

# MEMORANDUM



JOINT  
BUDGET  
COMMITTEE

TO Members of the Joint Budget Committee  
FROM Robin J. Smart (x4955)  
DATE November 11, 2020  
SUBJECT Briefing concerning the SMART Government Act for the FY 2021-22 Budget Cycle

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Executive Branch agencies of the State of Colorado are required to prepare SMART Government Act performance plans and make those plans available to the Joint Budget Committee (JBC) in order to inform decision-making during the annual legislative budget process. In addition to the statutorily required plans and associated reports, periodic strategic planning exercises are performed by the Governor's Office, evidence-based policymaking is being instituted, lean process improvements have been implemented for some programs in some departments, and a dashboard related to the Governor's Bold Four policy areas has been created.

The State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act (Section 2-7-201 through 205, C.R.S.) defines a philosophy for the management of state agencies that includes an employee focus on taxpayer and customer service with the goal of achieving operational excellence. The SMART Government Act calls for integrating measures for evaluating the performance of state departments into the formal state planning process and utilizing the annual budget process as a part of the performance management system to incentivize continuous process improvement.

It is important to note that the SMART Government Act as defined in current law, does not require nor does it provide a framework for performance based budgeting. The performance based budgeting language in the SMART Government Act was repealed with the enactment of H.B. 13-1299 (Changes to the SMART Government Act of 2010).

## HOW IS THE SMART GOVERNMENT ACT IMPLEMENTED?

In its simplest form, the SMART Government Act provides a statutory framework requiring Executive Branch agencies, Judicial Branch offices, and independent Elected Official agencies to develop and provide to the JBC annual performance plans that include goals, objectives, and output metrics used in the evaluation of the department's performance. In addition, it requires joint Committees of Reference (COR) to hold annual SMART Act hearings for each department. The development of the plans and the associated evaluations occur within a selected performance management system. Currently the system utilized by the Governor's Office is Lean, a continuous process improvement methodology implemented by the State in 2011.

Departmental performance plans are typically operational in nature and while appropriations information is included in each plan, they have historically not included a discussion of how the plan and its data support the department's decision-making process for the development of its budget or budget requests. Plans do, however, identify the alignment of the department's "wildly important goals" (WIGs) with the Governor's "Bold Four" priorities. (The acronym WIGs is a part of *The 4 Disciplines of Execution*, a planning and management strategy published in 2012 by Chris McChesney, Jim Huling, and Sean Covey.) Whether they are called WIGs, targets, or long-term goals, these goals

and the associated objectives and metrics should represent a subset of and be clearly aligned with the department's strategic plan.

The Governor's Bold Four priorities are: Tax Reform and Economic Development, Environment and Renewables, Education and Workforce, and Health. Information on these priorities can be found on the Governor's Dashboard. Because the dashboard is grouped by priority, the information contained in it may be useful for members of the General Assembly wishing to review data concerning specific policy areas, however, it may not be as useful when discussing departmental budgets and specific line item funding. For the JBC and its staff, the dashboard may provide context for how a department's WIGs and budget priorities fit within the broad statewide plan and budget.

#### **WHAT ARE THE RESPONSIBILITIES OF THE JOINT BUDGET COMMITTEE?**

In addition to the Joint Budget Committee's power and duty to "study the management, operations, programs, and fiscal needs of the agencies and institutions of Colorado state government," [Section 2-3-203 (1)(a), C.R.S.], the committee has the power and duty to hold hearings as required to review the performance plans and performance evaluations of departments as specified in the SMART Government Act. Based on its review of these performance plans and evaluations and its consideration of each department's legal responsibilities and strategic goals and objectives, the JBC may prioritize requests for new funding that are expressly intended to "enhance productivity, improve efficiency, reduce costs, and eliminate waste in the processes and operations that deliver goods and services to taxpayers and customers of state government" [Section 2-3-203 (1)(b.2), C.R.S.]. For review by members of the JBC, links to department SMART Government Act documents are provided in JBC staff briefing documents.

The Chair of the JBC must assign one Committee member to serve as a liaison for each department. In addition, pursuant to Section 2-7-203 (3)(b), each JBC liaison that has been assigned by the Committee Chair shall inform the joint COR regarding the departments' performance management system and performance plan. This requirement is met through Joint Rule 25(d) meetings with members of the JBC and joint CORs. Specially, Joint Rule 25(d) states the following:

Prior to the thirtieth legislative day, the Joint Budget Committee members shall be available to provide the respective committees with assistance and to explain any Joint Budget Committee responses or recommendations regarding hearings before the Joint Budget Committee of all departments of state government that are within the subject-matter jurisdiction of each committee. After receiving any assistance and explanation from the Joint Budget Committee members, the chairmen of the committees shall communicate any concerns or comments regarding preparation of the long appropriation bill to the Joint Budget Committee members of that house.

JBC staff believes the language in Joint Rule 25(d) puts both COR members and JBC members in a difficult and confusing position. Because the JBC has typically not made decisions concerning the department's budget request by the 30<sup>th</sup> day of the legislative session, the committee has no "responses or recommendations" to explain. Prior to the 2018 session, JBC members frequently found themselves in the position of being asked by CORs to explain departmental budget requests as though the requests were the JBC's recommendation. Beginning in 2018, members of the JBC began providing guidance to the CORs prior to the joint meetings and requested that the COR members be prepared to provide input, including COR priorities, on each department's budget request. In order

MEMORANDUM  
NOVEMBER 11, 2020

to align Joint Rule 25(d) with current practice, JBC staff suggests that the committee consider recommending a joint resolution that amends Joint Rule 25(d) to reflect the JBC's guidance to the CORs as follows:

Prior to the thirtieth legislative day, the Joint Budget Committee members shall be available to provide DISCUSS, IN A JOINT MEETING WITH the respective JOINT committees with assistance and to explain any Joint Budget Committee responses or recommendations regarding hearings before the Joint Budget Committee of OF REFERENCE, ANY RELEVANT INFORMATION AND ANALYSES CONCERNING THE GOVERNOR'S ANNUAL BUDGET REQUEST, INCLUDING INFORMATION OBTAINED THROUGH THE JOINT BUDGET COMMITTEE BRIEFING AND DEPARTMENT HEARING PROCESSES FOR all departments of state government that are within the subject-matter jurisdiction of each committee. After receiving any assistance and explanation from the Joint Budget Committee members, the chairmen of the committees shall communicate any concerns or comments regarding preparation of the long appropriation bill to the Joint Budget Committee members of that house. JOINT COMMITTEE OF REFERENCE. THE RESPECTIVE COMMITTEES SHALL INFORM THE BUDGET PROCESS BY PROVIDING THE JOINT BUDGET COMMITTEE WITH ANY RELEVANT INFORMATION AND ANALYSES OBTAINED DURING THE PRESENTATIONS MADE TO THE RESPECTIVE COMMITTEES AS REQUIRED IN THE "STATE MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT (SMART) GOVERNMENT ACT", PART 2 OF ARTICLE 7 OF TITLE 2, COLORADO REVISED STATUTES.

In addition, JBC staff believes that Section 2-7-203 (3)(b), C.R.S., is also problematic as it implies that the member of the JBC who serves as the liaison to the COR for each department is responsible for explaining the performance management system and department performance plan. Because JBC members are not a part of Executive Branch, Judicial Branch, or Elected Official agency planning processes, such explanations should be the responsibility of the Office of State Planning and Budget (OSPB) and each department. Explanations should be provided to the COR during the department's SMART Act hearing required by Section 2-7-203 (2)(a), C.R.S. **Staff recommends that statutory language be amended as follows:**

[Section 2-7-203 (3)](b) The chair of the joint budget committee shall assign one member of the joint budget committee to serve as a liaison for each department. The joint budget committee liaison shall inform the joint committee of reference regarding the department's performance management system and performance plan. DEPARTMENT. THE LIAISON SHALL BE AVAILABLE TO PROVIDE INFORMATION TO THE JOINT COMMITTEE OF REFERENCE CONCERNING INFORMATION OBTAINED THROUGH THE JOINT BUDGET COMMITTEE BRIEFING AND DEPARTMENT HEARING PROCESSES FOR ALL DEPARTMENTS OF STATE GOVERNMENT WITHIN THE SUBJECT-MATTER JURISDICTION OF EACH COMMITTEE OF REFERENCE.

The committee may also wish to consider modifying the language concerning hearings "to review the performance plans and performance evaluation of departments" found in Section 2-3-203 (1)(b.2) if Section 2-7-203 (3)(b) is amended.

MEMORANDUM  
NOVEMBER 11, 2020

### **WHAT ARE THE RESPONSIBILITIES OF THE EXECUTIVE BRANCH?**

The Executive Branch, Judicial Branch offices, and independent Elected Official agencies are required to develop a performance management system that includes components for continuous process improvement, and no later than July 1 of each year, state agencies are required to develop, publish, and distribute to the JBC and appropriate joint COR an annual performance plan. The plan must include:

- a statement of the department's mission or vision;
- a description of the department's major functions;
- performance measures for the department's major functions;
- performance goals that correspond to the department's performance measures and that extend at least three years into the future;
- a narrative description of the strategies necessary to meet the performance goals; and
- a summary of the department's most recent performance evaluation.

Two agencies have special requirements in lieu of submitting a performance plan. The Department of Higher Education will satisfy the requirements of the SMART Government Act through the master plan for postsecondary education maintained by the Colorado Commission on Higher Education (CCHE). The Public Employees' Retirement Association will satisfy the SMART Government Act's requirement to create a performance plan through the association's annual actuarial valuation report and its report to the Governor regarding the policies, financial condition, and administration of the association.

Departments are required to conduct performance evaluations and distribute them to the JBC and the appropriate joint COR at least twice each calendar year. No later than November 1 of each year, the OSPB is required to publish an annual performance report for each executive department. The Departments of State, Treasury, and Law; the Judicial Branch; the Office of State Public Defender, Office of Alternate Defense Counsel, Colorado Energy Office, Office of Economic Development, Office of the Child's Representative, and the Office of the Child Protection Ombudsman are each required to publish their own Annual Performance Reports.

Each performance report must include a summary of the department's performance plan and most recent performance evaluation. The annual performance report must be "clearly written and easily understood" and must be limited to a maximum of four pages per department.

JBC staff is concerned that offices of the Judicial Branch and independent Elected Official offices may not have the capacity to fully implement the SMART Government Act. A staff recommendation concerning the capacity of these agencies to effectively implement the SMART Government Act is pending an in-depth analysis.

### **HOW CAN THE PLANS, EVALUATIONS, AND REPORTS INFORM THE BUDGET PROCESS?**

JBC staff typically perform a quick review of each department's SMART Government Act performance plan, quarterly evaluations, and annual performance reports in order to determine if any information found therein may be useful in the analysis of a department's budget request. If it is determined that information in the plan and evaluations support the analysis process, JBC staff will utilize the data and reference the appropriate SMART Government Act document in his or her briefing or figure setting document. Due to the operational nature of the plans, the output-focused

MEMORANDUM  
NOVEMBER 11, 2020

metrics, and the fact that neither JBC members nor staff provide input on the planning process for the departments the information tends to be of more valuable to the agencies themselves and is rarely utilized in JBC staff analyses.

JBC staff believes that departments should interpret the plan data, combine it with outcome, forecast, cost-benefit, and evidence-based policy data, and subsequently use this information as supporting documentation in the department's prioritized budget requests. **Staff recommends that the Committee consider amending the SMART Government Act to include language requiring each department to provide supporting documentation on how the information included in its performance plan, annual performance report, and quarterly evaluations was used in the prioritization of the department's budget requests.**

**ARE THERE LINKS TO THE DOCUMENTS DISCUSSED IN THIS BRIEFING?**

Current process improvement information can be found at the following link:

<https://operations.colorado.gov/>

SMART Government Act documents for FY 2021-22 legislative budget cycle can be found at the following link. These documents include the FY 2020-21 department performance plans; the FY 2019-20 annual performance report; and departmental quarterly evaluation reports for FY 2019-20 and the first quarter of FY 2020-21.

<https://operations.colorado.gov/performance-management/department-performance-plans>

Documents related to evidence-based policy making can be found at the following link:

<https://www.colorado.gov/governor/research-evidence>

SMART Government Act requirements and deadlines are summarized in the table on the following page.

MEMORANDUM  
NOVEMBER 11, 2020

## ➔ SMART ACT REQUIREMENTS AND DEADLINES

SMART ACT REQUIREMENTS AND DEADLINES				
COMPONENT	DESCRIPTION	STATUTORY DEADLINE	RESPONSIBLE AGENCY	STATUTORY CITE
Development of <b>Continuous Process Improvement System</b>	System based on lean government principles or another widely accepted business process improvement	N/A	Office of State Planning and Budgeting (OSPB)	
Development of <b>Departmental Performance Plans</b> and distribution to JBC and Committees of Reference	Guide to department's major functions and a tool to evaluate performance goals	By July 1 of each year	Each state department	2-7-204 (3)
Publishing of system components and posting of instructions	Performance management system	By August 1 of each year	OSPB and Elected Official Departments	2-7-204 (1)
Filing of <b>Departmental Regulatory Agenda</b> with Legislative Council staff	A summary of new rules or existing rule revisions each department expects to propose each year	By November 1 of each year	Each state department	2-7-203 (4)
Distribution of <b>Departmental Performance Evaluations</b> to JBC and Committees of Reference	A regular review of a department's outcomes as compared to its published performance goals, based on actual historical information	At least twice every calendar year	Each state department	2-7-204 (4)
Publishing of <b>Annual Performance Report</b> ; posting to the OSPB and department web sites	A summary of each department's performance plan and most recent performance evaluation	By November 1 of each year	OSPB and Elected Official Departments	2-7-205
<b>Departmental Presentations</b> before appropriate joint Committees of Reference	A presentation of each department's performance plan, regulatory agenda, budget request, and legislative agenda; must allow time for public testimony	At least one but not more than three hearings in the first two weeks of the regular legislative session.	Each state department	2-7-203 (2)(a)
<b>Meeting of JBC with Committees of Reference</b>	JBC members shall be available to provide the respective committees of reference assistance and to explain any JBC responses or recommendations regarding hearings before the JBC.	Prior to the 30th legislative day - per Joint Rule 25(d)	Committees of Reference	Joint Rule 25(d)
<b>Review and consideration of</b> the performance plans, performance evaluations, and each department's legal responsibilities and strategic goals and objectives	May prioritize department requests for new funding that are expressly intended to enhance productivity, improve efficiency, reduce costs, and eliminate waste in the processes and operations	November through March	Joint Budget Committee	2-7-204 (6)
<b>Performance Audits</b> ; present to Legislative Audit Committee	At least one program/service in two or more departments	Annually	Office of the State Auditor	2-7-204 (5)