

JOINT BUDGET COMMITTEE



STAFF BUDGET BRIEFING FY 2021-22

CAPITAL CONSTRUCTION

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

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ADDITIONAL RESOURCES

Brief summaries of all bills that passed during the 2019 and 2020 legislative sessions that had a fiscal impact on capital construction are available in Appendix A of the annual Appropriations Report: <https://leg.colorado.gov/publications/appropriations-report-fiscal-year-2020-21>

The online version of the briefing document may be found by searching the budget documents on the General Assembly's website by visiting leg.colorado.gov/content/budget/budget-documents. Once on the budge documents page, select the name of this department's *Department/Topic*, "Briefing" under *Type*, and ensure that *Start date* and *End date* encompass the date a document was presented to the JBC.

CAPITAL CONSTRUCTION

CAPITAL CONSTRUCTION OVERVIEW

The capital construction section of the Long Bill includes appropriations to state departments and higher education institutions for capital construction and controlled maintenance projects.

- Capital construction is defined in Section 24-30-1301 (2), C.R.S., and includes purchase of land, construction or demolition of buildings or other physical facilities, site improvement or development, initial purchase and installation of related equipment, and architectural and engineering services for capital projects.
- Controlled maintenance is defined in Section 24-30-1301 (4), C.R.S., and includes corrective repairs or replacement for existing real property "when such work is not funded in an agency's or state institution of higher education's operating budget." Pursuant to Section 23-1-106 (10.2), C.R.S., (added in H.B. 12-1318 and amended in S.B. 17-267) higher education academic facilities, even if constructed using solely cash funds for building constructed prior to July 1, 2018, are also eligible for state controlled maintenance funding.
- Capital renewal is defined in Section 24-30-1301 (3), C.R.S., and includes a controlled maintenance project or multiple controlled maintenance projects with costs exceeding \$2.0 million for corrective repairs or replacement that is more cost effective than smaller individual controlled maintenance projects. Although capital renewal projects are large or bundled controlled maintenance projects, they are submitted and prioritized as capital construction requests for new projects rather than included in the controlled maintenance section of the capital construction budget.

Some key differences between capital construction and operating budget appropriations:

- Pursuant to Section 24-37-304 (c.3) and (c.5), C.R.S., the executive request is first submitted to the Capital Development Committee (CDC). Part 13 of Article 3 of Title 2, C.R.S., outlines responsibilities of the CDC. Pursuant to these provisions, the CDC is responsible for submitting written reports with recommendations to the JBC. Pursuant to Section 2-3-203 (b.1), C.R.S., the JBC is responsible for making capital construction appropriation recommendations. However, statute requires that if the JBC wishes to prioritize capital projects differently from the CDC, it must meet with the CDC prior to making such recommendations to the Appropriations Committees.
- Senate Joint Resolution 14-039 added guidelines and threshold amounts for the categorization of operating, capital, and IT budget requests. Joint rule 45 was added to legislative rules rather than statute to provide greater flexibility for revising guidelines and threshold amounts for categorizing budget requests. Joint rule 45 defines operating, capital, and IT budget requests and specifies that these categories of budget request are reviewed by the JBC, CDC, and the JTC, respectively. It

also establishes a generally open referral process for requests that may be more appropriately reviewed by another committee.

- The majority of capital construction funding in the Long Bill originates as General Fund, transferred into the Capital Construction Fund, from which Long Bill appropriations for capital projects are made.
- Capital construction appropriations become available upon enactment of the Long Bill. If a project is initiated within the fiscal year through the encumbrance of spending authority, the appropriation remains available for a period of three years for completion of the project. The three-year appropriation was first (and is still) authorized in the head notes of the capital construction section of the Long Bill. The three-year appropriation was codified in statute in Section 24-75-303 (5), C.R.S., which was added in a CDC bill, H.B. 18-1371, *Capital Construction Budget Items*. Because a supplemental appropriation amends the original Long Bill appropriation, supplemental appropriations or other non-monetary adjustments to a project in following years did not automatically extend the three-year appropriation. However, H.B. 18-1371, *Capital Construction Budget Items*, codified Long Bill head notes in statute and specified that appropriations spending authority is automatically extended for three years for any project receiving a supplemental appropriation, regardless of need.
- Although controlled maintenance projects receive line item appropriations, pursuant to Section 24-30-1303.7, C.R.S., the Executive Director of the Department of Personnel, whose authority is typically delegated to the State Architect, has authority to transfer funds from one controlled maintenance project to another, when the actual cost of a project exceeds the amount appropriated or when an emergency need arises. Pursuant to Section 24-75-302 (3.2), C.R.S., the State Architect is annually appropriated an amount in the Emergency Controlled Maintenance Account in the Capital Construction Fund. Except for \$3.0 million appropriated in FY 2017-18, \$2.0 million is generally appropriated annually. In FY 2020-21, the account was appropriated \$2,043,768 and received an additional \$9.3 million from proceeds from the second tranche of S.B. 17-267 collateralization COPs pursuant to H.B. 20-1408, *Distribution of HB20-1377 Capital Construction Fund Money*. Reporting prior to 2020 shows \$2.5 to \$3.0 million per year spent on emergencies based on controlled maintenance spending authority.

SIGNIFICANT LEGISLATION

S.B. 20-003 STATE PARKS IMPROVEMENT APPROPRIATION

Provides \$1.0 million to the Department of Natural Resources for infrastructure projects at the new Fishers Peak State Park. For FY 2020-21, reduces appropriations by \$1.0 million General Fund to the Governor's Office of Information Technology; transfers \$1.0 million General Fund to the Capital Construction Fund; and appropriates \$1.0 million Capital Construction Fund to the Department of Natural Resources.

S.B. 20-219 LEASE-PURCHASE ISSUANCE FOR CAPITAL CONSTRUCTION

Requires the state treasurer to execute a lease-purchase agreement of up to \$65.5 million to fund the continuation of previously funded capital construction projects for institutions of higher education. Requires the Capital Development Committee to publish the list of projects to be funded by August

15, 2020. Requires any additional revenue received from the issuance to be credited to the State Architect's Emergency Controlled Maintenance Account. Specifies annual payments of no more than \$5.5 million to begin no earlier than July 1, 2022 (FY 2022-23). The bill does not make appropriations.

H.B. 20-1377 FUND CONTROLLED MAINTENANCE PROJECTS

Directs up to \$49.0 million of the proceeds in excess of \$500 million from issue of the second tranche of S.B. 17-267 lease-purchase agreements to the Capital Construction Fund for controlled maintenance projects. Under the original terms of S.B. 17-267 all proceeds from the lease-purchase issue would have gone to the Colorado Department of Transportation (CDOT). This is a budget balancing bill that provided up to \$49.0 million of revenue for state controlled maintenance projects in FY 2020-21 that would otherwise have gone to CDOT.

H.B. 20-1398 MODIFY AUTOMATIC FUNDING MECHANISM FOR CAPITAL CONSTRUCTION

Suspends the annual depreciation-lease equivalent payment mechanism, defined in Section 24-30-1310 (1)(a), C.R.S., for FY 2020-21. Also exempts the Legislative Department Cash Fund and the Redistricting Account in the Legislative Department Cash Fund from capital reserve requirements related to depreciation-lease equivalent payments. Decreases General Fund appropriations for the annual depreciation-lease equivalent payment in six departments by \$7,561,261, for FY 2020-21, as follows:

ANNUAL DEPRECIATION-LEASE EQUIVALENT PAYMENT APPROPRIATION ADJUSTMENTS FOR FY 2020-21	
DEPARTMENT	GENERAL FUND
Corrections	(\$307,843)
Higher Education	(3,461,717)
Human Services	(3,103,396)
Military and Veterans Affairs	(87,994)
Personnel	(566,806)
Public Health and Environment	(33,505)
Total	(\$7,561,261)

H.B. 20-1408 DISTRIBUTION OF H.B. 20-1377 CAPITAL CONSTRUCTION FUND MONEY

Appropriates for FY 2020-21, a total of \$49.0 million from proceeds deposited in the Capital Construction Fund pursuant to H.B. 20-1377 *Fund Controlled Maintenance Projects* as follows:

- Appropriates \$34,098,768 from the Capital Construction Fund for Level I controlled maintenance projects as included in the table in the bill, representing current and out-year costs of all Level I controlled maintenance projects included in the State Architect's prioritization list.
- Appropriates \$3,826,172 total funds, including \$3,779,372 Capital Construction Fund and \$46,800 cash funds from institutional funds specified for construction projects, to the University of Northern Colorado for the Boiler #3 Replacement capital renewal project.
- Appropriates \$2,819,630 Capital Construction Fund to Adams State University for the Plachy Hall HVAC Upgrade and Replacement capital renewal project.
- Appropriates any remaining money to the State Architect's Emergency Controlled Maintenance Account. This appropriation is estimated to be \$8,302,230 of the maximum of \$49.0 million in proceeds from H.B. 20-1377.

Other recent significant pieces of legislation related to the Capital Construction budget and funding processes include:

- House Bill 18-1374, *Controlled Maintenance Financed Acquired Property*, eliminates the eligibility of buildings financed through lease-purchase agreements, such as certificates of participation (COPs), to receive future state funding for controlled maintenance. The bill requires any future legislation authorizing the issuance of COPs to acquire, construct, or renovate state buildings to include a requirement that a state agency or institution of higher education present a plan for funding future controlled maintenance to the Capital Development Committee. The plan must be presented the December or January before the 16th year after the acquisition or substantial completion of a project financed through a lease-purchase agreement. The plan should assess the controlled maintenance needs of the facility for the next 25 years and may include a request for an additional lease-purchase agreement or a request for state funding. An approved plan must be enacted through a bill, other than the Long Bill or a supplemental bill, unless the plan is from a higher education institution to pay for controlled maintenance from cash funds.
- Senate Bill 17-267, *Sustainability of Rural Colorado*, requires the State to collateralize state buildings through the use of lease purchase agreements in increments of up to \$500.0 million per year beginning in FY 2018-19 for four years (up to \$2.0 billion in total). The first \$120 million from FY 2018-19 proceeds is statutorily allocated for controlled maintenance (\$113.9 million) and capital construction (\$6.1 million). The balance of the proceeds (up to \$1.82 billion) are allocated for highway construction.

Section 23-1-106 (10.2)(a)(III), C.R.S., also added in S.B. 17-267, specifies that academic buildings acquired or constructed solely from institutional cash funds after July 1, 2018, are not eligible for state controlled maintenance funding. Prior to this provision and date, all academic buildings, whether or not funded with state funds, are eligible for state controlled maintenance funding.

- Senate Bill 15-211, *Automatic Funding for Capital Assets*, established in Section 24-30-1310, C.R.S., created a recapitalization *sinking fund* mechanism to route annual depreciation of capital construction projects into the Capital Construction Fund for projects funded beginning in FY 2015-16. Depreciation-lease equivalent payments are included in department operating budgets for this purpose.
- Senate Bill 15-270, *Create the Office of State Architect*, codified the Office of the State Architect and created a statewide planning function in the Office. Pursuant to Section 24-30-1311, C.R.S., the statewide planning function provides centralized planning services for state agencies, provides a technical review of capital construction requests from state agencies for project readiness, and makes recommendations on capital construction and capital renewal project requests made by state agencies for the Governor's Office of State Planning and Budgeting (OSPb).
- House Bill 15-1344, *Fund National Western Center and Capital Construction Projects*, beginning in FY 2019-20, repurposed the annual expenditure (\$20.0 million) for lease payments for COPs issued to finance the construction of the Centennial Correctional Facility expansion project. Effective July 1, 2019, authorizes the State Treasurer to enter into one or more lease-purchase agreements on behalf of Colorado State University (CSU) for a period of up to 20 years to construct facilities at the National Western Center and the CSU main campus. Creates two funds consisting of transfers from the General Fund:

- the National Western Center Trust Fund to make annual lease-purchase payments; and
- the Capitol Complex Master Plan (CCMP) Implementation Fund to fund projects included in the CCMP, subject to the standard capital project review and approval process.

Beginning in FY 2019-20, authorizes an annual General Fund transfer of up to \$20 million to the National Western Center Trust Fund to make annual lease-purchase payments for the term of the COPs. Beginning in FY 2019-20, also authorizes a General Fund transfer to the CCMP Implementation Fund and a potential transfer to the Controlled Maintenance Trust Fund (CMTF). If COPs have been issued on behalf of CSU projects, the amount transferred to the CCMP Implementation Fund will represent the difference between \$20 million and the annual lease purchase payment. However, if no COPs have been issued, the bill authorizes a \$10 million General Fund transfer to the CCMP Implementation Fund and \$10 million General Fund transfer to the CMTF each year until a lease-purchase payment is due. Limits the total amount transferred to the CCMP Implementation Fund to \$80 million.

CAPITAL CONSTRUCTION BUDGET: RECENT APPROPRIATIONS

FUNDING SOURCE	FY 2018-19 ¹	FY 2019-20	FY 2020-21 ²	FY 2021-22 ³
Capital Construction Fund	\$138,638,766	\$165,262,575	\$52,543,768	\$68,397,147
Cash Funds	182,778,907	179,636,738	71,735,573	31,497,024
Reappropriated Funds	375,000	0	0	0
Federal Funds	0	397,370	31,492,456	2,144,250
TOTAL FUNDS	\$321,792,673	\$345,296,683	\$155,771,797	\$102,038,421

¹Table excludes S.B. 17-267 non-appropriated funding, including \$119,922,495 state funds, provided in FY 2018-19.

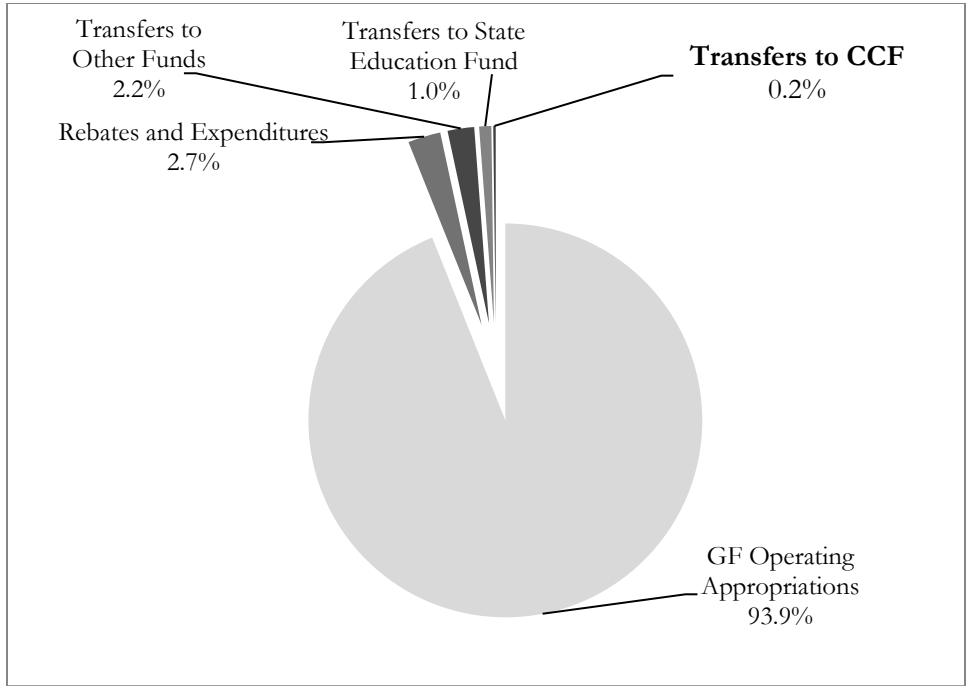
²CCF in FY 2020-21 includes \$2,543,768 appropriated in the Long Bill and \$50.0 million appropriated in other bills.

³Requested appropriation includes Governor's 2-year funding request as submitted without technical corrections.

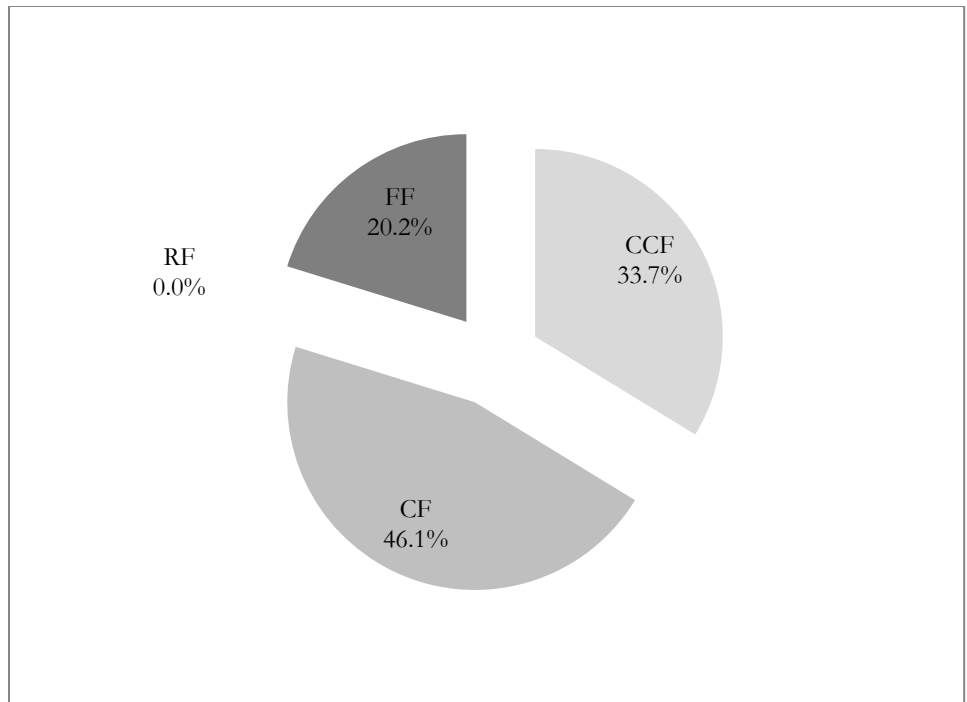
CAPITAL CONSTRUCTION: GRAPHIC OVERVIEW

FY 2020-21 SHARE OF TOTAL STATEWIDE GENERAL FUND

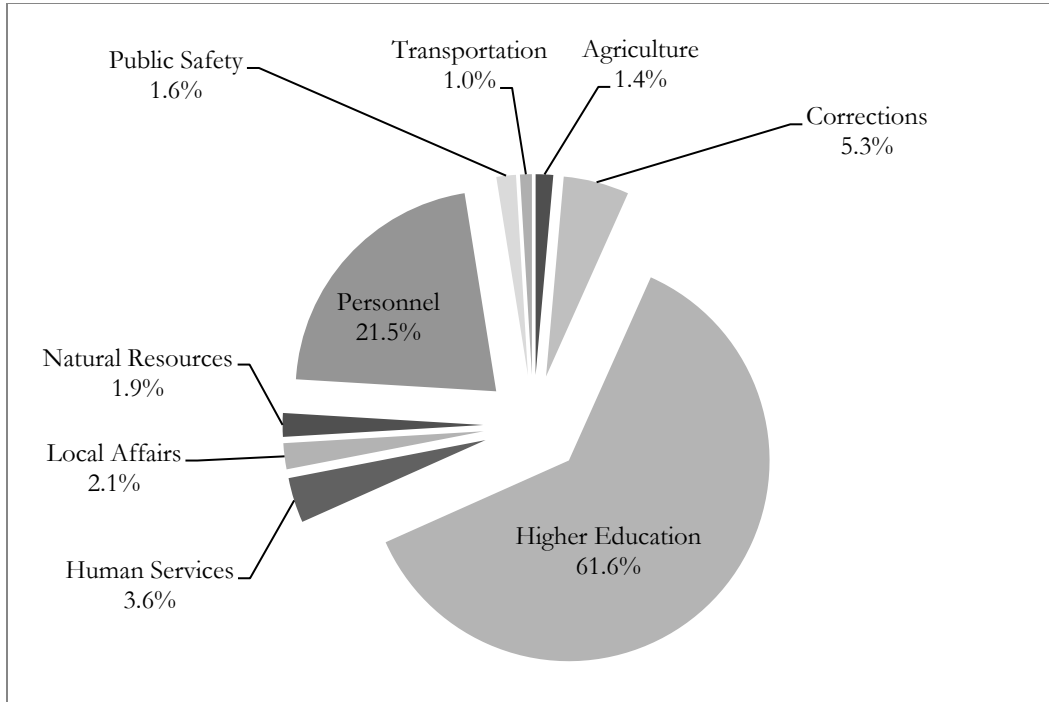
Source: September 2020 Legislative Council Staff Forecast



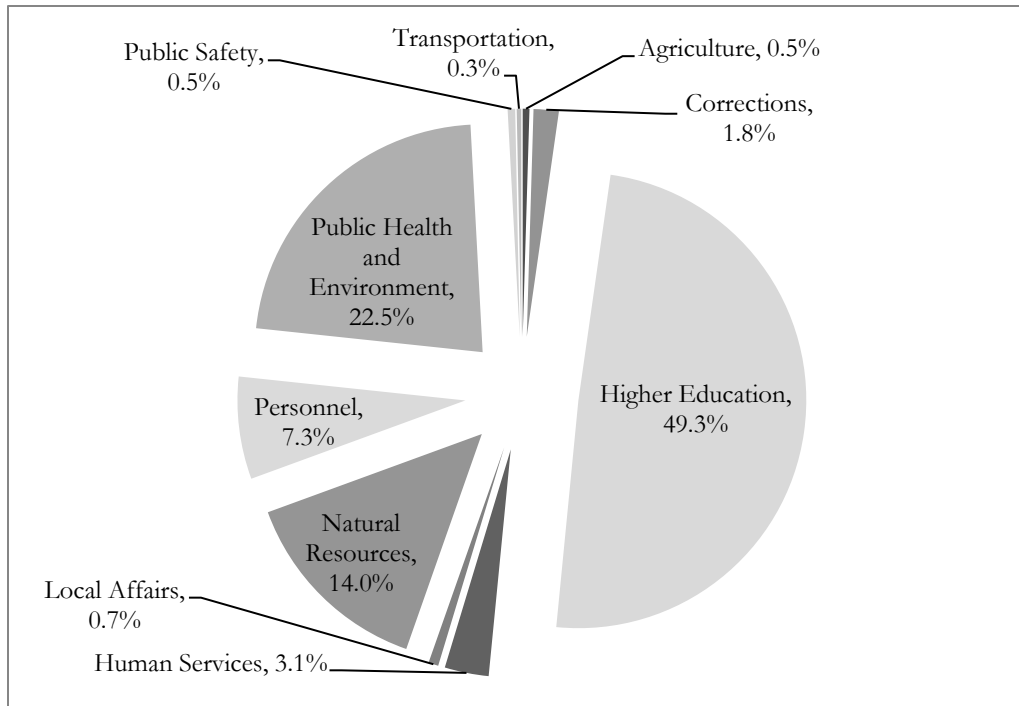
FY 2020-21 CAPITAL CONSTRUCTION FUND SOURCES



FY 2020-21 DISTRIBUTION OF CAPITAL CONSTRUCTION FUND BY DEPARTMENT



FY 2020-21 DISTRIBUTION OF TOTAL FUNDS BY DEPARTMENT



GENERAL FACTORS DRIVING THE BUDGET

Capital Construction funding for FY 2020-21 consists of 33.7 percent Capital Construction Fund, 46.1 percent cash funds, and 20.2 percent federal funds.

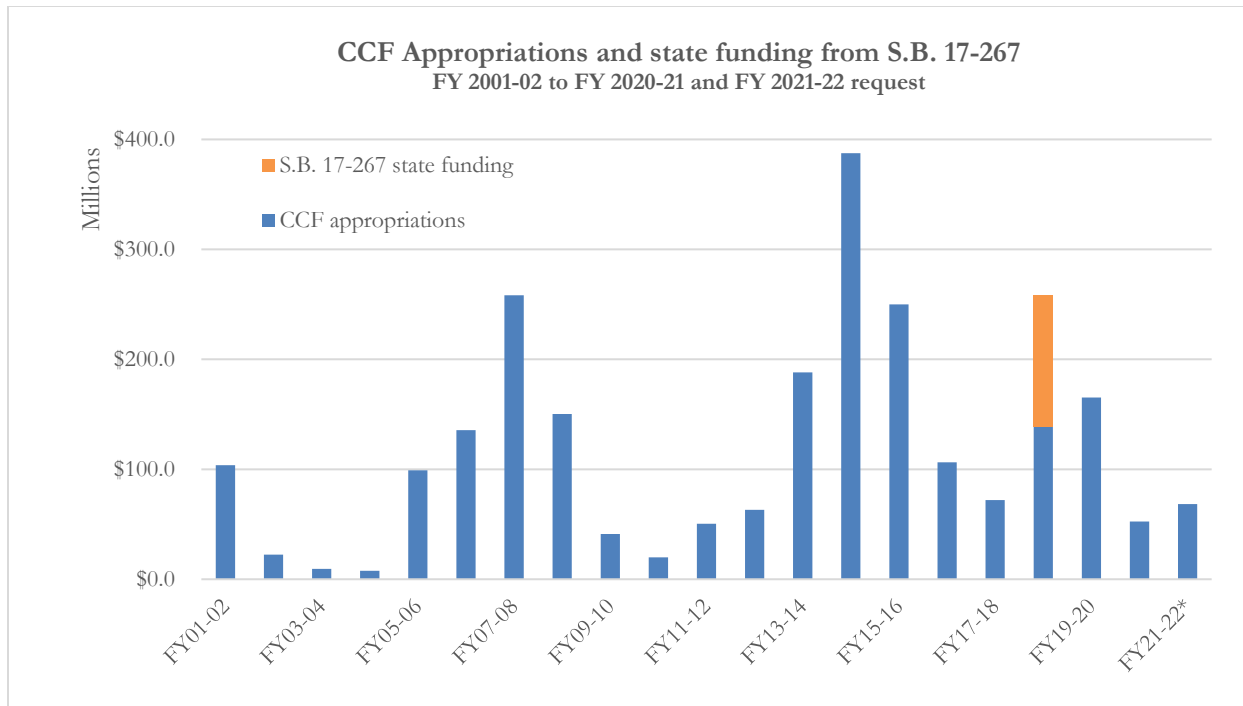
The primary budget driver is General Fund revenue available in any given year. Sufficient funding for controlled maintenance and recapitalization is proportional to the current replacement value of existing building inventory. Additionally, new building construction at institutions of higher education since FY 2003-04 has generated a substantial commitment to controlled maintenance for the State.

REVENUE AVAILABLE FOR CAPITAL CONSTRUCTION

Transfers to the Capital Construction Fund from the General Fund vary substantially from year-to-year. The amount appropriated for capital construction is based on the Governor's request, Capital Development Committee recommendations, and on the most recent forecast of revenues available, given constitutional, statutory, and other budget constraints.

General Fund transfers to the Capital Construction Fund are not necessarily equal to appropriations from the Capital Construction Fund due to annual interest earnings and reversions experienced within the Capital Construction Fund, as well as cash funds transferred into the Capital Construction Fund for specified appropriations. Additionally, some state funds may be transferred into cash funds, pursuant to statute, and identified in the budget as cash funds.

Nevertheless, appropriations from the Capital Construction Fund are the best data point available over time to track and measure the state-funded commitment for capital construction. The following chart outlines appropriations from the Capital Construction Fund since FY 2001-02 through FY 2020-21 and the FY 2021-11 request.



The FY 2018-19 bar in the chart includes the appropriation as well as the statutory state funding enacted in S.B. 17-267. The 20-year average CCF appropriation is \$116.1 million and the 10-year average is \$147.4 million. However, the 5-year average is \$107.0 million and is more representative of the current state funding practice following the substantial amounts provided from FY 2013-14 through FY 2015-16 intended to "catch up" funding following the 2008 economic downturn.

In some years, statutory formulas triggered automatic transfers to the Capital Construction Fund. House Bill 02-1310 provided automatic transfers to the Capital Construction Fund and the Highway Users Tax Fund of excess General Fund revenue. These transfers were replaced in S.B. 09-228 which authorized five years of transfers to the Capital Construction Fund of 0.5 percent of total General Fund revenue for two years followed by 1.0 percent for three years. Due to the complexity of the trigger and transfer mechanisms in S.B. 09-228, H.B. 16-1416 set specified transfers of \$49.8 million for FY 2015-16 and \$52.7 million for FY 2016-17 and S.B. 17-262 specified no transfer for FY 2017-18 and \$60.0 million each year for FY 2018-19 and FY 2019-20.

At one time, automatic statutory transfers of General Fund to the Capital Construction Fund suggested a policy intention to pre-determine a "boost" or "catch-up" for capital construction based on the scale of anticipated General Fund surplus. However, in every year in recent history, total appropriations for capital projects exceed automatic transfers, requiring an additional, annual transfer of General Fund. This experience suggests that automatic statutory transfers are sometimes complex and cumbersome for forecast and planning purposes and, practically, unnecessary, since the necessary amount of General Fund is transferred to meet the appropriations need in each year.

Higher education projects that are non-state-funded (funded entirely through institutional cash and federal funds) are not included in state appropriation bills. Such higher education cash-funded capital construction projects and projects financed through the revenue bond intercept program that exceed \$2.0 million, as well as all controlled maintenance and capital renewal projects that exceed \$10.0 million, are subject to legislative approval for construction from the Capital Development Committee (but not the JBC). Higher education requests for access to financing through the revenue bond intercept program also require JBC approval.

PRIORITIZING CONTROLLED MAINTENANCE AND RECAPITALIZATION

The capital budget process primarily differs from the operating budget process in that budgeting for state agency programs begins from a base which is incrementally adjusted annually. Capital budget items in the capital budget are considered discretionary, new decision items. While the Governor's request provides a total amount that guides the general scale of annual funding for capital construction, the decision on the margin, or on setting the line for funding, is generally made after prioritizing base operating budget items.

As a budget principle, new construction and real property purchases – *capital expansion* – should be addressed as discretionary, new request items. Whereas, controlled maintenance represents the ongoing upkeep of the existing building inventory. That inventory represents state budget decisions previously made to purchase and own buildings and property. However, new construction is prioritized alongside and sometimes ahead of controlled maintenance. The cost of maintaining existing buildings should be considered as a commitment made at the time the decision to purchase and own a building is made.

Building systems experience both a physical life and an economic life. The physical life is the period until system failure. The economic life is the point at which the annual lifecycle cost of maintaining the existing system exceeds the annual lifecycle cost of a replacement system. Therefore, the discretionary budget decision to spend less on controlled maintenance in a given year does not necessarily save the State money and often increases state facility costs. Instead, not funding the timely replacement of state building systems:

- drives a higher cost in facilities management operating budgets due to increased annual repair, maintenance, and utility costs for deteriorating and inefficient building systems;
- increases future year capital costs due to construction inflation, collateral building system failure, and premature facility deterioration; and
- reduces state agency program effectiveness, particularly when deterioration leads to the unscheduled loss of use of facilities.

Capital renewal is defined in Section 24-30-1301 (3), C.R.S., as a controlled maintenance project or group of projects with costs exceeding \$2.0 million in a fiscal year. *Renovation* projects are typically identified as capital construction rather than capital renewal because they include improvement in program space and may also include space additions. While new space in a renovation project is properly characterized as "new construction", a renovation project will also include replacement of existing building systems or subsystems that would otherwise require replacement through controlled maintenance. The term *recapitalization* can be used generally to describe controlled maintenance and capital renewal for recapitalizing the existing building stock, and is therefore a good term that encompasses renovation.

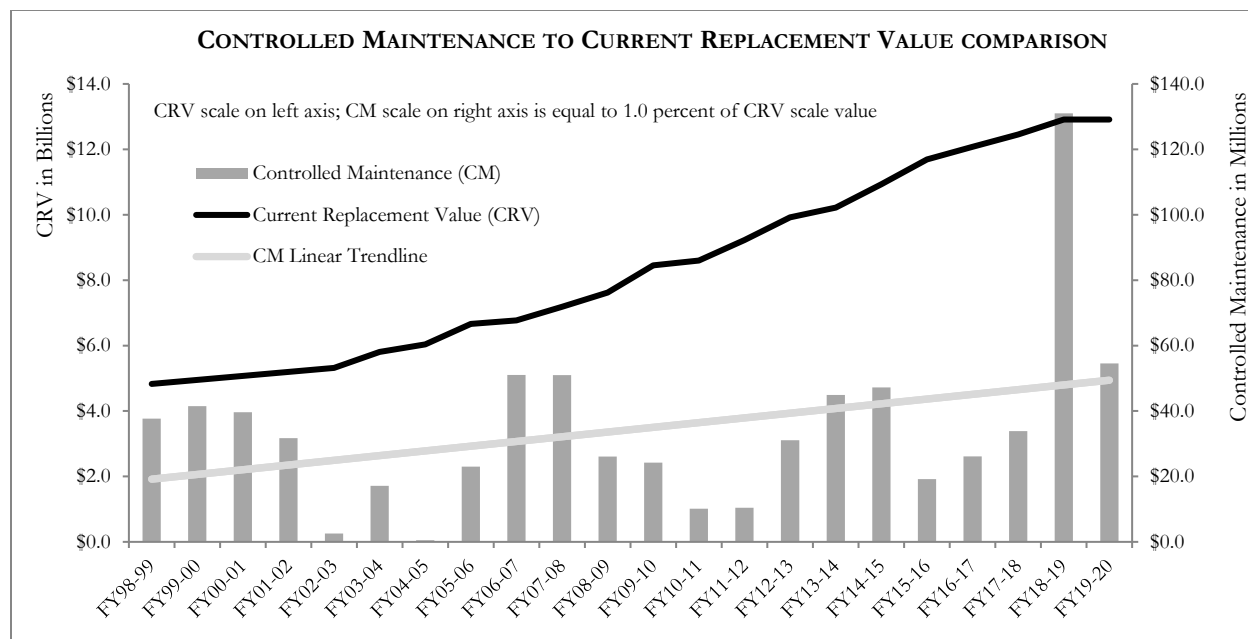
While the terms *repair* and *maintenance* are sometimes used in connection with controlled maintenance projects, ongoing repair and maintenance of systems or subsystems are typically provided by day-to-day facilities management operations and paid for within the annual facility operating cost for a building. Repair and maintenance is an annual process, while recapitalization provides benefits expected to last beyond a year.

Historically, the State Architect's annual report has included the following recommendation:

*Industry standards continue to emphasize that without an annual Reinvestment Rate (RR) of 3% to 4% of the Current Replacement Value (CRV) of a building inventory, conditions cannot be upgraded or maintained at acceptable levels and will continue to deteriorate (Reference: APPA, American Association of Higher Education Facilities Officers, report titled Capital Renewal and Deferred Maintenance Programs 2009). Concurrently, **the Office of the State Architect has recommended as a goal that approximately 1% of the CRV of the State's general funded and academic building inventory be appropriated for Controlled Maintenance on an annual basis to address planned major maintenance and repairs throughout the building inventory and that an additional goal of 1% - 3% of the CRV be appropriated for Capital Renewal/Renovation to address upgrading overall conditions of existing state owned facilities.***

In order to better focus the state's commitment to controlled maintenance and recapitalization, the 2017 capital construction section of the Long Bill was reorganized into sections that clearly segregated controlled maintenance, recapitalization, and new buildings (capital expansion).

The following chart reflects controlled maintenance (CM) funding compared to current replacement value (CRV).

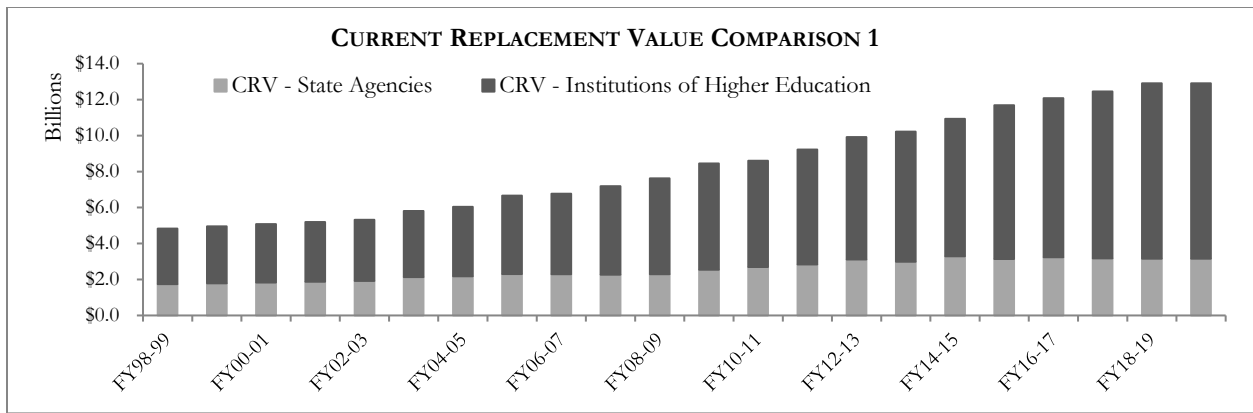


The CRV scale, represented in billions, is shown on the left side of the chart with values reflected in the black line. The CM scale, represented in millions, is shown on the right side of the chart with values reflected in the grey bars. The CM scale is set equal to 1.0 percent of the CRV scale. Controlled maintenance spending in any year that is equal to 1.0 percent of current replacement value would be reflected in the chart as exactly equal to CRV. The space between the bars and the dark line represents the delta – the difference between the actual amount provided for controlled replacement and the amount necessary to fund controlled replacement at 1.0 percent of current replacement value.

In FY 2018-19, total controlled maintenance funding of \$129.0 million, which included \$15.1 million in Long Bill appropriations and \$113.9 million in state funds from S.B. 17-267 collateralization COPs, just equaled 1.0 percent of CRV of \$12.91 billion. Additional funds from S.B. 17-267 collateralization COPs provided a substantial one-time funding boost for controlled maintenance. However, keep in mind that the State Architect's recommended funding for controlled maintenance is 1.0 percent per year. Controlled maintenance funding equal to 1.0 percent of CRV would require a similar effort each year to meet that standard.

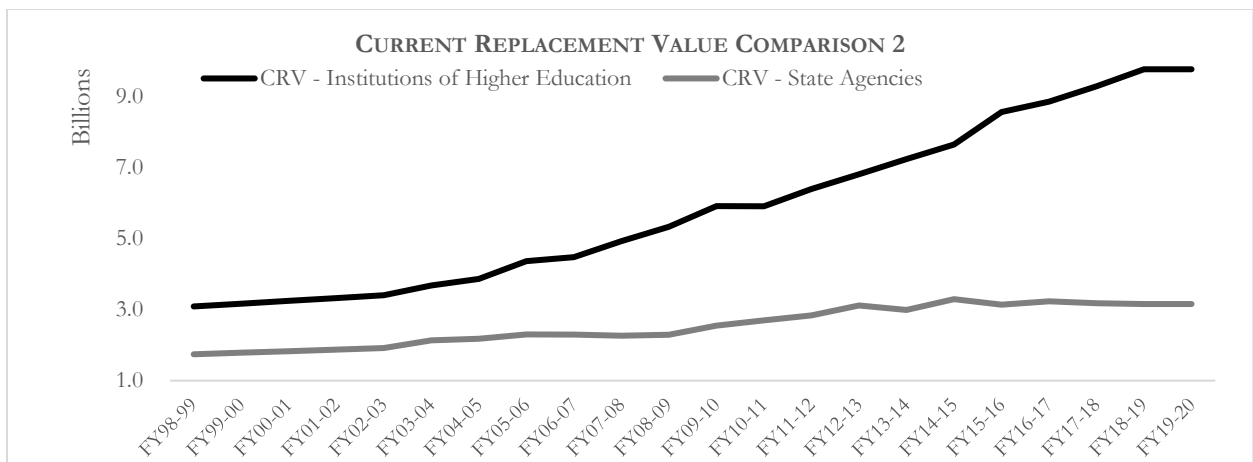
COMMITMENTS FOR HIGHER EDUCATION CAPITAL CONSTRUCTION

Institutions of Higher Education hold the largest portion of the state's building inventory. The higher education total does not include the value of non-academic buildings, which are not provided state-funded controlled maintenance. The following chart outlines the current replacement value of academic buildings at institutions of higher education and state agencies since FY 1998-99 in a stacked column comparison to reflect both total scale and relative share.



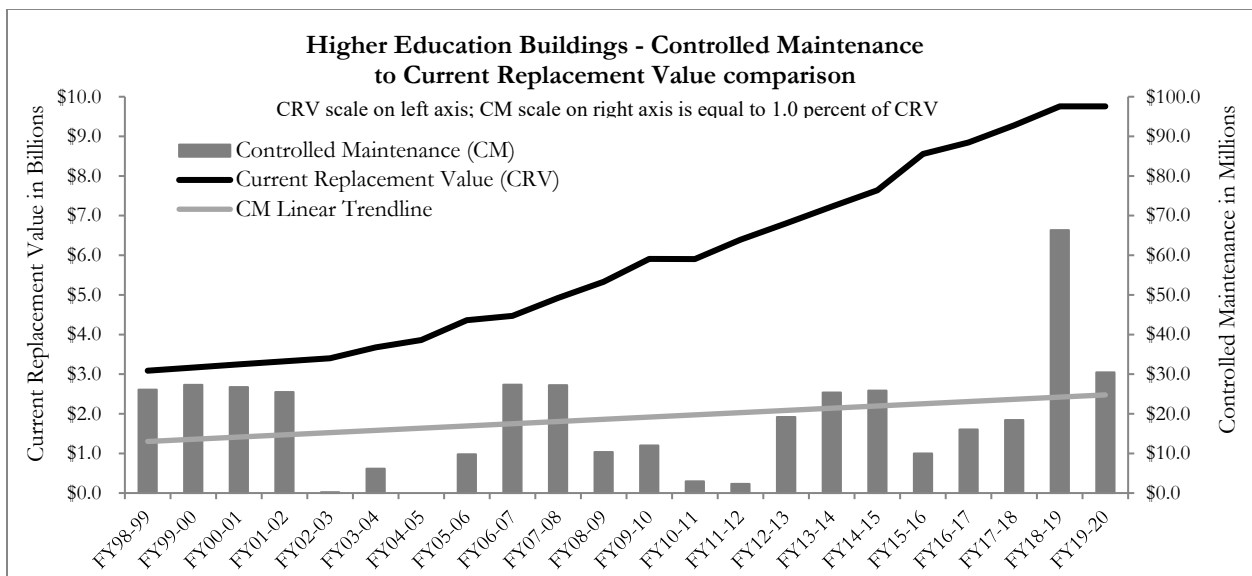
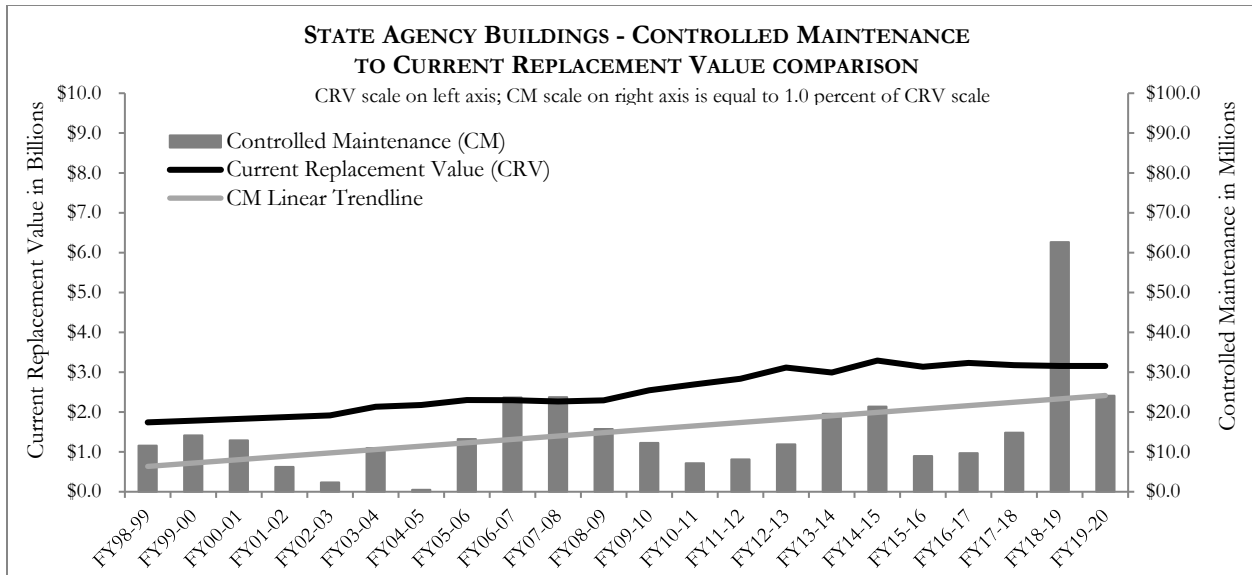
As of the values identified for FY 2018-19, the current replacement value for state agency buildings totaled \$3.2 billion. The current replacement value for institution of higher education buildings totaled \$9.8 billion. State agencies and institutions of higher education represent 24.4 percent and 75.6 percent of the \$12.9 billion state building inventory, respectively.

In FY 1998-99, current replacement values totaled \$1.7 billion and \$3.1 billion, respectively, representing 36.1 percent and 63.9 percent of the \$4.8 billion total state building inventory. The state agency building inventory increased 85.1 percent over the 21-year period shown in the chart, a compound average growth rate of 2.7 percent per year, while the institutions of higher education building inventory increased 208.3 percent over that period, a compound average growth rate of 5.5 percent per year. The following comparison line chart reflects the change in CRV for each in a direct comparison.



Just over \$6.5 billion of building inventory for institutions of higher education has been added since FY 1998-99 and \$6.1 billion has been added since FY 2003-04. The general condition of newer building stock requires less controlled maintenance. However, the State begins funding controlled maintenance for buildings at 15 years. The building inventory added beginning in FY 2004-05 began qualifying for state-funded controlled maintenance in FY 2019-20.

The following charts outline CM to CRV comparisons by state agency buildings and by higher education buildings.



As the charts suggest visually, the delta between actual controlled maintenance funding and 1.0 percent of current replacement value is very achievable for state agency buildings, but not for higher education buildings.

The current and foreseeable state of revenue limits and budget commitments leads to a reduced ability for the State to provide adequate recapitalization funding annually. Due to the additional revenue sources available to institutions of higher education for capital expansion, state funding for capital construction for institutions of higher education should be almost entirely directed to controlled maintenance, capital renewal, and recapitalization rather than new construction.

Much as there has been an improvement in recent years in emphasizing controlled maintenance and recapitalization in the budget structure, a bifurcated and distinct capital construction approach to state agencies and institutions of higher education may begin to lead to better stewardship practices and state funding choices regarding the state's building inventory.

Effective in the 2021 Long Bill, capital construction will comprise the following sections:

- A building capital or "Capital Construction" section of the Long Bill that is subdivided as follows:
 - Part 1 – Controlled Maintenance
 - Part 2 –Capital Construction for State Agencies
 - (1) Capital Renewal and Recapitalization
 - (2) Capital Expansion
 - Part 3 – Capital Construction for Institutions of Higher Education
 - (1) Capital Renewal and Recapitalization
 - (2) Capital Expansion;
- and
- A separate Information Technology Projects section of the Long Bill.

It is staff's opinion that as long as higher education capital construction is state-funded by project rather than through a proportional funding model in the operating budget that provides a structure for more consistent annual funding:

- Institutions will continue to submit and prioritize new construction over consideration of their entire capital construction infrastructure needs; and
- State agency buildings controlled maintenance and recapitalization will continue to receive less state funding relative to new construction for institutions of higher education due to the lobbying resources brought to bear on the capital development process.

In staff's opinion, the State should not further encourage the buildout of institutions of higher education to the detriment of state agency buildings maintenance due to the current structure of the capital development process. Staff recommends that the Committee actively discuss eliminating funding for institutions of higher education in the capital construction budget, except for controlled maintenance, which is guided by technical recommendation from the State Architect.

SUMMARY: FY 2020-21 APPROPRIATION & FY 2021-22 REQUEST

		CAPITAL CONSTRUCTION					ADD'L OUT-YEAR STATE FUNDS
		TOTAL FUNDS	CAPITAL CONSTRUCTION FUND	CASH FUNDS	REAPPROP. FUNDS	FEDERAL FUNDS	
FY 2020-21 APPROPRIATION:							
FY 2020-21 Long Bill (H.B. 20-1360)		105,724,997	2,543,768	71,688,773	0	31,492,456	
H.B. 20-1408 Dist H.B. 20-1377 CCF Funding		49,046,800	49,000,000	46,800	0	0	
S.B. 20-003 State Parks Improvement Approp		1,000,000	1,000,000	0	0	0	
TOTAL		\$155,771,797	\$52,543,768	\$71,735,573	\$0	\$31,492,456	\$0
Priority							
OSPB	CCHE	FY 2020-21 State-funded Request Placeholders					
11		PLACEHOLDER - DNR: Increase State Park Access					
		20,000,000	20,000,000	0	0	0	
		SUBTOTAL - FY 2020-21 Placeholders		\$0	\$0	\$0	\$0
Priority							
OSPB	CCHE	FY 2021-22 STATE-FUNDED REQUESTED APPROPRIATION:					
n/a	n/a	n/a	n/a	n/a	n/a	n/a	
1		HED: CSU NWC COP Payments ¹					
		(700,000)	(700,000)	0	0	0	0
2		CDOT: Weather Radar System in SW CO ³					
		300,000	300,000	0	0	0	0
3		DMVA: Field Artillery Readiness Ctr ph 1/3					
		2,459,000	614,750	0	0	1,844,250	6,052,250
4		DOC: SCF Steam Condensate Line Repl (cr)					
		8,487,496	8,487,496	0	0	0	0
5		AGR: CSF Water Infrastructure (cr)					
		3,383,907	3,383,907	0	0	0	0
6		DHS: CMHIFL Camp Util Infra ph 2/3 (cr)					
		15,881,605	15,881,605	0	0	0	10,437,060
7		DHS: CMHIP Camp Util Infra ph 1/3 (cr)					
		10,503,970	10,503,970	0	0	0	33,544,191
8		DHS: CMHIP HVAC Repl 4 Bldgs ph 1/3 (cr)					
		4,196,140	4,196,140	0	0	0	49,295,878
9		DOC: Water Tank Repl, ECCPC, (cr)					
		4,729,279	4,729,279	0	0	0	0
10		PLACEHOLDER - DOC: Expansion of TakeTWO Building at BVCF					
		1,000,000	1,000,000	0	0	0	
11		PLACEHOLDER - DNR: Increase State Park Access (FY 20-21 supp reflected above)					
		20,000,000	20,000,000	0	0	0	
		SUBTOTAL - Prioritized Requests		\$0	\$0	\$1,844,250	\$99,329,379
¹ The appropriation for this item originates as General Fund transferred to the National Western Center Trust Fund pursuant to section 23-31-902 (3), C.R.S., and is included in the Long Bill as a cash funds appropriation. This item is cited in the Governor's budget request and identified as N/A in the funding columns. The amount included in the CCHE request for this item is \$9,860,000.							
² This DHS item is included in the Governor's budget request but is not a budget item for appropriation. Staff includes this item as an accurate reflection of the Governor's budget request, but will not include this item in the Long Bill. Sales and dispositions are contractual transactions recorded on the accounting balance sheet as an exchange of property for cash. Resulting cash assets may be used as a fund source for an item of appropriation; but the disposition action is not a budget item for appropriation.							
³ This CDOT request also includes \$400,000 cash funds and \$1,800,000 reappropriated funds, not reflected in the Governor's request table.							
Priority							
OSPB	CCHE	FY 2021-22 CASH-FUNDED REQUESTED APPROPRIATION:					
1		DMVA: Land and Water Transfer, GJRC ⁴					
		0	0	0	0	0	0
2		HistCO: Regional Property Preserv Projects ⁵					
		350,000	0	350,000	0	0	0
3		DHS: Dept-wide Facility Master Plan, ph 2,3/3					
		1,758,841	0	1,758,841	0	0	0
4		DNR: Property Acquisitions and Improv					
		11,000,000	0	11,000,000	0	0	0
5		DNR: Infrastructure and Real Property Maint ⁶					
		18,840,500	0	18,540,500	0	300,000	0
6		CDE: CSDB Dispos of Teller Co. Parcel ⁷					
		(19,300)	0	(19,300)	0	0	0
7		CDE: CSDB Dispos of El Paso Co. Parcel ⁷					
		(113,517)	0	(113,517)	0	0	0
8		CDE: CSDB Dispos Bell Flower Dr. Parcel ⁷					
		(19,500)	0	(19,500)	0	0	0
		SUBTOTAL - Non-prioritized Requests		\$0	\$31,497,024	\$0	\$300,000
⁴ This DMVA project is included in the Governor's budget request but is not a budget item for appropriation. Staff includes this item as an accurate reflection of the Governor's budget request, but will not include this item in the Long Bill.							
⁵ History Colorado requested \$700,000 cash funds; OSPB recommends \$350,000 cash funds.							
⁶ The Governor's request table reflects \$300,000 federal funds; this amount should be reflected as a cash funds appropriation from the HUTF.							

CAPITAL CONSTRUCTION							ADD'L OUT-YEAR STATE FUNDS
	TOTAL FUNDS	CAPITAL CONSTRUCTION FUND	CASH FUNDS	REAPPROP. FUNDS	FEDERAL FUNDS		
⁷ This is the second year these items have been submitted in the Governor's budget request. As staff communicated last year: The Colorado School for the Deaf and the Blind (CSDB) dispositions are included to accurately reflect the Governor's budget request. Negative appropriations applied up to an amount already appropriated are valid appropriation actions. However, there are no existing appropriations to offset. Sales and dispositions are contractual transactions recorded on the accounting balance sheet as an exchange of property for cash. Resulting cash assets may be used as a fund source for an item of appropriation; but the disposition action is not a budget item for appropriation. Staff will once again exclude these requested appropriations in the Long Bill as they are not items of appropriation.							
TOTAL - 2-year Governor's Request							
	\$102,038,421	\$68,397,147	\$31,497,024	\$0	\$2,144,250	\$99,329,379	
INCREASE/(DECREASE)							
	(\$53,733,376)	\$15,853,379	(\$40,238,549)	\$0	(\$29,348,206)		
Percentage Change							
	(34.5%)	30.2%	(56.1%)	n/a	(93.2%)		
Priority							
OSP	CCHE	JBC staff technical adjustments to remove non-appropriation items (subtract from FY 2021-22 total)					
1		DHS: Sell Two Regional Center Homes	(700,000)	(700,000)			
6		CDE: CSDB Dispos of Teller Co. Parcel	(19,300)	0	(19,300)	0	0
7		CDE: CSDB Dispos of El Paso Co. Parcel	(113,517)	0	(113,517)	0	0
8		CDE: CSDB Dispos Bell Flower Dr. Parcel	(19,500)	0	(19,500)	0	0
		SUBTOTAL - Non-appropriation items	(\$852,317)	(\$700,000)	(\$152,317)	\$0	\$0
FY 2021-22 Technical adjustments and cash-funded item not included in Governor's Request (add to FY 2021-22 total)							
		HED: CSU NWC Lease Purchase Payments	9,860,000	0	9,860,000	0	0
2		CDOT: Weather Radar System in SW CO	2,200,000	0	400,000	1,800,000	0
5		DNR: Infrastructure and Real Property Maint	0	0	300,000	0	(300,000)
		SUBTOTAL - Cash-funded items not incl.	\$12,060,000	\$0	\$10,560,000	\$1,800,000	(\$300,000)
FY 2020-21 Supplemental Request (subtract from FY 2021-22 total)							
11		PLACEHOLDER - DNR: Increase State Park Access	20,000,000	20,000,000	0	0	0
		SUBTOTAL - FY 2020-21 Supplemental	\$20,000,000	\$20,000,000	\$0	\$0	\$0
TOTAL - FY 2021-22 Adjusted Governor's Request							
			\$94,950,738	\$49,097,147	\$42,209,341	\$1,800,000	\$1,844,250
TOTAL - FY 2020-21 Supplemental							
			\$20,000,000	\$20,000,000	\$0	\$0	\$0
TOTAL - 2-year Adjusted Governor's Request							
			\$114,950,738	\$69,097,147	\$42,209,341	\$1,800,000	\$1,844,250
INCREASE/(DECREASE)							
			(\$40,821,059)	\$16,553,379	(\$29,526,232)	\$1,800,000	(\$29,648,206)
Percentage Change							
			(26.2%)	31.5%	(41.2%)	n/a	(94.1%)

OSPB PRIORITIZED NOT RECOMMENDED FOR FUNDING AND CCHE PRIORITIZED

The following table includes additional building capital projects prioritized by OSPB and CCHE.

Priority		CAPITAL CONSTRUCTION					ADD'L OUT-YEAR STATE FUNDS	
OSPB	CCHE		TOTAL FUNDS	CAPITAL CONSTRUCTION FUND	CASH FUNDS	REAPPROP. FUNDS		FEDERAL FUNDS
FY 2021-22 STATE-FUNDED - OSPB PRIORITIZED BUT NOT RECOMMENDED FOR FUNDING:								
12		DOC:AVCF Utility Water Lines Replace (cr)	8,817,987	8,817,987	0	0	0	0
13		DOC: AVCF Electronic Security Sys Repl (cr)	3,410,433	3,410,433	0	0	0	0
14		DOC: BVCF Sewer Line Replacement (cr)	2,144,180	2,144,180	0	0	0	0
15		DOC: ECCPC Electr Distrib Infra Repl (cr)	13,522,053	13,522,053	0	0	0	0
16		DOC: SCF Reno Kitchen, Food Svc Bldg (cr)	41,152,591	41,152,591	0	0	0	0
17		DOC: CSP Electronic Security Sys Repl. (cr)	4,406,356	4,406,356	0	0	0	0
18		DOC: AVCF Crit Liv Shower Drain Repl (cr)	11,430,262	11,430,262	0	0	0	0
19		Level I Controlled Maintenance	0	0	0	0	0	0
20		Level II Controlled Maintenance	0	0	0	0	0	0
21		Level III Controlled Maintenance	0	0	0	0	0	0
22		HistCO: Grant-Humphreys Ext Rep (cr)	3,930,232	3,930,232	0	0	0	0
23		DOC: DWCF Support Bldg Roof Repl (cr)	2,026,199	2,026,199	0	0	0	0
24	1	HED: CCA New Diesel Ed/Supp Svcs Bldg	9,395,879	6,188,439	3,207,440	0	0	0
25	2	HED: UCB Hellems Bldg Renov ph 1/4	8,475,200	3,390,080	5,085,120	0	0	31,693,280
26	4	HED: ACC Health Progs Integration Renov	11,152,093	8,364,000	2,788,093	0	0	0
27	5	HED: UCD Eng Phys Sci Bldg Ren ph 1/3	20,584,106	5,146,026	15,438,080	0	0	34,316,394
28	6	HED: CMU Kinesiology Renov and Expan	23,289,512	17,467,133	5,822,379	0	0	0
29	9	HED: CCD BldrCrk Hea Sci Ctr Ren. ph 1/3	7,391,849	6,209,153	1,182,696	0	0	24,670,777
30	10	HED: AHEC Campus-wide HVAC Repl (cr)	20,563,100	20,353,100	210,000	0	0	0
31	11	HED: CSU Anat/Zoo E.WingRev (cr)ph 1/2	15,284,446	15,284,446	0	0	0	13,011,226
		Adjustment for amount submitted by CCHE			3,821,112			
32	12	HED: ASU Central Technology Renov/Add	6,596,186	6,530,224	65,962	0	0	0
33	6	HED: MSU Health Institute ph 1/4	7,156,624	7,156,624	0	0	0	67,496,116
34	13	HED: CSM Arthur Lakes Library Renovation	13,103,729	10,103,729	3,000,000	0	0	0
35	14	HED: UNC Gray Hall Mech Sys Repl (cr)	3,698,171	3,653,171	45,000	0	0	0
36	18	HED: ASU Facility Services	16,063,148	15,902,516	160,632	0	0	0
37	15	HED: CMU Electr/Comp Eng Bldg	23,165,753	19,227,574	3,938,179	0	0	0
38	19	HED: CMU Perf Arts Renov/Exp ph 1/2	5,016,211	4,564,751	451,460	0	0	26,286,747
39	21	HED: CMU Student Parking Garage	24,912,633	22,670,495	2,242,138	0	0	0
40	24	HED: CMU Energy Independence	7,609,132	6,924,309	684,823	0	0	0
41	3	HED: CSU Clark Bldg Renov/Add ph 1/2	65,629,037	35,629,037	30,000,000	0	0	32,778,388
42	15	HED: CSU ARDEC Infrastr Improv ph 1/2	13,536,164	13,536,164	0	0	0	5,067,780
43	22	HED: CSU-P Technology Bldg Renov/Add	17,122,654	16,952,654	170,000	0	0	0
		Adjustment for amount submitted by CCHE		(25,634)	980			
44	25	HED: LCC Lib/LRC Renov Bowman Bldg	1,979,866	1,929,866	50,000	0	0	0
45	26	HED: LCC Cap Renew Bowman Bldg ph 1/2	3,882,178	3,843,356	38,822	0	0	5,683,352
46	27	HED: CCCS-Lowry N. Quad Lev 1 Remodel	1,998,685	1,998,685	0	0	0	0
47	23	HED: PPCC First Resp Emer Ed Comp Cent	32,588,871	29,004,095	3,584,776	0	0	0
48	29	HED: PCC Dental Hygiene Expansion Proj	6,300,000	6,300,000	0	0	0	0
49	30	HED: PCC Medical Technology Renovation	600,000	600,000	0	0	0	0
50	28	HED: TSJC Freudenthal Lib Renov ph 1/2	6,276,339	6,276,339	0	0	0	1,049,232
51	17	HED: UCB Guggenheim Geog Ren ph 1/2	2,907,000	1,162,800	1,744,200	0	0	10,506,600
52	20	HED: UCD Building Infrastructure Renewal	22,406,754	22,182,686	224,068	0	0	0
53	8	HED: UNC Facility Master Planning	550,000	500,000	50,000	0	0	0
SUBTOTAL - OSPB Prioritized but Not Recommended for Funding			\$490,075,613	\$409,891,745	\$80,183,868	\$0	\$0	\$252,559,892
SUBTOTAL - CCHE All Prioritized ⁸			\$403,031,778	\$319,025,818	\$84,005,960	\$0	\$0	\$252,559,892
⁸ CCHE also includes the CSU NWC COP Payments total of \$9,860,000 as a CCF requested amount in the CCHE capital request table. This amount is not included in the sum above.								

Priority	CAPITAL CONSTRUCTION					ADD'L OUT-YEAR STATE FUNDS	
	TOTAL FUNDS	CAPITAL CONSTRUCTION FUND	CASH FUNDS	REAPPROP. FUNDS	FEDERAL FUNDS		
	SUBTOTAL - Projects with out-year commitments	\$156,139,154	\$102,198,776	\$53,940,378	\$0	\$0	\$252,559,892
	Percent of state funds req. in current year		40.5%				

STAFF OBSERVATIONS FOR THE BUILDING CAPITAL REQUEST

Staff has included number-noted comments at the bottom of tables for technical notes or clarifications for items included in the Governor's request which may lead to tracking differences between the amounts included in the Governor's request and the totals reflected in the tables above.

PROPERTY-RELATED TRANSACTIONS

Of particular note are the property related transactions included in the request, which are not items of appropriation. The DHS Sell Two Regional Center Homes project, item #1 in the state-funded priority list, is not a budget item or an item of appropriation. The DMVA Land and Water Transfer (GJRC), item #1 in the cash-fund priorities list, and listed with a zero dollar appropriation, is likewise not a budget item or an item of appropriation. The Colorado School for the Deaf and the Blind (CSDB) dispositions, identified as cash-funded priorities #6-8, are likewise, are not budget items or items of appropriation. This is the second year these items have been submitted as budget requests.

Legally, an appropriation is spending authority. Items related to strictly real estate transactions that do not require expenditure will be guided by other statutory and legal provisions of authority outside of appropriation authority. Transfers (zero-dollar transactions) and dispositions are guided by legal authority related to those transaction generally or specifically. Spending authority through an appropriation does not provide such legal authority and is unnecessary without a need to engage in an expenditure of state or custodial funds. Revenue generated through disposition may be used as a fund source for appropriations, particularly for the purpose of balancing, but the disposition itself is not an appropriation. Staff will exclude these items from consideration for inclusion in the Long Bill at figure setting.

CSU NWC COP PAYMENTS

Funding for CSU NWC COP payments is provided from the National Western Center Trust Fund (NWCTF) created in Section 23-31-902 (2), C.R.S. Beginning July 1, 2019, for up to 20 years, funds for all COP payments up to \$20.0 million are to be transferred into the NWCTF. Funding is from General Fund formerly set aside for COP payments for the Colorado State Penitentiary II (CSP II) project, which were concluded in FY 2018-19. The remainder of the \$20.0 million may be transferred upon request of the Capital Development Committee to the Capitol Complex Master Plan Implementation Fund to fund projects related to the Capitol Complex Master Plan.

\$20 MILLION STATE FUNDS TO INCREASE STATE PARK ACCESS AND LOTTERY PROCEEDS

The Governor's request identifies a \$20.0 million request for FY 2020-21 for the Increase State Park Access project in the Department of Natural Resources. This item is also included as a stimulus funding item in the Governor's request.

The Division of Parks and Wildlife annually receives direct distributions from lottery proceeds for Parks and Wildlife projects. In FY 2018-19 the direct distribution to the Division totaled approximately \$13.7 million. The Division of Parks and Wildlife additionally receives a distribution of about half of Great Outdoors Colorado (GOCO) funding; distributions of lottery proceeds to GOCO totaled \$68.5 million in FY 2018-19.

Section (1)(b)(II) of Section 3 of Article XXVII of the Colorado Constitution specifies:

(II) Ten percent to the Division of Parks and Outdoor Recreation for the acquisition, development and improvement of new and existing state parks, recreation areas and recreational trails; and

It is staff's opinion that a state agency that receives a constitutionally-specified funding stream of \$40 to \$50 million per year for the same purposes included in this request item should not also be subsidized with additional state funds. If this item is a priority to be considered for funding with state funds, then it should be funded with this Department's constitutionally-provided funding stream ahead of other projects.

CONTROLLED MAINTENANCE NOT FUNDED IN REQUEST

As reflected in the prioritized but not recommended for funding, Levels 1, 2, and 3 Controlled Maintenance are prioritized at numbers 19, 20, and 21 in the list. Additionally, no funding is reflected for these items in the request.

Staff is very concerned that controlled maintenance is not funded in the Governor's request. Further, staff is concerned that no amounts are identified for the three levels of controlled maintenance. Staff is concerned that there may not be a non-political, technically-ranked controlled maintenance list of projects as staff has historically understood the list to be generated.

Controlled maintenance items, as they are situated in the capital construction budget and regarded in the capital construction prioritization and budget process, have always been scored by the State Architect as a non-political, technical recommendation. Historically, the State Architect issues Level 1, Level 2, and Level 3 lists based on technical ranking of projects. Historically, the Governor's request may include funding of partial or entire levels of controlled maintenance in the budget request, but never picks and chooses projects within the larger list. The CDC may recommend partial or entire levels in its prioritization and refrains from consideration of the ordering of projects. And likewise, the JBC may fund partial or entire levels in Long Bill balancing decisions. Historically, at each of these budget decision making levels, the State Architect's ordering of projects, under the current understanding of the process, has never been reprioritized. Staff is concerned that the submission of zero dollar requests for all three levels suggests that the State Architect may no longer be making technical recommendations on the need for specific controlled maintenance projects, and is instead taking political or budget policy choice direction from the Governor.

While it may be reasonable to have the State Architect, as it resides in the executive branch, respond to the budget and political preferences of the Governor, this way of approaching controlled maintenance threatens the non-political method that controlled maintenance projects have in recent history been recommended and funded in the budget process. If the Governor is going to express authority over the State Architect's scoring and ranking of controlled maintenance needs – as might be indicated in the current zero dollar request – then it is more likely that the CDC and JBC may also consider projects as political choices in the same way capital construction projects are prioritized.

LEGISLATION REQUEST TO SUSPEND DEPRECIATION-LEASE EQUIVALENT PAYMENT

The Governor's request includes a request for legislation to suspend the depreciation-lease equivalent payment for FY 2021-22. The Governor's request identifies savings of \$9.0 million total funds, including savings of \$7.0 million General Fund.

House Bill 20-1398, *Modify Automatic Funding Mechanism for Capital Construction*, a JBC balancing bill, suspended depreciation-lease equivalent payments for FY 2020-21, saving \$7.6 million General Fund.

The Committee may wish to include this legislation request in its potential bills list for consideration at figure setting for the purpose of General Fund balancing.

ISSUE: FRONT-LOADING STATE FUNDED CAPITAL PROJECTS

New capital construction projects are often funded with a nominal appropriation of state funds in the first year with substantial out-year needs for state funds. Staff recommends that the Committee pursue legislation to require that state-funded building capital projects be front-loaded in the first year at a minimum of 50 percent of total state funds required for a project.

SUMMARY

- Staff addressed this issue in the April 2020, budget balancing document and presentation, however staff presented this issue informationally and no recommendation for legislation was made at that time.
- Given the balancing issues related to the pandemic-generated economic downturn, the State should position itself to better withstand commitments of state funds to capital construction projects over multiple years.

RECOMMENDATION

Staff recommends that the Committee pursue legislation to require that state-funded building capital projects be front-loaded in the first year. Staff recommends a minimum of 50 percent of all state funds be required to be appropriated for any new project in the first year. Staff further recommends that the Committee consider adding a statutory limitation that state funding may not exceed three continuous years.

DISCUSSION

In the April budget balancing document and presentation to the Committee last year, staff brought up the concept of requiring a greater commitment of state funds to any new capital construction project as a matter of more responsibly initiating capital construction projects in the budget. Staff recommended that the Committee not pursue legislation at the time. However, staff now recommends that the Committee pursue legislation for this purpose.

New capital construction projects are often funded with a nominal appropriation of state funds in the first year with substantial out-year needs for state funds. This is a technique that appears to have been accelerated in recent years as a way of "committing" to more new projects in each year. New projects may be "approved" for a nominal, often \$2-3 million, state funding commitment in the first year, that might pay for no more than architectural and site planning. Such first-year nominal funding occurs regardless of the health of the economy and the state of the General Fund; i.e. this practice happens in generally good revenue years. This is simply a technique for maximizing the number of approved projects in any year. The requesting state agencies, or more often, the institutions of higher education, are happier with such an outcome.

There has always been an understanding – an implied understanding – that the state funding commitment to capital projects may not actually be provided in future years based on revenue downturns. However, the experience in the 2020 session and budget balancing cycle suggests that that understanding is no longer the accepted practice as regards the capital development process.

Senate Bill 20-219, *Lease-purchase Issuance for Capital Construction*, a CDC bill, requires the State Treasurer to execute a COP agreement of up to \$65.5 million to fund the continuation of previously funded capital construction projects for institutions of higher education. The bill also capitalized the first year of interest payments to delay the beginning of payments of up to \$5.5 million in state funds for up to 20 years to begin no earlier than July 1, 2022 (FY 2022-23).

The Governor expressed concern in his July 14th signing statement, that comprised the following:

Today I signed Senate Bill 20-219, "Concerning the issuance of a lease-purchase agreement to fund the continuations of certain previously funded capital construction projects" at 1:06 p.m. I signed this bill into law, but am providing this letter to alert the sponsors and the General Assembly about my concerns about how this bill circumvented the capital construction evaluation process and may affect the General Fund and future State needs.

SB 20-219 provides up to \$65.5 million for State institutions of higher education in Fiscal Year (FY) 2020-21 for the continuation of capital construction projects at Fort Lewis College, the University of Colorado (CU), and Colorado State University (CSU). However, this bill will also add up to \$5.5 million in annual obligations for the State's General Fund, beginning in FY 2022-23, for principal and interest payments created by this new debt.

I understand the budgets for these institutions have been affected by COVID-19 and the corresponding economic downturn. I also understand the need for some high priority new capital investments in our institutions of higher education -- especially cash-strapped institutions such as Fort Lewis College -- balanced against the need to maintain an affordable and high quality education for students. I am concerned that this bill leaves the State's General Fund on the hook for certain current capital construction payments while also obligating the State budget in outlying years for construction payments, principal, and interest payments without consideration of the possibly challenging economic situation Colorado may face in the future.

It is important to note that both CU and CSU have significant existing cash fund resources that would support the completion of their projects, without further stressing an already depleted General Fund at the expense of future State needs. Proponents of this bill argued that their budgets are based on funds, programming, etc., and, therefore, any cash balance they possess cannot necessarily be used for the purposes of this bill. However, just a short time prior to this bill coming forward, CU in particular requested and was granted \$21 million in cash spending authority by the Joint Budget Committee (JBC) for the continuation of Phase 3 of the Colorado Center for Personalized Medicine.

In addition, all capital construction projects should be subject to the thorough and thoughtful process the General Assembly follows for the capital construction evaluation and ranking process - which includes a robust evaluation of the proposed projects, the project owner's ability to pay, as well as the ability of the General Fund to potentially offset some costs.

This bill was introduced on June 5, 2020, and passed on June 22, 2020 - long after the capital construction evaluation and ranking process ended and the State budget finalized, and at a pace that did not allow for the deliberative and thoughtful consideration of the long term implications of this bill. Decisions for the State budget should always follow the established process - ensuring such investments are made with a comprehensive consideration of the long term impacts on the General Fund and future State needs.

Lastly, the state has a limited amount of collateral which provides the capacity for the issuance of such lease-purchase agreements. This requires a judicious review of the proposed projects to ensure the most critical statewide needs are met. The State budget process is the necessary and appropriate process to consider balance the trade-offs inherent in these decisions.

We have had discussions with the State Treasurer to consider structuring this debt that would limit future, ongoing obligations from the General Fund. We encourage the General Assembly to be judicious in considering next steps, and to ensure equitable distribution of the funds committed through this bill and future bills to prioritize the state's limited resources where they are needed most.

Again, while I am signing this bill into law today, we are including this letter to be shared with the sponsors and the General Assembly about concerns with the future implications of SB 20-219. We appreciate the sponsors work to bring this bill, and look forward to continued collaboration on these topics.

Staff shares the Governor's concerns regarding attention to the larger issues of deliberation and prioritization through the standard capital development process. However, as non-partisan, legislative staff there is also a recognition that S.B. 20-219 followed a legal process, and therefore represents the will of the General Assembly. Staff accepts that we are not in a position to require that the CDC, the JBC, or the General Assembly make budget decisions that can be characterized as "responsible" even if there was a such a way to quantify or codify such a subjective sentiment. However, staff can recommend establishing structural guardrails that objectively reduce the negative impacts from future commitments of state funds in current decisions.

Given the balancing issues related to the pandemic-generated economic downturn that affected the state budget so suddenly, the State should position itself to better and more sustainably withstand commitments of state funds to capital construction projects over multiple years.

In recent history, prior to 2020, two continuation projects from the prior year were not included for funding in the 2019 Long Bill. These projects were prioritized by the CDC near the bottom of the prioritization list and were left out of funding in final JBC balancing decisions. One of those projects for Adams State University was finally funded in H.B. 20-1408, *Distribution of H.B. 20-1377 Capital Construction Fund Money*. H.B. 20-1408 provided additional controlled maintenance and capital renewal funding from S.B. 17-267 collateralization COPs, that re-directed \$49.0 million from transportation funding to these purposes. The other project for Fort Lewis College was finally funded in S.B. 20-219.

The following table outlines recent, multiple-year appropriations for capital construction projects.

RECENT CONTINUATION PROJECTS

FY 2020-21 Prioritized Requests	First Year	Second Year	Third Year	Total
Fort Lewis College Health Sciences Center (cap expansion)	FY18-19	FY20-21		
	\$3,003,260	\$26,571,891		\$29,575,151
	10.2%	89.8%		
Adams State University Plachy Hall HVAC Repl.(cap renewal)	FY18-19	FY20-21		
	\$3,252,559	\$2,819,630		\$6,072,189
	53.6%	46.4%		
UC-Denver CU Anschutz - Center for Personalized Medicine and Behavioral Health (cap expansion)	FY18-19	FY19-20	FY20-21	
	\$12,346,906	\$19,846,986	\$21,859,241	\$54,053,133
	22.8%	36.7%	40.4%	
CSU Shepardson Building Renovation and Addition (recapitalization)	FY18-19	FY19-20	FY20-21	
	\$4,527,223	\$13,482,700	\$17,051,200	\$35,061,123
	12.9%	38.5%	48.6%	
Colorado School of Mines Subsurface Frontiers Bldg (cap expansion)	FY19-20	FY20-21		
	\$1,856,741	\$2,985,985		\$4,842,726
	38.3%	61.7%		
FY 2019-20 Additional Projects	First Year	Second Year	Third Year	Total
Front Range CC Larimer Camp Health Care Career Ctr (cap expansion)	FY18-19	FY19-20		
	\$14,118,684	\$11,927,424		\$26,046,108
	54.2%	45.8%		
FY 2018-19 Additional Projects	First Year	Second Year	Third Year	Total
DHS-DYC, Adams County Youth Svcs Center Repl (cap expansion)	FY15-16	FY16-17	FY18-19	
	\$1,982,833	\$3,000,000	\$15,499,760	\$20,482,593
	9.7%	14.6%	75.7%	
Colorado School of Mines Green Center Roof Repl (cap renewal)	FY17-18	FY18-19		
	\$1,908,207	\$6,591,793		\$8,500,000
	22.4%	77.6%		
FY 2017-18 Additional Projects	First Year	Second Year	Third Year	Total
Replace/Restore Roof, State Capitol Building (recapitalization)	FY16-17	FY17-18		
	\$5,684,248	\$6,069,053		\$11,753,301
	48.4%	51.6%		
Institution of Higher Education Projects	First Year	Second Year	Third Year	Total
7 projects	\$41,013,580	\$84,226,409	\$38,910,441	\$164,150,430
	25.0%	51.3%	23.7%	
State Agency	First Year	Second Year	Third Year	Total
2 projects	\$7,667,081	\$9,069,053	\$15,499,760	\$32,235,894
	23.8%	28.1%	48.1%	
Two-year Projects	First Year	Second Year		Total
6 projects	\$29,823,699	\$56,965,776		\$86,789,475
	34.4%	65.6%		
Three-year Projects	First Year	Second Year	Third Year	Total
3 projects	\$18,856,962	\$36,329,686	\$54,410,201	\$109,596,849
	17.2%	33.1%	49.6%	

Staff recommends that the establishment of a minimum, first-year funding policy be kept simple. Staff recommends that a state funded project be funded with at least 50 percent of the anticipated total project state funding commitment. Staff further recommends that the Committee may wish to consider adding a limitation that no more than three continuous years of funding be provided for any capital construction project to ensure projects are not prioritized so low in a given year that they end up unfunded in what is otherwise a reasonable revenue year.

Front-loading state funds support in the first year and limiting multi-year appropriations:

- Promotes a more rational prioritization process for the initiation of projects;
- Provides a fairer and more realistic comparison of total state funds needs across projects;
- Better aligns a given year's funding priorities with the magnitude of total cost;
- Reduces financial risk by reducing the state funds need in out years for continuation projects; and
- Ensures that state funds are not predominantly committed for continuation projects in future budget years.