

CHAPTER 12

EDUCATION, HIGHER EDUCATION, TRANSPORTATION, AND NON-EXECUTIVE AGENCIES

12.1 INTRODUCTION

Several departments and agencies have budget procedures that differ from those of traditional Executive Branch departments. These include elected officials and separate branches of government. The purpose of this chapter is to delineate budget processes that either compliment or differ from the Office of State Planning and Budgeting (OSPB) standard process. In addition, this chapter provides additional guidance, outlines additional deliverable dates and clarifies procedures for any variance from the standard OSPB budget instructions.

12.2 EXECUTIVE BRANCH AGENCIES

The Colorado State Board of Education, the Colorado Commission on Higher Education, and the Colorado Transportation Commission are part of the Executive Branch and adhere to the OSPB process. While their budgets are subject to Governor's review and approval, the nature of these bodies create several issues which make it difficult for them to conform to the typical budget process.

Department of Education

The Colorado Department of Education is the administrative arm of the Colorado State Board of Education. It serves as the state level coordinator for Colorado's 178 school districts and the Charter School Institute. The Commissioner of Education prepares the budget, once representing the Colorado State Board's funding priorities, and then it is amended to represent the Executive Branch's Funding priorities. The Executive budget is compiled in accordance with the OSPB instructions. The State Board of Education approves the budget before (or concurrent with) the Department of Education's Executive budget submission to the OSPB.

The primary component of the Department's budget is public school finance. The funding process for public school finance differs from traditional departmental requests, principally because the School Finance Act of 1994, as amended, along with Section 17 of Article X of the State Constitution, requires the Department to request annual funding based on a formula. Specifically, the School Finance Act contains a formula that calculates a per pupil funding amount for each school district based on the individual characteristics of the district, such as the district's cost of living, the number of students enrolled, and an 'at-risk' factor. Local property taxes and specific ownership taxes are the first line of funding for a school district. If local sources are insufficient to fully fund the program, state moneys are then used to fund any shortfall.

The Department of Education’s Long Bill groups include: Management and Administration, Assistance to Public Schools (which includes funding for “categorical programs” such as transportation and special education), Library Programs, and the School for the Deaf and the Blind.

The Department’s budget request process is slightly different from other agencies. The Governor’s Office expects the Department to submit a budget in the same fashion as other agencies with a few minor differences. The exceptions anticipated for the budget cycle calendar are listed below:

- A. Military Dependant Supplemental Aid- House Bill 07-1232 added the “military dependent supplemental pupil enrollment aid” language to the Public School Finance Act. This Supplemental is intended to capture students who enroll in a district after October 1 and before February 1 of the school year. The statute details deadlines for information, requiring the Department to submit a supplemental funding request to the General Assembly on or before March 1 each year through 2011. The FY 2008-09 Long Bill includes an appropriation for this program which can be adjusted mid-year if necessary. The Department will need to provide an updated request for any variance from the annual appropriation to OSPB by February 27, 2009.

- B. The Department is required to submit the annual Total Program funding request on August 1, 2008 for the November 1 budget submission to the Joint Budget Committee. After the November 1 budget submission, revised projections by Legislative Council staff regarding local property tax revenues and student enrollment numbers which are published in December may change the Total Program funding need. Consistent with Section 24-37-304 (1) (b.5) and (c), C.R.S., the Department is required to submit a supplemental request and an amended request for the following fiscal year (budget amendment) for Total Program funding to the Joint Budget Committee by January 1 (including fund source adjustments). In addition Section 22-54-106 (4) (b), C.R.S., requires the Department to annually submit a supplemental request to “fully fund” the state’s share of Total program. Due to the timing of the data collections required to calculate this amount as required by the School Finance Act of 1994, as amended, (i.e., the October pupil count and the property tax cycle), the Department generally needs to update the supplemental request after the January 1 submittal (as allowed by Section 24-37-304 (1) (b.5), C.R.S.). Please note that the Department is only expected to prepare the narrative portion of the supplemental request once, the subsequent update only needs to include an updated chart that identifies the relevant new data. The Department must provide the updated amount of Total Program need for FY 2008-09 to OSPB by January 10, 2009, and the OSPB will submit a revised supplemental request for Total program to the Joint Budget Committee (if necessary) by January 15.

The majority of the exceptions for the Department relate to district pupil count variances and revenue projections.

Department of Higher Education

The Department of Higher Education consists of academic, nonacademic, and auxiliary agencies. Academic agencies include the ten institutional governing boards which oversee 27 public post-secondary institutions along with the Auraria Higher Education Center. Of these 27 institutions, there are twelve four-year public institutions and fifteen two-year public institutions. Nonacademic agencies include the Department Administrative Office, the Colorado Commission on Higher Education (CCHE), the Division of Occupational Education and the State Historical Society. Other important components of the Department of Higher Education that are not part of the State's annual budget process include CollegeInvest, which administers the State of Colorado's 529 savings program and CollegeAssist, which administers the federal guarantee on loans that originate through the Family Federal Education Loan Program (FFELP). All governing boards are enterprises and can lose enterprise status if they receive over 10% of their revenues from the State.

All non-academic Higher Education agencies must follow the OSPB instructions and budget guidelines. Historically, the Department of Higher Education has submitted a November 1 budget request that includes submissions for the respective non-academic divisions but did not include Schedules in their entirety for the remaining academic and auxiliary agency divisions. Starting in the FY 2009-10 budget cycle, that the Department of Higher Education will submit a November 1 Budget Request that includes Reconciliation (see chapter 5), Line Item Description (see chapter 5), and "Schedules" prepared for all of the respective divisions (including the academic, non-academic and auxiliary divisions) as promulgated in the OSPB Budget Instructions with the exception of the "Schedule 3" and "Schedule 8" (which will continue to be limited to the non-academic divisions of the Department's budget).

For the August 1 Change Request submission deadline to OSPB, the Department is expected to follow the OSPB Budget Instructions. To the extent that the Department cannot complete particular components of the annual August 1 Change Request submission (i.e. tuition, funding model, and stipend/fee-for-service split), the Department is instructed to seek documented approval from OSPB for any extensions sought through this submission process. Any request from the Department for extensions on the August 1 deadline for Change Requests should include a description of the extenuating circumstance causing the delay and the projected delivery date of the respective decision items for OSPB review. Requests for extensions from the August 1 deadline must be received by OSPB by July 1.

The Department is expected to submit Supplemental Requests and/or Budget Amendments to OSPB on the published deadlines. To the extent that the timing of the spring enrollment forecast (historically completed on February 15) necessitates late supplemental requests and late stand alone budget amendments from the Department, they are due to OSPB on February 17 in order for OSPB review and Governor approval prior to submission to the JBC by February 20 (or as close to that date as possible, as discussed with OSPB and the Joint Budget Committee staff). OSPB will only consider late requests from the Department that are driven from the spring enrollment census limited to those identified here:

- College Opportunity Fund fee-for-service and student stipend true-up;

- Tuition spending authority true-up;
- Special purpose financial aid - Native American Students/Fort Lewis College tuition true-up; and
- Special purpose financial aid - Veterans'/Law Enforcement/POW Tuition Assistance true-up.

All academic agencies follow the budget instructions issued by the Commission. The Commission approves and submits the system-wide budget request for higher education to the Joint Budget Committee and the Office of State Planning and Budgeting. However, OSPB requests that the Department and Commission submit all budget requests to the Office of State Planning and Budgeting for approval prior to submission to the Joint Budget Committee. Like the Department of Education, the Department of Higher Education's budget request differs from traditional executive department requests. The Governor's Office nonetheless expects the Department to submit a budget in the same fashion as other agencies pursuant to 24-37-301, C.R.S. OSPB expects the Department to schedule Commission action items such that they can be acted upon prior to submission to OSPB for review and Governor's approval prior to submission to the JBC.

Department of Transportation

Although the entire budget for the Department of Transportation is reflected in the Long Bill, the largest portion of the budget – Construction, Maintenance, and Operations – is separately adopted annually by the Colorado Transportation Commission and approved by the Governor. The development of the Commission's budget follows a separate calendar from the legislatively appropriated programs within the Department. Annually, prior to December 15, the Commission adopts a proposed budget and submits it to the Governor, the OSPB, the Joint Budget Committee, the Senate Transportation Committee, and the House Transportation and Energy Committee. The procedural requirements, deadlines, and content of the budget are detailed in Section 43-1-113, C.R.S. The exact date for submission to OSPB should be noted for 2008.

In January, the Senate Transportation Committee and the House Transportation and Energy Committee hold a joint meeting to review and comment on the proposed budget. By March 15, the Joint Transportation Committee and the Joint Budget Committee transmit their comments on the budget to the Transportation Commission. On the third Thursday in April, the Colorado Transportation Commission considers these comments and adopts a final budget that complies with the total revenues and expenditures set forth by the General Assembly. It submits this budget to the OSPB by April 30. The Governor approves the budget by May 31. Once approved by the Governor, this becomes the final budget and the Department can begin obligating funds for the coming fiscal year.

Funding for the Department consists primarily of the constitutionally dedicated Highway Users' Tax Fund (HUTF) and federal highway/transportation funds. Senate Bill 97-001 dedicated 10% of annual sales tax collections to highway construction over five years, subject to there being sufficient revenues to fund a full General Fund appropriation subject to the 6% limit and the 4% statutory reserve. This transfer was later increased to 10.355% and made permanent. In addition, House Bill 02-1310 dedicated two-thirds of any year-end excess General Fund reserve

to transportation projects, and the Department receives gaming moneys per Section 12-47.1-701, C.R.S. The Transportation Commission has informally adopted the policy of budgeting Senate Bill 97-001 funding in the year of accrual and House Bill 02-1310 funding in the year following accrual, due to the timing of the transfers of these funds to the HUTF.

In addition, in 1999, the General Assembly enacted HB 99-1325 that allowed the issuance of Transportation Revenue Anticipation Notes (TRANs) subject to voter approval. Proceeds from the TRANs are used to finance qualified federal aid highway projects in Colorado, collectively known as the “7th Pot Strategic Projects.” The TRANs do not represent “new money” but rather are funds that are paid back from future federal and state match revenues over the next 15 – 20 years. TRANs funds and the debt service are subject to appropriation by the Transportation Commission.

Additionally, the Transportation Commission must annually submit a capital construction request for state highway reconstruction, repair, or maintenance projects to the Capital Development Committee on or before October 1. Such request shall be made in accordance with Sections 43-1-113(2.5) and 2-3-1304(1)(a.5), C.R.S.

As indicated, a portion of the Department’s budget is appropriated in the Long Bill and follows the same budget process as other Executive departments. These Long Bill groups include Administration and Gaming Impacts. The Governor’s Office expects the Department to submit a budget for these programs in accordance with the OSPB instructions and budget guidelines. The Construction, Maintenance, and Operations and Statewide Tolling Enterprise groups are noted in the Long Bill for informational purposes.

Because CDOT does not receive a direct General Fund appropriation in the Long Bill, OSPB requires a May 22 Schedule 3 submission only for the appropriated Administration portion of the Long Bill. For the Construction, Maintenance, and Operations and Statewide Tolling Enterprise groups, the Department need only submit a summary Schedule 2.

12.3 ELECTED OFFICIALS

The Colorado Attorney General (the Department of Law), the State Treasurer, and the Secretary of State typically choose to follow the OSPB budget process. Generally, this includes use of common OSPB forms and formats where applicable and similar submission deadlines to the JBC. However, because these are elected offices, their budget requests are not subject to the OSPB review and approval process.

Department of Law

The Department of Law provides legal services to State departments and agencies and provides a variety of other statutory responsibilities. These responsibilities include the following: defending the State’s felony criminal convictions against appeal; enforcing the Uniform Consumer Credit Code, Antitrust, and Consumer Protection laws; investigating and prosecuting securities, insurance, Worker’s Compensation, and Medicaid fraud; and assisting local government capital crime efforts.

For a department or agency to increase legal services hours in excess of the hours currently appropriated, a Change Request must be submitted to OSPB by the affected department, according to the published timelines. Departments or agencies requesting an increase in legal services hours should contact their Department of Law attorney and Budget Director to discuss the appropriate increase. Common Policies as discussed in Chapter 8 should be used where applicable. When the OSPB approves the request, the department or agency should alert the Department of Law Budget Director so that a corresponding Department of Law Schedule 13 can be submitted for both spending and FTE authority. The Department of Law submits its budget request to the Joint Budget Committee and provides an informational copy to the OSPB.

OSPB typically assumes a 6% increase for the department, including Common Policies, when estimating the base budget increase for the November 1 Budget Request.

Treasury Department

The State Treasurer is responsible for managing State of Colorado investments and for monitoring and improving cash management practices of the State. The Department is appropriated General Fund primarily to support the Fire and Police Pensions Association (30.4% of Treasury General Fund in FY 07-08). The remainder of the General Fund appropriation to the Treasury Department is designated for Administration and the Senior Citizen and Disabled Veteran Property Tax Exemption.

The Department also administers the Highway Users' Tax Fund. Pursuant to Sections 43-4-206 to 208, C.R.S., after funding the "off-the-top" money for Colorado State Patrol, Ports of Entry, and the Motor Vehicles Division, the Treasury Department splits the balance of the fund into appropriations for the State, counties, and municipalities.

The Department submits its budget, including both General Fund requests and Highway Users' Tax Fund apportionment, directly to the Joint Budget Committee and provides an informational copy to the OSPB.

OSPB typically assumes a 6% increase for the department, including Common Policies, when estimating the base budget increase for the November 1 Budget Request.

Secretary of State

The Office of the Secretary of State (Department of State) serves as a depository for a variety of public records. The Office receives statutorily required filings from nonprofit and for-profit entities such as corporations, partnerships, and limited liability companies, and it receives lien filings pursuant to the Uniform Commercial Code. It is responsible for the publication of administrative rules filed in the Office by state agencies and for licensing and regulatory oversight in connection with notaries public, professional lobbyists, and charitable gaming under the bingo-raffle law. The Office supervises the conduct of state elections and administers the citizen initiative petition process.

The Office of the Secretary of State is predominantly a cash-funded agency. These cash funds support administration and special purposes, such as the Central Information System for lien filings and the reimbursement of county clerk and recorders for a portion of the costs of

conducting elections. The Department formulates the budget and, with the Secretary of State's approval, submits it directly to the Joint Budget Committee and provides the OSPB with an informational copy.

OSPB typically assumes a 6% increase for the department, including Common Policies, when estimating the base budget increase for the November 1 Budget Request.

12.4 SEPARATE BRANCHES

The Judicial Branch includes the Supreme Court, the Court of Appeals, Courts Administration, Trial Courts, Probation and Related Services, the Public Defender, the Alternate Defense Counsel, and the Office of the Child's Representative. Each independent agency has its own budget office and personnel system. The Judicial Branch budget request typically parallels the format in the OSPB instructions, but is not subject to review or approval by the OSPB. OSPB typically assumes a 6% increase for the agency, including Common Policies, when estimating the base budget increase for the November 1 Budget Request.

The Legislative Branch is comprised of the General Assembly (including the members and aides of the House, Senate, Joint Chambers, and Legislative Information Services) and four legislative service agencies: the State Auditor's Office, the Joint Budget Committee staff, the Legislative Council staff, and the Office of Legislative Legal Services. Budget requests from the legislative service agencies are reviewed and approved by the Executive Committee of the General Assembly and consists predominately of General Fund (roughly 97%). Typically, the budget request for the Legislative Branch is presented to the Executive Committee in late December, early January; however, for FY 2008-09, the proposed budget wasn't presented until March 12, 2008. OSPB typically assumes a 6% increase for the agency, including Common Policies, when estimating the base budget increase for the November 1 Budget Request. The request largely reflects Personal Services, Operating Expenses, Travel Expenditures, and most common policies such as POTS funding. Only a few budgeted amounts are included in the Long Bill for this branch of State government; the rest is run within special legislation (for FY 2008-09, this is HB 08-1361).