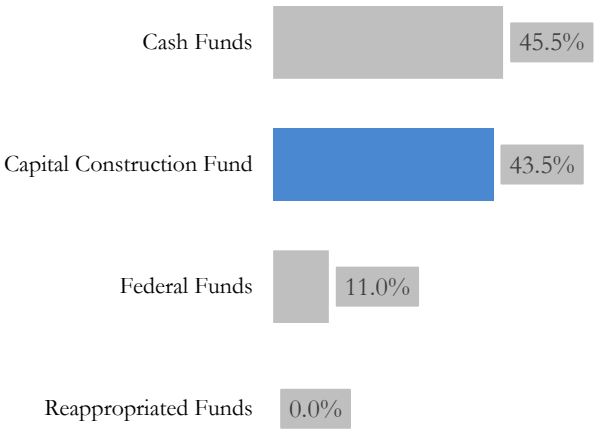
Based on the FY 2021-22 GF transfer to IT Capital.

IT CAPITAL'S SHARE OF STATEWIDE GENERAL FUND - 5-YEAR



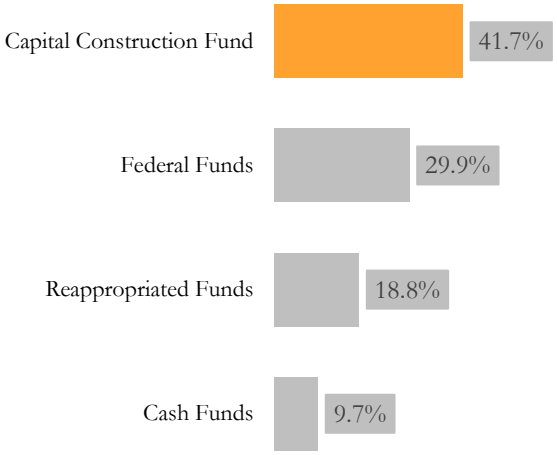
Based on the General Fund transfers to IT Capital FY 2017-18 through FY 21-22.

IT CAPITAL FUNDING SOURCES



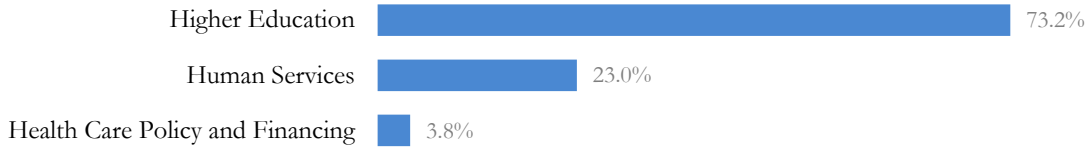
Based on the FY 2021-22 appropriation.

IT CAPITAL FUNDING SOURCES - 5-YEAR



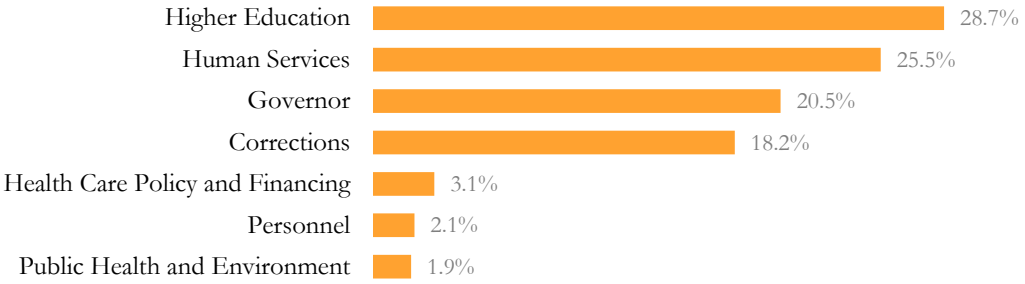
Based on the FY 2017-18 through FY 2021-22 appropriations.

Distribution of Capital Construction Fund by Department



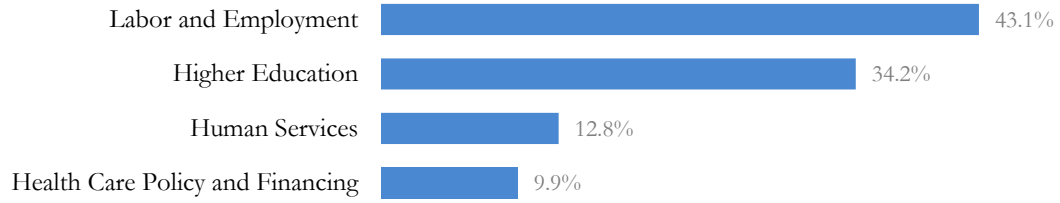
Based on the FY 2021-22 appropriation.

Distribution of Capital Construction Fund by Department - 5-year



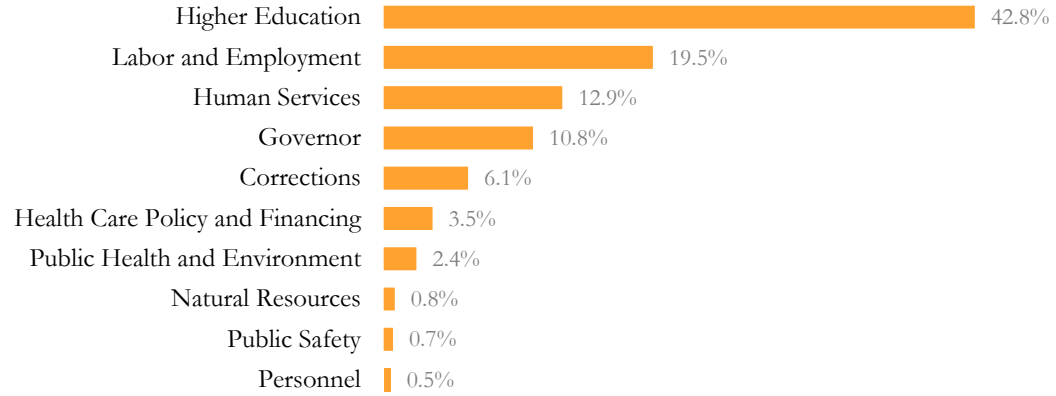
Based on the FY 2017-18 through FY 2021-22 appropriations.

Distribution of Total Funds by Department



Based on the FY 2021-22 appropriation.

Distribution of Total Funds by Department - 5-year



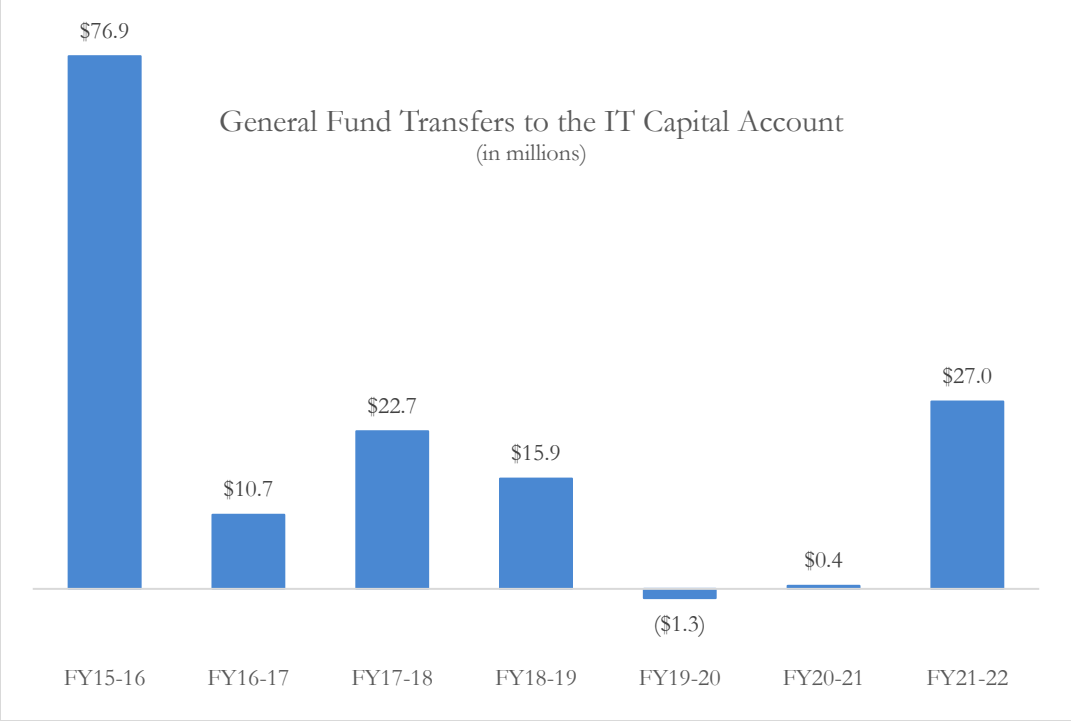
Based on the FY 2017-18 through FY 2021-22 appropriations.

GENERAL FACTORS DRIVING THE BUDGET

REVENUE AVAILABLE FOR IT CAPITAL

The primary budget driver is General Fund revenue available in any given year. Transfers to the IT Capital Account of the Capital Construction Fund from the General Fund vary from year-to-year. The amount appropriated for IT capital is based on the Governor's request, Joint Technology Committee recommendations, and on the most recent forecast of revenues available, given constitutional, statutory, and other budget constraints.

General Fund transfers to the IT Capital Account are not necessarily equal to appropriations from the IT Capital Account due to annual interest earnings and reversions credited to the Account in any year. Appropriations from the IT Capital Account are the best data point available to track annual state-funded commitment for IT Capital. However, General Fund transfers to the Account provide a generally equivalent reflection of the state-funded commitment for IT Capital over time. The following chart outlines General Fund transfers to the IT Capital Account since FY 2015-16.



Capital Construction Fund appropriations in FY 2019-20 totaled $19.8 million. However, reversions from the FY 2015-16 appropriation generated a surplus balance that was transferred back to the General Fund for balancing purposes in the 2020 budget cycle. This resulted in the negative $1.3 million transfer reflected in the chart.

SUMMARY: FY 2021-22 APPROPRIATION & FY 2022-23 REQUEST

INFORMATION TECHNOLOGY PROJECTS								
			TOTAL FUNDS	CAPITAL CONSTRUCTION FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	ADD'L OUT-YEAR STATE FUNDS
		FY 2021-22 APPROPRIATION						
		FY 2021-22 Long Bill (S.B. 21-205)	65,935,383	28,711,790	29,977,393	0	7,246,200	
		TOTAL	**$65,935,383**	**$28,711,790**	**$29,977,393**	**$0**	**$7,246,200**	
Priority								
OSPB	**CCHE**	**FY 2022-23 OSPB PRIORITIZED REQUEST**						
1		GOV OeHI Rural Connectivity	10,978,008	5,489,004	0	0	5,489,004	231,568
2		DOC Modernize Timekeeping Scheduling Sys	1,282,965	1,282,965	0	0	0	0
?		Placeholder - forthcoming Budget Amendments	34,282,827	23,500,000	10,782,827	0	0	0
		SUBTOTAL - OSPB Prioritized Requests	**$46,543,800**	**$30,271,969**	**$10,782,827**	**$0**	**$5,489,004**	**$231,568**
OSPB	**CCHE**	**FY 2022-23 CCHE PRIORITIZED REQUEST**						
np	**1**	CSU Upgrade Network Hardware	1,137,120	646,119	491,001	0	0	2,157,143
np	**2**	ASU/FLC/WCU Digital Transformation Initiative for Rural Higher Education	15,721,200	15,563,988	157,212	0	0	0
np	**3**	MSU-D Reimagining the Campus Digital Experience	3,685,000	3,350,000	335,000	0	0	9,300,000
np	**4**	MSU-D Network Infrastructure Modernization	1,045,000	795,000	250,000	0	0	750,000
np	**5**	CCD Classroom and Conference Room Technology	1,629,936	1,532,140	97,796	0	0	1,627,899
np	**6**	CSM Re-envisioning Mines ERP and SIS	2,543,000	2,304,000	239,000	0	0	5,943,000
np	**7**	CMU ERP Modernization	4,598,000	4,133,602	464,398	0	0	0
np	**8**	UNC ERP Modernization and Cloud Migration	4,510,515	4,325,584	184,931	0	0	0
np	**9**	CNCC/LCC/MSCC/NJC/OC/TSC Rural College Consortium	8,627,000	8,627,000	0	0	0	0
np	**10**	CCA Improving Student Access to Technology	529,915	476,923	52,992	0	0	0
np	**11**	CSU-P Communications System Upgrade	2,754,622	2,754,622	0	0	0	0
		SUBTOTAL - CCHE Prioritized Requests	**$46,781,308**	**$44,508,978**	**$2,272,330**	**$0**	**$0**	**$19,778,042**
		HED Continuation Projects (1-6)	25,761,256	24,191,247	1,570,009	0	0	19,778,042
		HED New Projects (7-11)	21,020,052	20,317,731	702,321	0	0	0
		TOTAL - All IT Capital Requests	**$93,325,108**	**$74,780,947**	**$13,055,157**	**$0**	**$5,489,004**	**$20,009,610**
		INCREASE/(DECREASE)	$27,389,725	$46,069,157	($16,922,236)	$0	($1,757,196)	
		Percentage Change	41.5%	160.5%	(56.4%)	n/a	(24.2%)	

In prior years, the OSPB budget request submission has prioritized requests from institutions of higher education. This year's request did not include prioritization recommendations for institutions. Therefore, staff has included all requests in the summary table in order to capture all requests that may be recommended for funding by the JTC. Additionally, requests from institutions of higher education include six continuation projects funded in the prior year. It is therefore reasonable to assume that these projects will be recommended for funding for FY 2022-23. All identified requests total $93.3 million including $74.8 million in state funds. Current requests, not including the placeholder items, are anticipated to require an additional $20.0 million in state funding in future years. Three of the projects identified with out-year amounts are anticipated to require additional appropriations in FY 2023-24 and FY 2024-25.

REQUEST DESCRIPTIONS – OSPB PRIORITIZED

1. GOV OEHI RURAL CONNECTIVITY: This request, from the Governor's Office of eHealth Innovation, includes an increase of $11.0 million total funds, including $5.5 million Capital Construction Fund and $5.5 million federal funds. This is the second year of funding for this project to increase rural health providers' access to health information, analytics, and technical support to improve the health and safety of rural communities. FY 2021-22 funding for this project totaled $6.5 million, including $1.1 million Capital Construction Fund and $5.4 million federal funds. This project is anticipated to require state funding of $116,000 in both FY 2023-24 and FY 2024-25.

Technical note: This project was similarly requested as a Governor's Office-OeHI project last year. At the time of the Long Bill it was determined that the project should instead be appropriated to the Department of Health Care Policy and Financing (HCPF). The current request narrative specifies that the request intends this appropriation to be located in an OeHI line item located in HCPF. However, if approved, this appropriation will be located in the IT Capital section of the budget, and therefore would not be located in the HCPF operating budget as described in the request. Nevertheless, it appears that this funding, if approved, will be appropriated to HCPF. At this time staff is reflecting the request as an appropriation to the Governor's Office as submitted by OSPB.

2. DOC MODERNIZE TIMEKEEPING AND SCHEDULING SYSTEMS: This one-time request, from the Department of Corrections (DOC), includes an increase of $1.3 million Capital Construction Fund, to modernize the Department's timekeeping and scheduling systems. The project is a system replacement with a customizable off-the-shelf (COTS) system from Kronos, tailored for the Department's scheduling and timekeeping requirements.

?. PLACEHOLDER - FORTHCOMING BUDGET AMENDMENTS: The placeholder amount includes an increase of $34.3 million total funds, including $23.5 million Capital Construction Fund and $10.8 million cash funds for a forthcoming budget amendment submission. There is no information in the request regarding out-year requirements for this budget amendment submission.

REQUEST DESCRIPTIONS – CCHE PRIORITIZED

1. CSU UPGRADE NETWORK HARDWARE: The request includes an increase of $1.1 million total funds, including $646,00 Capital Construction Fund and $491,000 cash funds. This request funds the second phase of a three-phase project for Colorado State University – Fort Collins to upgrade out-of-date networking hardware. FY 2021-22 funding for this project totaled $760,000 total funds, including $541,000 Capital Construction Fund and $219,000 cash funds. This project is anticipated to require state funding of $2.2 million in FY 2023-24.

2. ASU/FLC/WCU DIGITAL TRANSFORMATION INITIATIVE FOR RURAL HIGHER EDUCATION: The request includes an increase of $15.7 million total funds, including $15.6 million Capital Construction Fund and $157,000 cash funds. This request funds the second phase of a two-phase project for Adams State University, Fort Lewis College, and Western Colorado University. The joint project modernizes the institutions' Enterprise Resource Planning (ERP) systems, which manage human resources and finance components, and student information systems (SIS), and the move to a

cloud-based ERP/SIS solution. FY 2021-22 funding for this project totaled $9.3 million total funds, including $9.2 million Capital Construction Fund and $93,000 cash funds.

3. MSU-D REIMAGINING THE CAMPUS DIGITAL EXPERIENCE: The request includes an increase of $3.7 million total funds, including $3.4 million Capital Construction Fund and $335,000 cash funds. This request funds the second phase of a four-phase project for the Metropolitan State University of Denver to replace ERP and SIS systems. FY 2021-22 funding for this project totaled $1.5 million total funds, including $1.3 million Capital Construction Fund and $200,000 cash funds. This project is anticipated to require state funding of $4.6 million in FY 2023-24 and $4.7 million in FY 2024-25.

4. MSU-D NETWORK INFRASTRUCTURE MODERNIZATION: The request includes an increase of $1.0 million total funds, including $795,000 Capital Construction Fund and $250,000 cash funds. This request funds the second phase of a three-phase project for the Metropolitan State University of Denver to modernize network infrastructure and address deferred maintenance on current IT infrastructure. FY 2021-22 funding for this project totaled $1.5 million total funds, including $1.3 million Capital Construction Fund and $250,000 cash funds. This project is anticipated to require state funding of $750,000 in FY 2023-24.

5. CCD CLASSROOM AND CONFERENCE ROOM TECHNOLOGY: The request includes an increase of $1.6 million total funds, including $1.5 million Capital Construction Fund and $98,000 cash funds. This request funds the second phase of a three-phase project for the Community College of Denver to replace, update, and standardize the College's classroom and conference room technology. FY 2021-22 funding for this project totaled $1.7 million total funds, including $1.6 million Capital Construction Fund and $102,000 cash funds. This project is anticipated to require state funding of $1.6 million in FY 2023-24.

6. CSM RE-ENVISIONING MINES ERP AND SIS: The request includes an increase of $2.5 million total funds, including $2.3 million Capital Construction Fund and $239,000 cash funds. This request funds the second phase of a four-phase project for the Colorado School of Mines to modernize ERP and SIS systems. FY 2021-22 funding for this project totaled $911,000 total funds, including $789,000 Capital Construction Fund and $122,000 cash funds. This project is anticipated to require state funding of $2.8 million in FY 2023-24 and $3.2 million in FY 2024-25.

7. CMU ERP MODERNIZATION: The request includes an increase of $4.6 million total funds, including $4.1 million Capital Construction Fund and $464,000 cash funds. This request funds a one-phase project for the Colorado Mesa University to modernize its ERP system.

8. UNC ERP MODERNIZATION AND CLOUD MIGRATION: The request includes an increase of $4.5 million total funds, including $4.3 million Capital Construction Fund and $185,000 cash funds. This request funds a one-phase project for the University of Northern Colorado to modernize its ERP system to include cloud migration.

9. CNCC/LCC/MSCC/NJC/OC/TSC RURAL COLLEGE CONSORTIUM: The request includes an increase of $8.6 million Capital Construction Fund. This request funds a one-phase consortium project for the Colorado Northwestern Community College, Lamar Community College, Morgan State Community College, Northeastern Junior College, Otero College, and Trinidad State College to modernize technology infrastructure that includes network, server, and security infrastructure and classroom technology.

10. CCA IMPROVING STUDENT ACCESS TO TECHNOLOGY: The request includes an increase of $530,000 total funds, including $477,000 Capital Construction Fund and $53,000 cash funds. This request funds a one-phase project for the Community College of Aurora to address wireless access and classroom computing.

11. CSU-P COMMUNICATIONS SYSTEM UPGRADE: The request includes an increase of $2.8 million Capital Construction Fund. This request funds a one-phase project for Colorado State University – Pueblo to replace the campus traditional PBX telephone system with a voice-over internet protocol (VOIP) system.

ISSUE: STATEWIDE AGENCY ACCESS TO THE IT CAPITAL BUDGET PROCESS AND FUNDING

Current statute limits access to the IT Capital budget process and IT Capital dedicated funding to state agencies in the executive branch and institutions of higher education. This limits the opportunity for state agencies from the independent branches and elected official departments from the opportunity to submit project requests for dedicated state funding for large-scale, IT projects. This gap in process also reduces the specialized, technical, and ongoing legislative oversight of the development and implementation of large-scale IT projects provided by the Joint Technology Committee.

SUMMARY:

- The JTC was initially created to provide technical, legislative oversight to the operations and policies of the Governor's Office of Information Technology (OIT). Later, the JTC was additionally charged with review of IT Capital budget requests.

- IT Capital requests were previously considered and prioritized by the Capital Development Committee alongside building capital budget requests; and prior to the creation of the JTC and its review of IT Capital budget requests, such requests followed the statutory guidance for capital construction, which apply to all state agencies.

- However, Section 2-3-1701 (5), C.R.S., in the Joint Technology Committee section of statute, defines *state agency* as executive branch agencies only; and subsection (2.5) defines and limits *information technology budget requests* to state agencies and institutions of higher education.

- Section 24-75-302 (3.7), C.R.S., creates the Information Technology Capital Account and broadly provides that the General Assembly may appropriate from the account for information technology projects. However, additional clauses in the provision mirror the JTC section definition, specifying state agencies and institutions of higher education in addressing limitations and restrictions on the use of those appropriations.

- The Joint Budget Committee is substantially aided in making better decisions related to IT projects because of the technical assessment and technical staff resources of the JTC; and is aided by broader General Assembly support gained for critical projects funded in this section of the budget. Additionally, ongoing oversight by the JTC ensure that projects remain visible and that adequate quarterly or annual progress is made toward implementation.

RECOMMENDATION:

Staff recommends that the Committee pursue legislation (1) to clarify statute to provide authority, but not requirement, for the inclusion of information technology projects from non-executive branch state agencies in the IT Capital section of the budget; (2) to further clarify that such items placed in the IT Capital section of the budget become the oversight responsibility of the JTC until project implementation; and (3) to establish annualization requests for previously funded IT Capital projects to be reflected as base budget items in the November budget request.

DISCUSSION:

BACKGROUND

In preparation for the current budget cycle, including staff conversations with the Office of the State Public Defender, an independent agency in the Judicial Department, staff discovered that the IT Capital budget process, as defined in statute, does not provide authority for non-executive branch agencies to be included in the IT Capital budget and budget process.

The key provision is found in the definitions section of Part 17 of Article 3 of Title 2, governing the Joint Technology Committee. Section 2-3-1701 (5), C.R.S., states (emphasis added):

> *(5) "State agency" means all of the departments, divisions, commissions, boards, bureaus, and institutions in the executive branch of the state government. "State agency" does not include the legislative or judicial department, the department of law, the department of state, the department of the treasury, or state-supported institutions of higher education, including the Auraria higher education center established in article 70 of title 23, C.R.S.*

Additionally, the definition of an "information technology budget request" in subsection (2.5) limits requests to defined state agencies and institutions of higher education.

The equivalent definition provision in Part 16, governing the Capital Development Committee (CDC), defines "state agency" as "any department, commission, council, board, bureau, committee, office, agency, or other governmental unit of the state. The CDC provisions do not define a "capital construction request".

Additionally, as it regards IT Capital and the JTC, Joint Rule 45, *Classification of a Budget Request*, states:

> *(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:*
>
> *(3) Information technology budget requests reviewed and prioritized by the Joint Technology Committee.*
>
> *(A) Budget requests for information technology with a total project cost that equals or exceeds $500,000 are information technology budget requests that are reviewed and prioritized by the joint technology committee.*
>
> *(B) The joint technology committee shall review any operating budget requests for information technology that the joint budget committee forwards to the joint technology committee for review.*
>
> …
>
> *(d) As used in this Joint Rule, unless the context otherwise requires:*
>
> *(2) "Information technology budget request" and "information technology" have the same meaning as set forth in section 2-3-1701 (2.5), Colorado Revised Statutes.*

Joint Rule 45 also provides that any of the Committees may refer a request to any other Committee at its discretion.

While there is no direct access to the IT Capital process (and therefore JTC review and consideration) for non-executive branch agencies, Joint Rule 45 provides authority for the JBC to refer a request to the JTC. However, there appears to be a lack of clarity in statute on whether the JBC could include an appropriation for an IT project for a non-executive branch agency in the IT Capital budget.

Section 24-75-302 (3.7), C.R.S., creates and defines the Information Technology Capital Account within the Capital Construction Fund. The provision includes the following broad authority: "The general assembly may appropriate moneys in the account for information technology projects." The term "information technology projects" is not defined in statute. The provision continues (emphasis added):

> *All unexpended or unencumbered moneys from an information technology capital account appropriation to a state agency or state institution of higher education for any fiscal year reverts to the account at the end of the period for which the moneys are appropriated. No portion of the unexpended balance of a state agency's or state institution of higher education's information technology capital account appropriation may be used by the state agency or the state institution of higher education for any additional projects that are beyond the scope or design of the original project without further approval by the joint technology committee of such additional project.*

References to "state agency" in this provision do not reference a defined term. However, the language specifying "state agency or state institution of higher education" appears to mirror the definitions in Section 2-3-1701 (2.5) and (5), C.R.S. While it is not clear that appropriations to non-executive branch agencies are prohibited, it appears that this statute was drafted to mirror the definitions that clearly specify only executive branch agencies as state agencies.

Staff has consulted with the Office of Legislative Legal Services, who guided staff to this understanding and, therefore, are in general agreement with staff's explanation of this issue.

From a perspective of fairness and equity, and to establish JBC authority over its discretionary placement of appropriations in the Long Bill, staff recommends that statute be amended only enough to allow for the appropriation of IT projects to non-executive branch agencies in the IT Capital section of the budget.

JTC TECHNICAL EXPERTISE AND ADVISEMENT IN THE BUDGET PROCESS

It appears that the JTC was created primarily to provide competent technical, legislative oversight to the operations and policies of the Governor's Office of Information Technology (OIT). Later, the JTC was charged with review of IT Capital budget requests previously considered and prioritized by the Capital Development Committee alongside building capital budget requests.

Over the last five years, staff worked through concerns and significant budget requests related to the GenTax IT system in the Department of Revenue. The JTC, particularly in the form of its technical staff, were critically helpful to ensure that funding requests were reasonably suited to address the ongoing problems and concerns of the GenTax system. Additionally, the ongoing oversight of the Joint Technology Committee, for projects reviewed, recommended, and funded ensure that projects remain visible and that adequate quarterly or annual progress is made toward implementation.

It is an easier budget practice to rely on an exclusive JBC review, recommendation, and decision of any budget request. However, the review of major IT projects by the JTC also provide for broader legislative knowledge of, and in some cases, broader General Assembly support for, critical projects as well-vetted and merited budget choices. It is staff's belief that the Joint Budget Committee is substantially aided in making better decisions related to IT projects because of the structure, oversight, and technical staff resources of the JTC; and is aided in gaining broad General Assembly support for projects in this section of the budget.

On that basis, staff questions the current statutory structure of the IT budget request process that limits such requests to executive branch agencies and institutions of higher education. If JTC review processes help rather than hinder budget decisions by the JBC, it appears to be in the interest of the JBC to provide expanded access to the IT Capital and JTC process to non-executive branch agencies.

THE GOVERNOR'S BUDGET SUBMISSION

The Governor/OSPB budget submission for FY 2022-23 includes two executive branch projects and one placeholder amount for an unknown number of forthcoming budget amendment requests. These amounts totaling $30.3 million in state funds are captured in the Governor's request.

However, the OSPB budget does not include recognition or consideration of 11 institution of higher education projects submitted by the Colorado Commission on Higher Education (CCHE), which include six continuation projects initially funded in FY 2021-22. This omission excludes an estimated $24.2 million in state-funded continuation projects and an additional $20.3 million in new requests from institutions of higher education.

In the building capital budget process, OSPB is charged with including, prioritizing, and recommending or not recommending for funding, all submitted capital construction budget requests. Section 24-37-304 (1)(c.5), C.R.S., appears to require OSPB to submit budget requests and prioritization for <u>all</u> state agency or institution of higher education information technology budget requests. Staff assumes that the omission of CCHE requests for FY 2022-23 may have been an oversight. However, the OSPB budget submission letter to the JTC includes the following statement:

> *The Department of Higher Education (CDHE), along with the Commission on Higher Education, reserve the ability to submit a prioritized list to the JTC that may include projects not recommended by OSPB. The department will submit these requests directly to JTC.*

This statement appears to suggest that the Governor's request, through its omission, possibly did not recommend the CCHE projects for funding. Notwithstanding that statement, the OSPB request appears to fall short of the statutory requirement that all requests be submitted and prioritized and recommended or not recommended for funding.

Regardless, and more importantly, the Governor's budget fails to include, at a minimum, an affirmative recommendation for funding or not funding the continuation projects. This relates more to the issue of transparency and statewide budget balance, in which all known and legally provided budget requests are reflected and addressed affirmatively in the Governor's budget submission.

SUMMATION AND CONCLUSION

Staff understands that the statutory structure limiting access to the IT Capital process to executive-branch agencies was intended to establish legislative oversight over the executive branch, and specifically OIT, but not the independent departments. Such access was also provided to institutions of higher education. Statute guiding OSPB responsibilities appears to include the recommended priority of funding for all requests from executive branch agencies and institutions of higher education.

Staff recommends making a change to statute that does not entail infringing on or ceding authority that independent agencies currently have to submit all budget requests, including for IT projects, directly to the JBC (and avoid the complication of formal submission to OSPB or the JTC through the IT Capital process). Staff does not identify a critical or urgent reason that independent agency requests need to be formally structured into the IT Capital request process at this time.

The decision to refer IT projects to the JTC, is perhaps best left to consideration by the JBC based on the specific context and elements of a request. In all cases, independent department budget requests in the operating budget will continue to capture the estimated budget request amounts, so that the JBC has a clear view of the totality of all request amounts submitted for the year. Similarly, OSPB would maintain its current ability to request generally accurate budget request amounts from the independent agencies prior to the November budget submission.

A project that is "prioritized" and "recommended for funding" by the JTC and then funded and included in the Long Bill by the JBC appears to signify that a legislative budget decision has been made to proceed with the project with an intention of completion. This decision, as with budget decisions in the operating budget, necessarily incorporates the totality of the request, which may include out-year funding requirements for project completion. <u>However, once a decision has been made and prioritized in the first year of funding, it is unclear to staff why a second, third, or fourth recommendation for prioritization and funding should be required in future years.</u>

In the operating budget, this is treated as an annualization; and occurs for budget decisions in budget bills and in fiscal notes for regular legislation. These are technical adjustments that are made to the base appropriation for the following budget year to comport with the decision made in the first year. There are times when an adjustment may be made to an annualization that require a reconsideration of the annualization amounts, such as in a revenue downturn or due to new or additional technical information. Nevertheless, annualizations are considered to be budget decisions previously considered and made, and in most cases do not change.

Annualizations, as with all funding built into the base in the operating budget, do not violate the principle that a General Assembly cannot tie the hands of a future General Assembly, as all elements of the budget must be affirmatively approved, including annualizations and the base, as a part of each annual budget decision making. The principle of the annualization is that except for those exceptions, typically related to revenue downturns, funding decisions made in prior years that include out-year adjustments, are simply accepted as made and not brought back to the JBC – or in the case of a bill, to the General Assembly – for reconsideration.

RECOMMENDATION

Staff recommends a minimal adjustment to statute with the following goals in mind:

1. Access to IT Capital funding for non-executive branch agencies by JBC authority: Provide that IT project appropriations to non-executive branch agencies may be included in the IT Capital section of the budget by authority of the JBC. Independent agencies continue to submit projects to the JBC as operating requests; the JBC retains Joint Rule 45 authority to refer such projects to the JTC; the JBC gains clarified statutory authority to fund and locate such projects in the IT Capital budget.

2. Ongoing oversight by the JTC: Provide that such items placed in the IT Capital section of the budget become the oversight responsibility of the JTC until project implementation.

3. Annualize multi-year projects: Provide that multi-year (identified out-year) appropriations for any project appropriated in IT Capital, become base budget items in future years, eliminating the need for prioritization of continuation projects by the JTC. Such base budget items would still require all agencies to submit an annualization request in the formal budget request process. This would require that the OSPB request reflect and include funding for any continuation project funded in a prior IT Capital budget as a matter of course, unless the Governor is affirmatively recommending that a project should be discontinued due to technical issues or for state revenue budget balancing.

Staff further recommends that the Committee pursue this legislation with the supplemental package in order to ensure proper placement of potential appropriations that may be included in the 2022 Long Bill.