MEMORANDUM

TO	Joint Budget Committee
FROM	Scott Thompson, JBC Staff (303-866-4957)
DATE	May 15, 2020
SUBJECT	Office of the Governor –OSPB comebacks, and other tabled items remaining

This document is intended to summarize and help guide the Committee through the remaining decisions it has in the Office of the Governor, which includes items for which no action has been taken and those for which the Office of State Planning and Budgeting has comeback to the Committee for reconsideration.

➔ REPEAL THE TECHNOLOGY ADVANCEMENT AND EMERGENCY FUND AND TRANSFER BALANCE TO THE GENERAL FUND IN FY 2020-21

LOCATION OF ISSUE DETAIL:
Here. Most of this information is new to the Committee.

JBC ACTION AS OF MAY 14, 2020: During the May 8, 2020, Committee meeting Director Kampman opened the discussion of a potential transfer of funds from the Technology Advancement and Emergency Fund back to the General Fund, where it originated. JBC staff estimates the maximum amount available to transfer is $15.2 million. The discussion turned to repealing the fund entirely and the Committee delayed action to allow OIT to respond.

JBC STAFF RECOMMENDATION: **JBC staff recommends the Committee draft legislation that includes a transfer of $12 million from the Technology Advancement and Emergency Fund but to leave the fund in statute and continue its base appropriation of $3.2 million cash funds.** JBC staff believes the program is providing a benefit to state agencies and encourages wasteful spending by rewarding agencies that save on IT with IT updates and upgrades. It also can provide emergency funding, as it did recently by funding laptops for employees to work from home. JBC staff believes the program may be in need of minor modifications to fine tune it to meet the General Assembly's expectations. JBC staff will engage with OIT staff and stakeholders in the interim.

OSPB RESPONSE: OSPB and OIT did not come back to the Committee with an official request due to the timing of the initial conversation about a potential repeal of the Fund, however, the following are OIT's responses to questions asked by the Committee and JBC staff.

What plan is in place for spending from the TAEF for FY 2020-21?
OIT Response: Departments submit applications to the Technology Advancement and Emergency Fund Committee for funding each quarter, who reviews applications and awards funds quarterly based on explicit parameters laid out in the charter. Each year, the Committee receives far more requests than funds available. This was especially true in years like FY 2017-18 where a major cybersecurity incident took place at CDOT. The Committee has not met to review any FY 2020-21 requests, but anticipates having a high demand due to the budget cuts and continued need for IT hardware, software, refreshes, and patches to keep services operational and secure.

In the IT world, it is very typical to have last minute changes, need for maintenance / upgrades, and ongoing support. The TAEF is essential to operate the IT of the State of Colorado. We thank the legislature for having the insight to set up and allow this fund to operate.

In addition to new agency IT needs in FY 2020-21, OIT anticipates receiving requests for funds from the 13 requests in FY 2019-20 totaling $2,316,767 that were not awarded. This included various IT needs, such as cloud migration, IT service management, health animal data electronic solution, Software-Defined Wide Area Network solution, Adobe Enterprise Licensing solution, update SQL servers, SmartNet maintenance, server transition and upgrade, Salesforce Lightning upgrade, among others. Given the unfunded requests last year, it is clear the demand for IT needs remains strong and unmet.

How would OIT react if the $3.2 million appropriated from the Fund was eliminated in conjunction with its appeal?
OIT Response: This would negatively impact all state departments supported by OIT, their programs, and the citizens they support. Departments would not have a safety net to cover unplanned IT needs and would have to scramble to find existing resources or submit supplemental requests to seek funds. There could be a lag in providing essential IT services to keep systems operational and secure. With departments budgets tightening with additional cuts and restrictions, this fund is even more important as a department life-line. The demand on the fund for FY 2019-20 was 72.4 percent more than the $3.2 million appropriated. Given the COVID-19 crisis will continue and we cannot predict the needs in the future, having emergency funds more readily available becomes even more imperative.

Provide a summary of expenditures made from the fund since its creation in FY 2017-18.
OIT Response: In FY 2019-20, OIT awarded the entire $3.2M in funds appropriated. Of the awards, $2,255,475 has been spent and $795,709 is encumbered. Specifically, this fund was utilized to support the COVID-19 emergency by supporting the costs for agencies to purchase laptops to allow staff to work remotely and stay safe. Below is a table reflecting the awarded amounts, expenditures, and agencies awarded by fiscal year.

Summary of Programs/systems funded through the Technology Advancement and Emergency Fund since Enactment (FY 2017-18)				
Fiscal Year	Appropriation Total	Amount Awarded	Expenditures and Encumbrances	Highlighted Projects/Impact
FY 2017-18*	$3,200,000	$1,856,110	$1,531,439	*CDOT SamSam cyber incident support
Awarded Agencies	HUM, HCPF, NAT, GOV, AGR, LAB, PubSaf, HED			*CDHS/HCPF/CDA firewall migration
				*HydroBase Data Management Console system modifications
				*History Colorado computer refresh
				*OIT migrate LPI applications off outdated physical server hardware
FY 2018-19*	$3,200,000	$2,375,319	$2,375,319	*CDPS/DMVA storage area network replacement
Awarded Agencies	REV, PubHealth, GOV, PubSaf, HUM, LAB			*CDHS TRAILS contract support
				*DOR Engility technical support for PC's
				*OSPB Legislative Management System upgrades
				*HCPF/CDHS mainframe SIGMOD assessment
				*Broadband assessment HB18-1373
FY 2019-20	$3,200,000	$3,200,000	$3,051,184	*All agencies - COVID-19 purchase of laptops for remote work capability
Awarded Agencies	REV, AGR, GOV, LOC, PubHealth, PubSaf, PER, MIL, HED, HUM			*CDPHE Records Management migration

Summary of Programs/systems funded through the Technology Advancement and Emergency Fund since Enactment (FY 2017-18)				
Fiscal Year	Appropriation Total	Amount Awarded	Expenditures and Encumbrances	Highlighted Projects/Impact
				*DOLA Court Case Management System refresh and Mobile Home Park Online Registration and Complaint Project
				*DOR Fairfax tax returns system replacement

*Fewer awards were distributed than funds available to be saved in case of emergency needs additional detail can be found in OIT's annual reports.

Why were COVID-19 related expenditures made from this Fund and not covered by relevant federal funds available to individual agencies, the Disaster Emergency Fund, or the Corona Virus Relief Fund?

OIT Response: Guidance from the Department of Public Safety's Division of Homeland Security and Emergency Management (DHSEM) for FEMA public assistance reimbursement of emergency costs states that only direct life-saving emergency protective measures is authorized for FEMA public assistance (4/20/2020 webinar). These laptop costs are not directly related to working on the COVID emergency (testing, PPE, etc.) and saving lives, so it is our understanding for the time being the laptops are not authorized for reimbursement. Also, these grants are cost reimbursement, so if, at some point, FEMA does authorize these for being reimbursed, agencies would still have to have the funds to spend up front. Several agencies indicated they were short of the funds to purchase the laptops required to take all staff to work remotely to meet the Governor's stay-at-home order. Those agencies submitted requests asking to use funds from TAEF. During the TAEF committee meeting it was decided to apply the funds equitably across all affected agencies. After awarding other agency requests, the TAEF Committee approved the remaining balance in the appropriation to cover some of these costs.

The Corona Virus Relief funding allocated to states from the CARES Act is being managed by OSPB. OSPB is still determining how to distribute the funds, so it is unknown at this time if the laptops would be reimbursed. If they are or become eligible, the TAEF would be reimbursed and funds added back to the fund balance for future use.

What is the intended purpose of the Fund? Is it a grant program? Are projects funded by the TAEF therefore agency priorities that OIT or agencies have not prioritized for purposes of using other available fund sources?

OIT Response: Overall, the intention behind the fund is to advance technology or move agency projects to common enterprise platforms. Technology debt reduction is one of the key elements of funding choices. All awards and use of the funds are part of the agency 5-Year IT Roadmaps with OIT other than emergencies. Projects funded by the TAEF are those related to unforeseen technology debt, service utilization, or emergency needs that the agency does not have the budget to absorb. This could be a project that was planned that required additional resources to complete, or hardware/software refresh that is at end-of-life and the replacement was not fully budgeted or was planned to be replaced in later years.

The Fund administration is structured similar to that of a grant program to ensure the funding decisions are made in a fair, unbiased, and organized manner. The primary reason the TAEF has an application process is to provide clear guidance and messaging on the funds to OIT's customer

departments and to ensure they are addressing technology issues in both a proactive and reactive way when it comes to emergencies.

In regards to the question around OIT not prioritizing agency priorities for the purposes of using their other available funding sources, this is not the case. The agency drives their 5-year roadmap and business needs, and budgets for these in their operating budgets internally and in common policy. With the budget planning process happening 12-18 months prior to the start of the budget year, there are inevitably needs that arise during the fiscal year that were not anticipated or budgeted for adequately in the planning process. The TAEF provides a safety net for agencies to utilize should this be the case.

What is the actual amount of funding required to safeguard for emergencies, and could this amount be built into the common policy allocations?
OIT Response: Emergencies by definition are unpredictable but often costly. Per Gartner research, the average security incident involving a serious data breach costs $3.5 million. As comparison, the Colorado CDOT incident cost $1.7 million due to prior investments in backup technology and strong cybersecurity practices. Atlanta's similarly caused incident cost $17 million to resolve. Appropriating contingency funds directly to agencies in their common policy allocations is neither the most effective, or efficient use of state funds when responding to emergencies. TAEF was established to provide the safety net for agencies using existing reversion methodology to create the contingency funding options. By having a centralized TAEF that takes unspent IT funds, this allows any agency to have this resource to cover an emergency.

Federal audit standards for common policy billing require that all agencies are only charged for services utilized and the rates are consistently applied. OIT cannot collect for emergency costs unless the agency requires and utilizes emergency services. If each agency budgeted an emergency reserve in their Payments to OIT line, that amount would be reverted for each agency every year that agency did not have an emergency. If there was an emergency, it is highly likely that the amount of contingency the agency budgeted would not cover the cost as highlighted above. Any additional amount budgeted for common policy also increases the agency's budget and the demands on the state's resources that could be used for other programmatic needs.

The TAEF charter has a specific definition for emergency funding. It states:
An emergency is a situation in which an immediate threat to public health, welfare, or safety exists, and where the situation creates an immediate need for IT equipment or services, the lack of which would threaten:
1. the health or safety of any person,
2. property,
3. the immediate functioning of one or more of the state government's essential services,
4. the security, confidentiality, or integrity of the state's IT systems or equipment,
5. an emergency does not exist as a result of budget cycles, fiscal year-end requirements, or potential loss of funding.

Emergency spending will occur on an as-needed basis and will follow the OIT rule governing the purchase of IT related goods and services in emergency situations. OIT maintains direct control over emergency spending.

The following items are combined because the issues are closely related.

➔ **(OEDIT) SUSPEND GENERAL FUND FOR DESTINATION DEVELOPMENT PROGRAM**

➔ **SUSPEND GENERAL FUND FOR COLORADO TOURISM OFFICE PROMOTION FOR FY 2020-21**

LOCATION OF ISSUE DETAIL:
- OSPB Comeback Packet pages 8 – 9
- OSPB Comeback Technical Appendix pages 18 – 20 and 23 - 24
- JBC Staff Balancing Packet pages 5 -7

JBC ACTION AS OF MAY 14, 2020: Because these programs receive direct General Fund appropriations in addition to gaming revenue transfers, the Committee delayed action on these items. On May 13, 2020, the Committee voted to sponsor legislation to temporarily eliminate the statutory transfers of gaming transfers and to make direct General Fund appropriations to fund the programs with reduced appropriations and to accept the OSPB comeback related to the amount of General Fund to directly appropriate to each program.

JBC STAFF AND OSPB RECOMMENDATION: The revised JBC staff recommendation and OSPB comeback is to suspend General Fund for the two programs for which action is pending:
- Reduce the Destination Development Program by $500,000 General Fund, which is the entire amount in the base budget for this program; and
- Reduce the Colorado Office of Film, Television, and Media appropriation by $500,000 General Fund, which leaves a direct $250,000 General Fund appropriation.
- Accept the OSPB proposed reductions, which total $2.1 million and effect the following programs:
  - Reduce the **Colorado First Customized Job Training** program by $1,000,000 General Fund;
  - Reduce the **Global Business Development** line item by $750,000 General Fund;
  - Reduce the **Office of Outdoor Recreation Industry** line item by $120,000;
  - Reduce the **Leading Edge Program Grants** by $76,000 General Fund; and
  - Eliminate increased funding for **(OEDIT) R2 Small Business Development Centers** increase, which equals $140,000 General Fund.

As a reminder to the Committee, programs that also received transfers of limited gaming revenues that the Committee approved to suspend through legislation have been approved to receive direct General Fund appropriations, which are summarized below (this list only includes those

appropriations approved by the Committee that impact OEDIT) and total $12.15 million General Fund. Appropriations in the bill will be made to the cash funds that support the programs as follows.
- Colorado Tourism Office -- $10,000,000 General Fund total, as follows:
  o $8,900,000 Colorado promotion – other program costs;
  o $500,000 for Colorado promotion – welcome centers; and
  o $600,000 for the destination development program.
- Advanced Industries Program -- $500,000 General Fund
- Colorado Creative Industries -- $1,300,000 General Fund
- Colorado Office of Film, Television, and Media -- $350,000 General Fund

The Office and OSPB also included in its comeback submission some additional reductions to base appropriations throughout the Office as a way to offset the request to directly appropriate General Fund to those programs supported by limited gaming revenue. JBC staff supports the OSPB comeback to make these additional changes and recommends that the Committee accept the JBC staff and OSPB revised recommendation for these tourism related program. The table the follows summarizes the additional reductions identified by OEDIT and recommended to be included in the Long Bill.

RECOMMENDED DIRECT GENERAL FUND OVERVIEW FOR OEDIT FY 2020-21 PROGRAMS			
	FY 2020-21 GENERAL FUND BASE APPROPRIATION	RECOMMENDED CHANGES	RECOMMENDED FY 2020-21 GENERAL FUND APPROPRIATION
Colorado First Customized Job Training	$4,500,000	($1,000,000)	$3,500,000
Global Business Development	3,996,948	(750,000)	3,246,948
Office of Outdoor Recreation Industry	370,000	(120,000)	250,000
Leading Edge Program Grants	75,976	(75,976)	0
Small Business Development Centers	234,144	(140,000)	94,144
Total	**$9,177,068**	**($2,085,976)**	**$7,091,092**

➔ (OIT) REMOVE R1 COLORADO DIGITAL SERVICES

LOCATION OF ISSUE DETAIL:
- OSPB Comeback Packet page 8
- OSPB Comeback Technical Appendix pages 16 – 17
- JBC Staff Balancing Packet pages 7 – 8

JBC ACTION AS OF MAY 14, 2020: The Committee accepted the JBC staff recommendation to deny the Office's request to add $1.2 million General Fund and 7.0 FTE to the Office of Information Technology's Applications Administration line item for Colorado Digital Services to serve as a technical advisor on IT projects that may be stalled or that is managing unforeseen difficulties, for example.

OSPB COMEBACK REQUEST: OSPB asked that the Committee approve increasing funding for Colorado Digital Services by $1.2 million reappropriated funds (instead of General Fund as originally requested) and to allocate those costs among state agencies via the Department's common policy billing.

Since common policy billings originate as other sources of funds, approving the OSPB comeback will result in an increase in the General Fund. The average amount of General Fund appropriated throughout the state for Payments to OIT line items as a percent of the total common policy allocation between FY 2016-17 and FY 2019-20 is 42.6 percent. The final General Fund impact of the OSPB comeback will be based on fund splits made by JBC staff in conjunction with executive branch staff at the department level once final billing amounts are determined. **For balancing, and until a final common policy calculation can be communicated to other JBC staff, staff will reflect 45.0 percent of the comeback amount, which is $558,252, as the General Fund impact if the Committee accepts the OSPB comeback recommendation.** The goal in setting the estimated General Fund impact at 45.0 percent is to minimally overstate the impact of approving the comeback to minimize the risk that more General Fund may be required in user-agencies later in the balancing process.

JBC STAFF RECOMMENDATION: **JBC staff continues to recommend denying the Department request.** Accounting for the General Fund impact of the OSPB comeback, in addition to adding 7.0 FTE, increases the visibility of this budget change when the Committee introduces the Long Bill. Given the interest in the program funding among members of the General Assembly earlier in the 2020 legislative session, continuing to add highly paid professional staff, even when their work and efforts are likely to reduce costs elsewhere in the budget, is not one JBC staff can recommend under current economic conditions.

➜ ELIMINATE TRANSFER FOR SB 11-047 ADVANCED INDUSTRIES

LOCATION OF ISSUE DETAIL:
- OSPB Comeback Packet page 8 – 9
- OSPB Comeback Technical Appendix pages 21 – 22
- JBC Staff Balancing Packet pages 11 – 12

JBC ACTION AS OF MAY 14, 2020: The Committee delayed action on sponsoring legislation to repeal the transfer of income tax revenue that would otherwise be credited to the General Fund to provide incentives to businesses engaged in Advanced Industries. The amount estimated to be transferred for FY 2020-21 is $7.6 million.

OSPB Comeback request: The Office of Economic Development and International Trade has asked that the Committee reject the staff recommendation to repeal the transfers of General Fund to the Advanced Industries programs. Another source of funding for this program comes from the statutory diversion of revenue from limited gaming. The Committee has acted to suspend the statutory transfers for two years of the gaming revenue; if the Committee were to repeal the income tax transfers for Advanced Industries as recommended by JBC staff, it would result in a total elimination of funding for the Advanced Industries Programs.