

MEMORANDUM

TO: Members of the Joint Budget Committee
FROM: Amanda Bickel and JBC Staff
SUBJECT: Informational Funds in the Long Bill
DATE: November 30, 2011

SUMMARY:

- ❑ Almost 30 percent of funds in the Long Bill are shown solely for informational purposes. There are other programs and funds that flow through state government and that could be shown for informational purposes but that are not reflected in the Long Bill, although determining the exact amount (excluding double-counts) is problematic due to the way the Controller tracks funds in the state accounting system.
- ❑ Decisions regarding what funds are shown for informational purposes in the Long Bill and how frequently these amounts are adjusted has historically been made on a case-by-case basis. This can result in some inaccuracy and "noise" in the State budget. At the same time, excluding informational funding could result in a substantial loss of General Assembly information about both state-funded programs with continuous spending authority and federal funds that are an important source for supporting key state-authorized programs.

RECOMMENDATION:

The JBC should adopt a new "(I)" Long Bill notation to identify in the Long Bill those funds that are shown solely for informational purposes. Changes to (I) notation amounts could then be referenced in the Long Bill Narrative and Appropriations Report. The JBC should also: (1) authorize guidelines for staff to promote consistency in what amounts are shown and how frequently they are modified in budget bills; and (2) send a letter to the Governor's Office of State Planning and Budgeting (OSPB) requesting OSPB's assistance in improving the information readily available on funds that are outside the General Assembly's control.

DISCUSSION:

How much of the funding in the Long Bill and supplemental bill is for information only?

Amounts included in the Long Bill and supplemental bills and new legislation are only true appropriations--controlling or "hard" spending limits for funds--if they are for funds and programs subject to annual appropriation. *Any other amounts shown in the Long Bill and supplemental bills are reflected for informational purposes.* This includes federal funds that are deemed to be

"custodial".¹ It also includes state cash funded programs that are provided with "continuous" authority to expend their funds.

The table below summarizes the break down between appropriations and informational notations in the Long Bill. For purposes of this table, informational funds that are associated with an (M) or (H) notation (where General or cash funds are automatically reduced if the federal funds increase) are *excluded* from the informational category. This primarily applies to Medicaid federal funds. A table in the appendix provides additional detail by department.

FY 2011-12 Operating Expenditures Appropriations and Informational Notations - Long Bill and Special Bills (Dollars in thousands)			
	Appropriations (Long Bill, Special Bills)	Portion of Long Bill Annotated as Informational*	Informational as Percent Appropriations
General Fund/General Fund Exempt	\$7,013,785	\$48,916	0.7%
Cash Funds	6,081,265	3,232,669	53.2%
Reappropriated Funds	1,463,259	3,016	0.2%
Federal Funds*	5,040,127	2,504,406	49.7%
Total	\$19,598,436	\$5,785,991	29.52%
Source: JBC Staff Appropriations History FY 2011-12 and FY 2011-12 Long Bill			

*In this table, the portion of federal funds identified as informational is based on the total federal funds less appropriated federal funds amounts (TANF, CCDF, Title XX, Maternal and Child Health Care Block Grant) less federal funds in line items with (M) or (H) notations.

Additional information on the types of funds found in the informational category for General, Cash and Federal Funds is provided below.

General Fund: As shown in the table, virtually all General Fund in the Long Bill represents true annual appropriations, rather than informational notations. However, there are some informational General Fund amounts. This includes amounts include amounts in the Department of Local Affairs, Revenue, and Treasury associated with firefighter and police pension plans, as well as and cigarette tax rebate and old age heat and fuel and property tax assistance grants that are based on state

¹Please refer to a separate memorandum (Legislative Control Over Federal Funds, November 30, 2011), prepared and presented by Ed DeCecco, Office of Legislative Legal Services, on the General Assembly's control over federal funds pursuant to State Supreme Court decisions.

Constitutional or statutory provisions and which are therefore not controlled by annual appropriations bills.

Cash Funds: As shown, *\$3.2 billion, or more than half of all cash funds amounts in the Long Bill, are shown for information only.* The largest components include:

- ▶ \$1.7 billion in the Department of Higher Education for student tuition and fees. While this amount is currently identified as solely informational, it has not been in the past and might not be in the future;
- ▶ \$675 million in the Department of Transportation based on reflecting funds subject to allocation by the Statewide Transportation Commission (the lack of General Assembly control over most Highway Users Tax Funds (HUTF) is driven by State Constitutional provisions;
- ▶ \$314 million in the Department of Treasury based on reflecting estimated HUTF County and Municipality Payments; and
- ▶ \$247 million in the Department of Human Services including \$118 million for the local county share for various programs and \$82 million for Old Age Pension program Constitutionally-authorized payments, among other components.

Federal Funds: Pursuant to the Long Bill head notes, **all federal funds in the Long Bill are information-only, except for specified sources:** the Social Services Block Grant (Title XX), Maternal and Child Health Block Grant, Temporary Assistance for Needy Families, and Child Care Development Funds, all of which are considered subject to appropriation.

- ▶ In total, less than \$275 million in federal funds of the \$5.0 billion in federal funds shown in the Long Bill and other bills is appropriated. This represents the Temporary Assistance for Needy Families and other funds identified as exceptions in the head notes.
- ▶ An additional \$2.2 billion federal funds is included in line items that are annotated with the (M) notation or the (H) notation. When these notations appear (mostly in the Department of Health Care Policy and Financing), General Fund or cash funds in a line item are reduced when federal funds increase, so that total expenditures do not exceed the total appropriation in the line item. Although this does not represent an appropriation of federal funds, it does provide appropriations control over the line item total.

As shown in the table, *when both appropriated federal funds and those associated with (M) and (H) notations are included, about half of the federal funds in the Long Bill may be considered strictly informational.*

What are the sources of "spending authority" recognized by the State Controller?

State agencies are only allowed to spend funds based on spending authority that must derive from specific legal authorization. The State Controller's Office provides spending authority based on three primary sources:

- ❑ *Annual appropriations* by the General Assembly, reflected in the Long Bill, supplemental bills, and new legislation ("special bills").
- ❑ *Statutory and implied spending authority.* This includes spending authority for programs with continuous spending authority, pursuant to statute or the State Constitution, *i.e.*, programs authorized to receive and expend funds without further annual appropriation by the General Assembly. It also includes spending authority for various internal transfers between departments and programs that are required to effectuate the General Assembly's intent. For example, General Fund appropriations for Public School Finance are deposited in and spent from the State Public School Fund pursuant to statute, although the various appropriations bills only show the General Fund appropriation and not the related duplicate cash funds appropriation. The Long Bill head notes specify that appropriation limitations do not apply "whenever the controller creates an account solely for the purpose of establishing the obligation of a state agency to generate cash funds or reappropriated funds for distribution to another state agency to which such funds are appropriated..."
- ❑ *Custodial spending authority.* Pursuant to State Supreme Court rulings, discussed further in a separate memo from the Office of Legislative Legal Services, the executive branch may receive and expend funds (both cash and federal) for specific programs and purposes when the programs and purposes funded are restricted by the donor.

What funding is not shown in the Long Bill or supplemental bills?

The Controller provides spending authority for types of expenditures not limited by appropriations. This includes:

- ▶ Spending authority *above* the amount shown in the Long Bill when funds shown in the Long Bill are solely for informational purposes;
- ▶ Spending authority for custodial funds or programs with continuous spending authority that do not appear in the Long Bill at all; and
- ▶ Spending authority for duplicate authorizations required to make accounts function properly or to be consistent with the legal intent reflected in statute. This includes, for example, cash funds spending authority from the State Public School Fund (which duplicates General Fund appropriations deposited into the Fund) or General Fund spending authority for revenue deposited into the Old Age Pension Cash Fund (Old Age Pension Cash Fund estimated expenditures are reflected for informational purposes in the Long Bill but there is no duplicate General Fund amount reflected).

Because the Controller provides additional spending authority for all these reasons and does not categorize duplicate authorizations separately from custodial and statutory authorizations, it is very difficult to identify what amount of spending is authorized above amounts in bills if double-counts were excluded.

The table below compares total spending authority provided by the Controller's Office in FY 2009-10 by fund source with the amounts appropriated in the Long Bill, supplemental bills, and new

legislation (including informational amounts). Appendix B provides this information in more detail, by department. As reflected, *spending authority provided by the Controller increased total spending authority by about 50 percent above amounts appropriated. However, a substantial share of the Controller-authorized spending authority represents double- and triple- counts of funds that are necessary to properly account for funds that may be initially received in one department or fund and spent in another.* Thus, this discrepancy is far greater than it would be if it reflected a single count of funds deemed continuously appropriated or custodial.

For comparison, the Colorado Comprehensive Annual Financial Report (CAFR) *Statement of Revenues, Expenditures, and Changes in Fund Balances for Government Funds*, which eliminates many of the double-counts, reflects total state expenditures far closer to appropriations. However, because this accounting perspective classifies both fund types and expenditures into different categories from the Long Bill (*i.e.*, it does not classify funds into General Fund, cash, and federal categories, and it does not classify expenditures by department but by program categories that include pieces of departments), it does not lend itself to a detailed comparison. Appendix C provides a copy of this CAFR statement (excluding the lengthily annotations; the full report can be accessed on the Controller's website).

FY 2009-10 Operating Expenditures					
Appropriations, CAFR Budgetary Basis Spending Authority, and Budgetary Basis Actual Expenditures					
(Dollars in thousands)	State Appropriations (including informational appropriations)	Total Spending Authority Provided by Controller	<i>Difference - Controller Spending Authority v. Approp.</i>	Actual Expenditures - CAFR Budgetary Basis	<i>Difference Actual Expenditure v. Approp.</i>
General Fund/General Fund Exempt	\$6,659,312	\$7,232,196	\$572,884	\$7,194,548	\$535,236
		<i>Variance</i>	<i>8.6%</i>		<i>8.0%</i>
Cash Funds + Reappropriated Funds	6,858,410	15,056,442	8,198,032	13,437,206	6,578,796
		<i>Variance</i>	<i>119.5%</i>		<i>95.9%</i>
Federal Funds	5,666,384	10,882,791	5,216,407	8,762,683	3,096,299
		<i>Variance</i>	<i>92.06%</i>		<i>54.64%</i>
Total	\$19,184,106	\$33,171,429		\$29,394,437	
Source: JBC Staff Appropriations History FY 2009-10 and Colorado Comprehensive Annual Financial Report FY 2009-10					

FY 2009-10 Operating Expenditures Appropriations, CAFR Budgetary Basis and CAFR Statement of Revenues and Expenditures					
(Dollars in thousands)	JBC Appropriations History (Long Bill, Supplementals, Special Bills)	Actual Expenditures - CAFR Budgetary Basis	<i>Difference Appropriation and Actual Expenditure per Statement of Expenditures</i>	Actual Expenditures - CAFR Statement of Revenues, Expenditures, and Changes in Fund Balances - Government Funds	<i>Difference Appropriation and Actual Expenditure per Statement of Expenditures</i>
Total	\$19,184,106	\$33,171,429	\$13,987,323	\$17,044,948	(\$2,139,158)
Source: JBC Staff Appropriations History FY 2009-10 and Colorado Comprehensive Annual Financial Report FY 2009-10					

In light of the above issues, staff is unable to provide firm numbers on additional spending authority provided by the Controller that excludes duplicate appropriations. However, based on a review of data at the line-item level, staff believes:

- ▶ General Fund authorized in excess of amounts in appropriation bills reflects virtually entirely double-counts required for accounting purposes (*e.g.*, the Controller includes Old Age Pension Funds as General Fund spending authority).
- ▶ Cash funds authorized in excess of amounts in appropriation bills include a mix of double counts and other non-appropriated sources. The majority is probably double-counts required for accounting purposes, such as over \$3.0 billion for the State Public School Fund (a double-count of General Fund education appropriations), but amounts also include \$1.1 billion in higher education non-appropriated sources and \$1.0 billion in the Department of Labor (primarily unemployment insurance benefits), which do not appear in the Long Bill.
- ▶ Federal funds authorized in excess of amounts in appropriations bills primarily reflect funds deemed custodial. However, some of the additional authorization is for funds that may be spent in future years, *i.e.*, if a department receives spending authority for a five-year grant, the spending authority provided is for the full five years, rather than just the next state fiscal year of expenditure. Although the controller provides spending authority for almost double the amounts reflected in the Long Bill, much of that additional authorization is not spent in a given year. If actual annual spending in FY 2009-10 (\$8.8 billion) is compared to amounts that appear in annual appropriation bills (\$5.3 billion), the difference is \$3.5 billion. Some of the largest differences between actual expenditures and amounts in legislation in FY 2009-10 include:
 - ▶ \$1.5 billion in the Department of Labor and Employment, largely reflecting unemployment insurance benefits;
 - ▶ \$772 million in the Department of Human Services, largely reflecting Supplemental Nutrition Assistance Program (food stamp) benefits; and

- ▶ Over \$700 million in the Department of Higher Education and over \$500 million in the Governor's Office, largely associated with funds received under the American Recovery and Reinvestment Act (ARRA).

What funds are shown in other state budgets?

State budget structures vary considerably by state. Some states include only truly appropriated funds in their budgets, while others also include informational amounts. Notably, however, in most states federal funds are not simply informational and are therefore shown in budget bills regardless of whether budget bills are limited to true appropriations. Colorado's treatment of most federal funds as "informational" is based on our state Supreme Court's decisions about the Colorado Constitution. The table summarizes data from a National Conference of State Legislature's report from 2004 (report attached as Appendix D). In the table, terms are defined as follows:

- **Specific Authorization** -The legislature authorizes the expenditure of a specific amount for a declared purpose and may impose an upper limit on state expenditures for the fiscal period. In some states this is called "appropriation". Others use the word "authorization".
- **Open-Ended Authorization** - The legislature authorizes the state to spend federal funds received during the fiscal period without declaring a specific purpose or amount.

Colorado is identified as one of five states that do not authorize or appropriate federal funds, because funds shown in the Long Bill are specifically identified as informational, based on our State Supreme Court decisions. The other states in this category are Arizona, Connecticut, Delaware, and Oklahoma.

	Makes Specific Authorizations/ Appropriations	Makes Open-Ended Authorizations/ Appropriations	Does Not Authorize/Appropriate Federal Funds
Number of States/Territories	38	11	5

The Conundrum for Staff: What should be "In" or "Out" of the Long Bill?

Given that the Long Bill includes amounts for informational purposes, staff is often faced with a question of whether or not to recommend including informational dollars. Depending upon the inclination of the analyst responsible for a given assignment, their recommendations, and related Committee decisions, funds may be moved in or out in any given year.

Reasons for NOT including informational funds:

- ❑ **Accuracy.** Because spending is not controlled by the General Assembly, departments are less concerned with ensuring the information is accurate and updated on a regular basis. Thus, amounts in the Long Bill often reflect little more than rough estimates that are at best updated with actual information that is more than a year old.

- ❑ *Inconsistency and "noise"*. There are three related issues: (1) Because individual analysts make individual decisions about what to recommend to the JBC in this area, numbers can "pop" in and out of the budget reflecting solely decisions about what figures should be on- or off-budget, rather than any real change to funding levels. This creates "noise" in the budget and can give the perception that an overall budget has changed significantly, even when true funding levels have not. (2) If large informational appropriations over which the General Assembly has no control change substantially each year, it can hide or distort the broader picture of what is happening to funds the General Assembly does appropriate. (3) Legislators may be uncertain what amounts they do and do not control in the budget, and the current budget format does not make this easy to see or aggregate.

Reasons for including funds:

- ❑ *Providing context for a state appropriation*. If the majority of higher education funding is actually being provided by tuition or other sources, General Fund allocations for higher education are only a small part of the story. If the majority of alcohol and drug abuse treatment is paid for with an annual federal block grant, isn't that something the General Assembly wants to keep in mind when setting appropriation levels?
- ❑ *Ensuring that the JBC and General Assembly remain aware of programs that are funded with cash funds and federal funds*.

Cash funds: Whether cash funds are "continuously appropriated" or not, transferring a cash fund revenue source (such as Severance Tax moneys) into the General Fund may be an important part of a budget solution, albeit one that requires statutory change and not merely a Long Bill change. If a program does not appear in the Long Bill, it is far less likely that legislators, legislative staff, and even in some cases departmental budget staff will be aware of the program, how it works, and related funding issues. *Staff believes it is particularly important for the General Assembly to remain aware of all funds over which it has authority, whether or not it is currently choosing to appropriate these funds on an annual basis.*

Federal funds: If the number of programs that are off-budget were significantly expanded, there is a significant risk that programs would be lost from view and related oversight. Although federal funds shown may be outside of legislative control, if the Executive mis-manages federal funds, the State is typically responsible for repaying federal authorities for federal funds deemed inappropriately spent. This gives the General Assembly a vested interest in following events associated with federally-funded programs--even when General Assembly control over the programs may be very limited.

For example, the State had to repay federal authorities about \$10 million in food assistance benefits that were deemed to have been inappropriately authorized under the CBMS system--even though food assistance benefits (Supplemental Nutrition Assistance Program, formerly known as Food Stamps) are off budget. The State also had to step in and provide General Fund support for the State and Veterans nursing homes when management issues threatened

their viability, and, among other concerns, the State was faced with the prospect that it would need to repay federal authorities if homes were not stabilized.

Examples of items that have been on- and off-budget:

State and Veterans Nursing Homes

The State and Veterans Nursing Homes are a network of facilities largely staffed by State FTE and overseen by the Department of Human Services with an annual budget of over \$40 million including cash and federal funds. They are primarily funded through patient fees. The federal Veterans Administration substantially subsidizes the construction of the homes and provides per-diem payments for veteran residents, contingent upon the state owning and operating the facilities. They were taken off budget in the 1990s but then placed back on budget several years ago after operating problems led them to approach the State for a General Fund subsidy.

County Temporary Assistance for Needy Families Reserves

TANF funds initially appropriated to counties through county Colorado Works block grants are held in reserve, under county control, when unspent in the year appropriated. Reserve amounts (currently over \$50 million federal funds) are shown in the Long Bill because of legislative and public interest in the size of the reserves; however, the amounts shown are for informational purposes based on the management of TANF funds under current law. In recent years staff has adjusted the amount shown to ensure that it includes TANF reserves transferred by counties to other block grants, creating an appearance (but not a reality) of a budget increase. Staff has also considered recommending that the funds be removed from the Long Bill altogether, since reserve amounts do not represent new appropriations--but backed off of this idea based in part on feedback from the Executive Branch.

Federal Funds in the Governor's Office

Funding for federal grants to the Governor's Office have fallen on and off budget over the years based on the push and pull between Legislative interest in what funds the Governor is and is not receiving and the fact that the General Assembly has no control over the funds and has difficulty obtaining accurate information on the level of funds from the Executive.

Federal Funds in the Department of Military Affairs

At one time, most federal funds provided to the Department of Military Affairs were excluded from the budget. The General Assembly ultimately chose to include them in the budget, even though, unlike other federal funds, most of these funds *do not* flow through the State accounting system.

Lottery Prizes

In prior years, lottery prize amounts (about \$400 million) were included in the Long Bill for informational purposes. These were removed in FY 2012-13 on the grounds that there is no legislative control over the funds and fluctuations simply muddy the overall budget picture.

Examples of items that are significant but that have been kept off budget:

- ▶ Food Assistance benefits (about \$750 million)
- ▶ Unemployment Insurance benefits (about \$1 billion)

- ▶ The local share of funding for public schools (about \$2.0 billion in FY 2010-11), even though the local share of funding for many programs in the Department of Human Services is shown on-budget
- ▶ Federal healthcare reform grants
- ▶ Much of the funding received under the American Recovery and Reinvestment Act, except flexible funds amounts that were used as backfill in the Departments of Corrections, Education, and Higher Education and selected other adjustments recommended by staff on a case-by-case basis

Staff Recommendations

1. Amounts that are informational should be tracked in the budget in a consistent manner. At present, the fact that funds are informational is reflected in various ways: letter notes, footnotes, and head notes are all used. One approach to doing this would be an **(I) notation**.
 - A notation to the Long Bill Grand Totals could specify the total amount of cash and federal funds shown for informational purposes (those with an "(I)").
 - This capacity could be built into the new ebudget system. The (I) notation could take the place of current statements in footnotes and letter notes and could be explained in the Long Bill head notes.
 - The Long Bill Narrative and Appropriations Report could add a table to each department showing the extent to which changes are in the (I) category or not.
 - Staff would recommend that the (I) notation be placed only on amounts over which the General Assembly has no control and not be included on line items that reflect an (M) notation. *This would need to be clarified in the definition of the (I) notation in the headnotes as, from a legal services perspective, even federal funds in a line item with an (M) notation are informational.*
 - Staff would suggest that a mechanism be added to the new ebudget system for classifying two different types of (I) notations: those that are directed by federal law or the Colorado Constitution, and those that are driven by state statute. While this additional information would not appear in the Long Bill, it would facilitate policy decisions by the JBC and General Assembly.

2. Staff should have clear guidelines regarding inclusion of informational funding. Staff suggests the following initial guidelines. These guidelines are unlikely to substantially change amounts shown, but will hopefully contribute to a more consistent approach.

Federal Funds

- Federal funding for informational purposes should be included for activities that support or are very similar to activities supported with state funds.

- In general, informational funding should *not* be included for activities that are not the same or similar to activities authorized in state statute.

- Federal informational funding should be reflected for funding sources that are likely to be ongoing, such as block grants, and should not be included for temporary, short-term grants, unless the grant is large and is consistent with items above. Amounts shown should be for core, ongoing functions described in state statute.
- Items that are actually appropriated (*e.g.*, Temporary Assistance for Needy Families funds) or require a state match (*e.g.*, Medicaid) must always be included in the Long Bill.
- The figure staff recommends for informational purposes in the Long Bill should increase or decrease over the prior year's Long Bill amount if staff becomes aware of a major change in federal funding for the upcoming year and/or if actual data reflect a shift of 10 percent or more in the last actual year and a department reports that the new amount is likely to be ongoing. The JBC should encourage OSPB to incorporate related guidelines in OSPB budget instructions.
- Typically, federal funds shown for informational purposes will not be adjusted on a supplemental basis. *Exception:* If staff believes that *not* making a mid-year adjustment will substantially distort the comparison between the two budget years shown in the Long Bill Narrative (*e.g.*, the FY 2011-12 current appropriation and the FY 2012-13 recommended Long Bill), staff may recommend a mid-year budget adjustment to ensure that the comparison between the two years is meaningful. This may occur, for example, when a previously "off budget" program is added to the Long Bill for informational purposes or when the discrepancy between the informational appropriation and actual funding available for the current year is very large (on a dollar basis or as a percentage of a department's appropriation).
- One-hundred percent federal funds for public benefits amounts that adjust based on economic factors over which the General Assembly has little or no control (*i.e.*, food assistance and unemployment insurance benefits) do not need to be reflected in the Long Bill. *However, the Executive Branch should be requested to submit annual reports on any such program with annual disbursements of \$250 million or more, including actual and projected expenditures, so that related amounts can be discussed in briefings and budget overviews.*

Cash Funds

- Programs with continuous spending authority should nonetheless be shown in the Long Bill for informational purposes.
- Staff should adjust informational cash funds amounts based on the most recent projections for these amounts. However, staff should consider rounding informational amounts to help identify estimates.

- Typically, supplemental adjustments will not be made to informational notations. *Exception:* If staff believes that *not* making a mid-year adjustment will substantially distort the comparison between the two budget years shown in the Long Bill Narrative (*e.g.*, the FY 2011-12 current appropriation and the FY 2012-13 recommended Long Bill), staff may recommend a mid-year budget adjustment to ensure that the comparison between the two years is meaningful. This may occur, for example, when a previously "off budget" program is added to the Long Bill for informational purposes or when the discrepancy between the informational appropriation and actual funding available for the current year is very large (on a dollar basis or as a percentage of a department's appropriation).
3. The Committee should request that OSPB work with JBC staff and consider including related guidelines in the budget instructions.
 4. If the State proceeds with the development of a new accounting system in the next few years, the General Assembly should insist that, as a condition of funding, the new system include mechanisms for reports that would allow the General Assembly to more clearly identify non-appropriated funds and funds spent based on continuous spending authority. For example, a new system might include:
 - ▶ a mechanism by which the Controller could tag spending authority as a duplicate/reappropriation of another appropriation (*e.g.*, where spending authority is provided for funds transferred from one department to another), using a definition of "duplicate"/reappropriation that would be functional for the General Assembly. This would include a report function that would facilitate comparison with the Long Bill; and
 - ▶ a system for attaching descriptions to non-appropriated and custodial funding to briefly identify the source of the funding, the nature of the grant or program funded, and the length of time for which the grant is provided.

If the State chooses to proceed with a new system, the General Assembly might consider attaching the capital construction funding to substantive legislation that requires the involvement of the General Assembly/legislative staff in a steering committee to oversee the new system's development and to ensure the new system meets the needs of both legislative and executive branches. Staff believes this is particularly important if the new system includes a budget system as well as an accounting system (something staff understands is the intent).

5. JBC members may wish to consider further under what conditions providing continuous spending authority is appropriate. While in some cases the State may be appropriating funds that are essentially custodial in nature (gifts, grants, and donations), in other cases it provides continuous spending authority through statutory formulas for revenue streams that essentially represent general tax revenue (*e.g.*, severance and mineral lease revenue, tobacco settlement funds). If the Committee is interested in taking a unified look at what programs

do and do not receive continuous spending authority--and when this does and does not appear appropriate--staff could compile this during the 2012 legislative interim.

6. The JBC should send a letter to the Office of State Planning and Budgeting outlining its wishes with respect to this issue and requesting feedback. A draft letter is attached.

Alternative for Committee Consideration

The General Assembly could choose to remove all informational notations from the Long Bill. However, if it wishes to pursue this route, staff would strongly recommend the following steps occur *before* such a change is adopted:

- ▶ Reach an agreement with the Executive on legislation that would require the Executive to submit an annual report, also on November 1, that identifies actual and projected spending for custodial and continuous spending authority programs consistent with a format specified by the General Assembly.
- ▶ Such a report could, for example, identify all actual and projected spending by a Department, by Controller-authorized line item and within the related Department division and would include a brief explanation of the line item's function and funding source. This would include both "line items" that correspond to Long Bill line items (e.g., because they reflect custodial funding for the same purpose as a Long Bill appropriation) and line items that are created by the Controller that do not correspond to existing line items in the Long Bill.
- ▶ Staff would then include such non-appropriated/informational amounts in staff briefing and figure setting documents (and in sections of the Long Bill Narrative and Appropriations Report) in special non-appropriated sections. The amounts would be excluded from the Long Bill itself.
- ▶ To proceed with this approach, staff would recommend statutory change (based on Executive agreement to enact) instructing the JBC and OSPB staff to work on the format of the submission during FY 2012-13, with the submission of documents in the new format in either Fall 2013 or Fall 2014 (*or later; see below*). Legislation should specify that informational amounts will only be removed from the Long Bill if the JBC determines that the Executive documents submitted provide sufficient information to move forward with the new approach.
- ▶ Ideally, any action to remove informational amounts from the Long Bill would occur only after statewide accounting and budgeting systems had been developed (or current systems modified) to support the desired change.

APPENDIX A
Informational Notations in the FY 2011-12 Long Bill by Department

Appropriations in Long Bill Annotated as Informational*				
	General Fund/GFE	Cash Funds	Reappropriated Funds	Federal Funds*
Agriculture	\$0	\$1,619,055	\$0	\$3,977,614
Corrections	0	0	0	718,687
Education	0	0	0	625,919,937
Governor	0	5,707,975	0	23,791,753
Health Care Policy and Financing	0	0	0	368,122,478
Higher Education	0	1,664,882,329	0	19,014,815
Human Services	0	246,676,486	0	308,593,071
Judicial	0	36,320,000	0	5,210,298
Labor	0	210,000	0	96,534,472
Law	0	0	0	1,500,211
Legislature	0	0	0	0
Local Affairs	4,294,753	222,697,797	0	117,319,185
Military Affairs	0	0	0	213,775,024
Natural Resources	0	22,776,190	0	19,608,155
Personnel	0	1,335,924	0	0
Public Health	0	0	0	264,698,302
Public Safety	0	0	0	29,559,306
Regulatory Agencies	0	991,031	0	1,194,128
Revenue	19,300,000	36,498,542	0	723,701
State	0	3,018,274	0	0
Transportation	0	675,470,495	3,015,804	404,145,023
Treasury	<u>25,321,079</u>	<u>314,465,213</u>	<u>0</u>	<u>0</u>
Total - Informational	\$48,915,832	\$3,232,669,311	\$3,015,804	\$2,504,406,160
Total Appropriations	7,013,784,693	6,081,265,404	1,463,259,432	5,040,126,913
<i>Informational as % totals</i>	<i>0.7%</i>	<i>53.2%</i>	<i>0.2%</i>	<i>49.7%</i>

*Federal funds amounts reflect totals from the Appropriations Report less appropriated federal funds and less those federal funds associated with (M) and (H) notations appearing on the same line item.

Appendix B
Controller-Authorized Spending Authority FY 2009-10

Sources of General Fund Spending Authority Provided by Controller - FY 2009-10
(thousands)

General Fund	Spending Authority in Long Bill,					Total Final Spending Authority	Acutal Expenditures
	Supplemental Bills, Special Bills	Statutory Appropriation	Roll-forwards and Transfers	Custodial	Restrictions		
Agriculture	\$6,056	\$0	\$0	\$0	\$0	\$6,056	\$5,952
Corrections	563,200	2,404	0	0	(100)	565,504	563,618
Education	3,239,326	0	22	0	0	3,239,348	3,238,932
Governor	13,863	0	0	0	0	13,863	13,827
Health Care Policy and Financing	1,150,199	0	1,350	0	(32)	1,151,517	1,120,304
Higher Education	428,761	0	323	0	0	429,084	428,877
Human Services	651,948	0	(577)	0	(649)	650,722	647,962
Judicial Branch	323,815	0	0	0	0	323,815	323,764
Labor and Employment	0	0	0	0	0	0	0
Law	9,226	0	0	0	0	9,226	9,127
Legislative Branch	35,138	0	0	0	0	35,138	32,410
Local Affairs	10,913	111	0	0	0	11,024	10,900
Military and Veterans Affairs	5,408	0	11	0	0	5,419	5,263
Natural Resources	26,634	0	11	0	0	26,645	25,892
Personnel	5,576	0	2	0	0	5,578	5,074
Public Health and Environment	27,076	0	0	0	0	27,076	26,643
Public Safety	81,990	0	50	0	0	82,040	79,546
Regulatory Agencies	1,458	0	0	0	0	1,458	1,441
Revenue	74,042	107,229	124	0	0	181,395	187,837
State	0	0	0	0	0	0	0
Transportation	0	0	0	0	0	0	0
Treasury	1,681	465,607	0	0	0	467,288	467,179
Not Booked by Department	0	0	0	0	0	0	0
SUB-TOTAL OPERATING BUDGETS	\$6,656,310	\$575,351	\$1,316	\$0	(\$781)	\$7,232,196	\$7,194,548

Sources of Cash Funds Spending Authority Provided by Controller (includes Reappropriated Funds) - FY 2009-10
(thousands)

Cash Funds	Spending Authority in Long Bill,					Total Final Spending Authority	Acutal Expenditures
	Supplemental	Statutory Appropriation	Roll-forwards and Transfers	Custodial	Restrictions		
Agriculture	\$28,819	\$1,378	\$0	\$0	(\$621)	\$29,576	\$25,461
Corrections	87,028	19,216	0	0	(2,252)	103,992	67,391
Education	659,239	3,212,886	0	101	(12,367)	3,859,859	3,809,264
Governor	76,820	53,822	5	13,377	(2,333)	141,691	96,026
Health Care Policy and Financing	614,880	525,301	0	0	0	1,140,181	1,114,594
Higher Education	1,796,617	1,096,337	(770)	85	(1,100)	2,891,169	2,644,580
Human Services	668,547	71,447	0	6,487	(409,876)	336,605	303,994
Judicial Branch	113,349	82,074	0	0	(5,514)	189,909	179,240
Labor and Employment	73,418	1,127,180	0	3	(11,494)	1,189,107	1,176,710
Law	38,851	197	85	1,821	0	40,954	37,634
Legislative Branch	1,407	4,184	0	0	0	5,591	1,357
Local Affairs	270,529	214,254	0	0	(49,850)	434,933	304,492
Military and Veterans Affairs	2,212	338	0	20	(3)	2,567	1,986
Natural Resources	173,598	468,174	2,273	0	(14,565)	629,480	321,666
Personnel	170,932	285,818	11	222	(15,041)	441,942	418,336
Public Health and Environment	178,485	48,546	0	15,715	(29)	242,717	199,622
Public Safety	141,234	1,156	0	901	(481)	142,810	125,982
Regulatory Agencies	77,222	17,719	0	0	(35)	94,906	88,349
Revenue	616,505	258,979	22	0	(908)	874,598	709,872
State	21,023	5,771	820	0	0	27,614	16,962
Transportation	99,377	241,977	5,000	0	0	346,354	74,035
Treasury	293,936	1,590,943	0	348	0	1,885,227	1,718,330
Not Booked by Department	0	0	0	4,660	0	4,660	1,323
SUB-TOTAL OPERATING BUDGETS	\$6,204,028	\$9,327,697	\$7,446	\$43,740	(\$526,469)	\$15,051,782	\$13,437,206

Sources of Federal Funds Spending Authority Provided by Controller - FY 2009-10
Includes Multi-year Authority for Custodial Funds
(thousands)

	Spending Authority in Long Bill,					Total Final Spending Authority	Acutal Expenditures
	Supplemental Bills, Special Bills	Statutory Appropriation	Roll-forwards and Transfers	Custodial	Restrictions		
Federal Funds							
Agriculture	\$3,969	\$0	\$0	\$8,537	\$0	\$12,506	\$6,025
Corrections	89,947	4,050	0	47,451	(46,302)	95,146	92,357
Education	826,513	0	0	494,290	(256,387)	1,064,416	628,662
Governor	32,858	0	0	851,392	0	884,250	558,059
Health Care Policy and Financing	2,564,020	0	0	438,923	(412,960)	2,589,983	2,532,885
Higher Education	402,637	821	0	855,937	(485)	1,258,910	1,117,559
Human Services	703,213	22,272	0	1,046,382	(34,298)	1,737,569	1,475,674
Judicial Branch	4,430	0	0	9,062	(6)	13,486	6,439
Labor and Employment	103,612	955,270	0	851,543	(7,737)	1,902,688	1,580,634
Law	1,263	0	0	1,476	0	2,739	1,461
Legislative Branch	0	0	0	0	0	0	0
Local Affairs	112,987	0	0	176,070	(94,529)	194,528	80,402
Military and Veterans Affairs	195,608	24	0	9,592	(188,645)	16,579	9,738
Natural Resources	17,237	0	0	37,807	(1,309)	53,735	34,370
Personnel	0	0	0	114	0	114	101
Public Health and Environment	224,675	0	20,500	159,441	(2,424)	402,192	265,614
Public Safety	26,566	6	0	50,535	(934)	76,173	33,205
Regulatory Agencies	1,215	0	0	3,918	(983)	4,150	1,386
Revenue	1,482	0	0	6,414	(19)	7,877	2,739
State	0	0	0	2,161	0	2,161	1,586
Transportation	299	0	4,343	418,318	0	422,960	194,498
Treasury	0	0	0	140,629	0	140,629	139,289
Not Booked by Department	0	0	0	0	0	0	0
SUB-TOTAL OPERATING BUDGETS	\$5,312,531	\$982,443	\$24,843	\$5,609,992	(\$1,047,018)	\$10,882,791	\$8,762,683

Appendix C
Colorado Comprehensive Annual Financial Report (CAFR)
Statement of Revenues, Expenditures, and
Changes in Fund Balances for Government Funds

For complete CAFR, including notes, see
<http://www.colorado.gov/dpa/dfp/sco/CAFR/cafr10/cafr10fin.pdf>

**STATEMENT OF REVENUES, EXPENDITURES,
AND CHANGES IN FUND BALANCES
GOVERNMENTAL FUNDS
FOR THE YEAR ENDED JUNE 30, 2010**

(DOLLARS IN THOUSANDS)	GENERAL	STATE PUBLIC SCHOOL	HIGHWAY USERS TAX
REVENUES:			
Taxes:			
Individual and Fiduciary Income	\$ 3,776,848	\$ -	\$ -
Corporate Income	350,068	-	-
Sales and Use	1,979,101	-	-
Excise	92,372	-	542,880
Other Taxes	187,718	-	1,451
Licenses, Permits, and Fines	40,329	-	320,188
Charges for Goods and Services	52,457	-	114,655
Rents	403	-	1,298
Investment Income (Loss)	24,077	34	36,157
Federal Grants and Contracts	6,020,197	-	630,188
Additions to Permanent Funds	-	-	-
Unclaimed Property Receipts	-	-	-
Other	99,639	7,286	46,578
TOTAL REVENUES	12,623,209	7,320	1,693,395
EXPENDITURES:			
Current:			
General Government	703,497	-	10,114
Business, Community, and Consumer Affairs	194,777	-	-
Education	771,628	-	-
Health and Rehabilitation	486,029	-	9,045
Justice	1,154,142	-	84,378
Natural Resources	54,325	-	-
Social Assistance	4,236,131	-	-
Transportation	-	-	1,015,931
Capital Outlay	17,086	-	26,399
Intergovernmental:			
Cities	28,346	-	133,552
Counties	1,937,857	-	184,883
School Districts	699,165	3,144,500	-
Special Districts	30,874	-	54,965
Federal	1,908	-	-
Other	51,056	-	757
Debt Service	8,672	-	-
TOTAL EXPENDITURES	10,375,493	3,144,500	1,520,024
EXCESS OF REVENUES OVER (UNDER) EXPENDITURES	2,247,716	(3,137,180)	173,371
OTHER FINANCING SOURCES (USES):			
Transfers-In	1,128,881	3,187,299	348
Transfers-Out	(3,694,372)	(41,609)	(235,580)
Face Amount of Bond/COP Issuance	-	-	-
Bond/COP Premium/Discount	-	-	-
Capital Lease Proceeds	355	-	-
Sale of Capital Assets	8	-	-
Insurance Recoveries	1,778	-	590
TOTAL OTHER FINANCING SOURCES (USES)	(2,563,350)	3,145,690	(234,642)
NET CHANGE IN FUND BALANCES	(315,634)	8,510	(61,271)
FUND BALANCE, FISCAL YEAR BEGINNING	335,433	24,165	1,303,800
Prior Period Adjustment (See Note 29)	(4,015)	-	-
FUND BALANCE, FISCAL YEAR END	\$ 15,784	\$ 32,675	\$ 1,242,529

The notes to the financial statements are an integral part of this statement.

CAPITAL PROJECTS	STATE EDUCATION	OTHER GOVERNMENTAL FUNDS	TOTAL
\$ -	\$ 306,928	\$ -	\$ 4,083,776
-	22,025	-	372,093
-	-	24,844	2,003,945
-	-	151,964	787,216
-	-	203,627	392,796
6	-	373,126	733,649
25	-	384,450	551,587
-	-	77,817	79,518
7,393	9,221	122,545	199,427
28,390	-	344,547	7,023,322
-	-	357	357
-	-	42,155	42,155
462	88	37,866	191,919
36,276	338,262	1,763,298	16,461,760
19,016	-	42,011	774,638
531	-	173,510	368,818
20,070	32,661	30,655	855,014
391	-	87,400	582,865
50,009	-	26,520	1,315,049
1,445	-	69,791	125,561
346	-	216,263	4,452,740
-	-	1,402	1,017,333
129,930	-	66,876	240,291
153	-	119,021	281,072
48	-	130,608	2,253,396
-	441,467	80,155	4,365,287
-	-	33,636	119,475
-	-	1,724	3,632
233	915	42,814	95,775
-	-	185,330	194,002
222,172	475,043	1,307,716	17,044,948
(185,896)	(136,781)	455,582	(583,188)
27,924	-	988,397	5,332,849
(67,321)	(6,998)	(1,342,721)	(5,388,601)
371,790	-	186,830	558,620
7,295	-	880	8,175
-	-	-	355
-	-	8	16
1,563	-	253	4,184
341,251	(6,998)	(166,353)	515,598
155,355	(143,779)	289,229	(67,590)
229,704	338,365	2,553,646	4,785,113
-	-	(37,213)	(41,228)
\$ 385,059	\$ 194,586	\$ 2,805,662	\$ 4,676,295

Appendix D
NCSL Report on State Appropriation of Federal Funds



[Issues & Research](#) » [Budget & Tax](#) » [Legislative Oversight of Federal Funds](#)

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Legislative Oversight of Federal Funds

This survey examines the findings of a 50-state survey conducted by NCSL that details how legislatures control federal funds.

Table 1. Legislative Authorization of Federal Funds and Federally Funded State Employee Positions
Authorization of Use of Federal Funds

State	Makes Specific Authorizations	Makes Open-Ended Authorizations	Does Not Authorize Use of Federal Funds	Limits Federally Funded FTEs
Alabama		X*		No
Alaska	X*	X*		No
Arizona			X	No
Arkansas	X			Yes*
California	X*			No
Colorado			X*	No
Connecticut			X*	No
Delaware			X	Yes
Florida	X			Yes
Georgia	X			No
Hawaii	X			Yes
Idaho		X*		Yes
Illinois	X*			No
Indiana		X		No
Iowa		X		No
Kansas	X*	X*		Yes*
Kentucky	X			Yes
Louisiana	X			No
Maine	X			Yes
Maryland	X			No
Massachusetts	X			No
Michigan	X			Yes
Minnesota	X*			No
Mississippi		X		Yes*
Missouri	X*	X*		Yes*
Montana	X			No

Nebraska	X*	X*		No*
Nevada	X			Yes*
New Hampshire	X			Yes
New Jersey	X			No
New Mexico	X*			Yes*
New York	X			No
North Carolina	X*			No
North Dakota	X			Yes
Ohio	X			No
Oklahoma			X*	Yes
Oregon	X*			Yes
Pennsylvania	X			No
Rhode Island	X			No
South Carolina	X*			Yes
South Dakota	X*			Yes
Tennessee	X*			No
Texas	X*			No
Utah	X*			No
Vermont	X*			Yes
Virginia	X			Yes
Washington	X			No
West Virginia		X		No
Wisconsin		X*		Yes
Wyoming	X			Yes*
Totals	38	11	5	Y=23 N=27

States appearing in bold face in Table 1 have a legislature that meets year round. Combined totals will exceed 50 because some states make both specific and open-ended authorizations.

Definition of terms:

Specific Authorization--The legislature authorizes the expenditure of a specific amount for a declared purpose and may impose an upper limit on state expenditure of federal funds for the fiscal period. In some states this is called an appropriation. Others use the word "authorization" to refer to the process.

Open-Ended Authorization--The legislature authorizes the state to spend federal funds received during the fiscal period without declaring a specific purpose or amount.

* Notes:

Alabama--Although the legislature generally continues to make open-ended authorizations of federal funds the general appropriation bill for the current year also includes language that provides that any grants or appropriations from Congress to the state or to state agencies for new programs or purposes, including but not limited to homeland security grants must be approved by a majority of the Chair of House Ways and Means-General Fund Committee, the Chair of Senate Finance and Taxation-General Fund Committee and the Governor prior to expenditure.

Alaska--The open-ended authorization referred to is a process by which agencies can request additional authorization

with review by a committee instead of by the full legislature.

Arkansas--The legislature enacts appropriation of specific amounts by line item for most agencies (Performance Based Budgets only contain the total amount of federal funds) and specific numbers of positions by title and grade. These can be increased during the interim through the unanticipated federal funds process.

California--Any federal funds received above the set amount are subject to a notification requirement to the Joint Legislative Budget Committee.

Colorado--The general appropriations act reflects federal funds for information purposes only. Where state match is required, lawmakers get more say over how the executive will apply those dollars and such plans are reflected in the budget act.

Connecticut--Applies only to non-block grant federal funds (non-TANF and SBGs).

Idaho--Legislature provides specific appropriations for federal funds for a fiscal year, but if unanticipated federal funds come in during the time the Legislature is not in session, the Governor's budget office can authorize the expenditure of those funds without Legislative appropriation for one year only.

Illinois-- Federal funds are not appropriated separately but are included in the total appropriation for each program, by line item (e.g., personal services, retirement contributions, travel, etc.).

Kansas-- Some appropriations have a specific dollar limit while others are appropriated as "no limit." The legislature treats federally funded FTEs the same as any other state FTE. They can be placed under an FTE limitation or they could be treated as "special project employees" and be outside the limitation.

Minnesota--If federal funds are not specifically appropriated in the budget, they may be expended under an "open and standing" authorization in the statutes.

Mississippi--The Department of Finance & Administration is authorized to increase a budget authority for 100% federal funds. Policy is to place employees paid from federal sources in "time limited" status so that if funds are eliminated, so are the positions.

Missouri--Authorizations to spend federal grants may be open-ended or specific; practice varies. Authorizations are noted as estimates in the budget act, where appropriate, giving agencies sufficient authorization to accept and spend federal grants. FTE limits are usually set for organizational or program entities, but they are not set by fund source.

Nebraska--Authorizations to spend federal grants may be open-ended or specific; practice varies. Authorizations normally are estimates and bill language clarifies when unanticipated receipts over budget estimates may be spent. A limit is placed on salary expenditures in the budget, but FTE are not specified. During the interim, salary limits may be exceeded by the amount of new federal grants.

Nevada--State statutes require legislative authorization before state agencies may accept any gift or grant, including those that involve new positions.

New Mexico-- The general appropriations act reflects federal funds for information purposes only. Where state match is required, lawmakers get more say over how the executive will apply those dollars and such plans are reflected in the budget act. It is policy to place employees paid from federal sources in "term" status so that if funds are eliminated, so are the positions.

General Appropriation Act (GAA) defines Federal Funds and appropriates Federal Funds for agencies. The Act also defines the General Fund as including "payments made in accordance with the federal block grant." State court decisions limit legislative power of appropriations over Federal Funds authorized directly to agencies. Until 1995, GAA indicated that Federal Funds are included for information only but enactment of Federal Welfare reform and implementation of Temporary Assistance for Needy Families caused rethinking of this language and authority.

North Carolina--The Legislature authorizes the expenditure of a specific amount for a declared purpose and may impose an upper limit on state expenditure of federal funds for the fiscal period

Oklahoma--Appropriations bills limit the expenditure of federal funds. A recent constitutional amendment authorizes the appropriation of federal funds and statutory language to implement an appropriations process.

Oregon--Legislative authorization is required for an agency to apply for a grant. Expenditures are both authorized and limited.

South Carolina--South Carolina authorizes the expenditure of federal funds, but does not appropriate them, a distinction which in South Carolina means that the state is not obligated to make up any shortfall of receipts. The authorization is for total agency expenditure and does not itemize the federal sources of the revenue.

South Dakota--Authorization of expenditures up to a specified amount.

Tennessee--Line-item appropriations.

Texas--Appropriations are specific, but the amounts are estimates and language is intended to be broad enough to allow the use of unanticipated funds.

Utah-- Appropriations are specific, but the statute allows the use of unanticipated funds if no additional state matching funds are required.

Vermont--Administration has authority to accept excess receipts from pre-approved grants.

Wisconsin-- First, in terms of the type of appropriation used for the receipt and expenditure of federal funds by individual state agencies, almost all of those state appropriations in Wisconsin's state budget for this purpose are termed continuing appropriations. Under a continuing appropriation, what this means essentially is that an agency can expend any amount of federal money received in such appropriation, regardless of the expenditure level estimated in the budget.

However, there are a number of specific statutory provisions which provide limits in this regard for specific kinds of federal funds or for federal fund appropriations for certain agencies. The following are examples of some of the major provisions in this regard: (1) under a general statutory provision, the Governor is prohibited from administering, and any state agency is prohibited from expending, any federal funds from any federal block grant newly acted after August 31, 1995, without the approval of the Legislature's Joint Committee on Finance; (2) the Governor must submit a plan to the Joint Committee on Finance, for its approval, for the expenditure of any federal oil overcharge funds; (3) limitations are placed on the use of certain federal income augmentation services receipts without the approval of the Joint Committee on Finance; (4) subject to certain conditions, the approval of the Joint Committee on Finance is required before agency expenditure of unanticipated federal community mental health services and federal child care and development block grant funds may proceed; and (5) subject to certain conditions, for three state agencies (Departments of Justice, Public Instruction and Transportation), there is a requirement for each of those agencies to submit annually a plan for the Joint Committee on Finance's approval that details how the agency plans to adjust its federal appropriations (expenditure plans) to reflect the most recent estimate of anticipated federal funds as of December 1 of each year; and (6) the Department of Public Instruction is required to obtain Joint Committee on Finance approval of its plan for allocation of certain federal block grant funds to public schools in the City of Milwaukee.

Second, with regard to creation of federal positions, such position are generally created through the budget process. However, under the statutes, the Governor also has unilateral authority to create or abolish federally funded positions without the approval of the Legislature.

Wyoming--The current budget act eliminates all federally funded positions at the end of the current biennium so that agencies will have to seek reauthorization for them. This has not been done before.

Table 2. Interim Control Over Receipt of Unanticipated Federal Funds Controlling Authority

State	Executive	Legislative	General Degree of Legislative Authority
Alabama	X		None
Alaska		X	Advisory
Arizona	X		None*
Arkansas	X		Advisory*
California	X		Conditional
Colorado	X		Conditional*
Connecticut	X	X	Conditional*
Delaware	X		Joint*
Florida	X	X	Advisory*
Georgia	X		None
Hawaii	X		Conditional*
Idaho	X		Conditional*
Illinois	X		Conditional*
Indiana	X		None
Iowa	X	X	Conditional
Kansas	X	X	Joint*
Kentucky	X		Advisory*

Louisiana		X	Binding*
Maine	X		None
Maryland	X	X	Advisory*
Massachusetts	X		Advisory*
Michigan	X	X	Binding*
Minnesota	X	X	Advisory*
Mississippi	X		None*
Missouri		X	Binding*
Montana	X		None*
Nebraska		X	Binding*
Nevada	X	X	Binding*
New Hampshire	X		Conditional
New Jersey	X	X	Conditional*
New Mexico	X*	X*	Conditional
New York		X	Binding*
North Carolina	X*	X	Advisory*
North Dakota	X	X	Joint*
Ohio	X	X	Joint*
Oklahoma	X	X	Joint*
Oregon		X	Binding*
Pennsylvania		X	Binding
Rhode Island	X	X	Joint*
South Carolina		X	Binding*
South Dakota		X*	Binding*
Tennessee	X		Advisory*
Texas		X	Binding*
Utah	X		Conditional*
Vermont		X	Binding*
Virginia	X		None
Washington	X		None
West Virginia	X		Conditional
Wisconsin	X		Advisory*
Wyoming	X		None
Totals	39	26	

States appearing in bold face in Table 2 have a legislature that meets year round. Totals may exceed 50 because some states have both the executive and legislature as controlling authorities.

Definition of Terms:

None: The executive has complete discretion over unanticipated federal funds received between legislative sessions.

Advisory: A legislative board may provide advice during the interim, but lawmakers have no control over unanticipated federal funds.

Conditional: Lawmakers defer to the executive for some spending decisions between legislative sessions. Practice may vary depending on the source, purpose or type of unanticipated federal funds received.

Joint: Executive and legislative branch sit together on a board and during the interim share the decision on spending unanticipated federal funds.

Binding: The executive branch may receive but cannot spend unanticipated federal funds without prior authorization or subsequent legislative approval.

* **Notes:**

Arizona--None with the exception of monies received under Title XIX of the of the Social Security Act (Medicaid). The general appropriation act sets a cap on total expenditures for Title XIX programs. Authority not referenced to appropriate Federal Funds under the Brown amendment for TANF.

Arkansas--The full legislature must ratify the governor's decision during the next session or state participation in the program is withdrawn.

Colorado--A legislative role exists only when a specific state match is required.

Connecticut--Legislature has control for all block grants while the governor has control of other federal funds.

Delaware--The state Clearing House Committee for Federal Aid must approve any applications for federal grants by state agencies. Membership includes the chairs of the Joint Finance Committee, four other legislators, the secretary of finance, the state budget director, the director of the Office of Development, and the controller general.

Florida--Governor submits budget amendment and, by statute, fiscal committees have 14 days to respond if they disapprove of the spending plan.

Hawaii--In 2000, Act 234 was passed giving the Governor the ability to increase expenditure ceilings set by the legislature for unanticipated impact aid and U.S. Dept. of Defense funds received by the State Department of Education

Idaho--Unanticipated federal funds approved by the Executive Branch may only be used for the current year, but must be re-authorized, once known, by the legislature.

Iowa--All block grant funds received by the state must be deposited in a special account subject to appropriation by the legislature. Block grant appropriations are contained in the block grant bill. The legislature has no interim authority over other kinds of federal funds.

Illinois--Nonappropriated spending is permissible if: (1) the purpose for which monies are to be spent are for purposes and/or resources that were not appropriated; (2) the spending does not commit the state to matching resources; (3) the General Assembly has not specifically denied the purpose; and (4) the agency has the statutory authority to carry on the activities of the program. Otherwise a state agency must seek a supplemental appropriation.

Kansas--State Finance Council includes the Governor, Speaker of the House, President of the Senate, House and Senate majority and minority leaders, and Ways and Means and Appropriations Committee chairs.

Kentucky--Provision is made for expenditure of excess receipts with notification and review by the Appropriations and Revenue Committee. Legislative objections may be overridden by the state budget director with written notification.

Louisiana--By statute, the Joint Legislative Budget Committee is the controlling authority. The governor may accept but cannot spend unanticipated federal funds without legislative approval.

Maryland--While lawmakers have the power to question how the executive plans to spend unanticipated federal funds, in practice, fiscal committees rarely become involved between legislative sessions. However, A process exists which requires every amendment to the budget which would increase federal funds appropriations by more than \$100,000 to be submitted to the budget committees for review and comment. Although the review period is limited to 45 days, as a matter of practice, the executive customarily does not process amendments with which the committees do not concur.

Massachusetts--Nonappropriated spending is permissible if: (1) the purpose for which monies are to be spent are for purposes and/or resources that were not appropriated; (2) the spending does not commit the state to matching resources; (3) the General Assembly has not specifically denied the purpose; and (4) the agency has the statutory authority to carry on the activities of the program. Otherwise a state agency must seek a supplemental appropriation.

Michigan--A supplemental appropriation is required from the full legislative body whenever unanticipated federal funds are received by a state agency.

Minnesota--A supplemental appropriation is required from the full legislative body whenever unanticipated federal funds are received by a state agency. For new programs, personnel level changes, or proposed increases in state

match, an agency must secure the recommendation of the Legislative Advisory Commission. Members of the Legislative Advisory Commission include the finance commissioner, the speaker of the House and Senate majority leader (or designees), chairs of the House ways and means and Senate finance committees and on a rotating basis chairs of fiscal committees in the House and budget divisions of the Senate responsible for oversight of the items being considered. The Legislative Advisory Commission may review and comment on planned uses for unanticipated federal receipts between legislative sessions, but the executive is not obliged to follow its recommendations.

Mississippi--The state supreme court ruled in 1985 that Mississippi's constitution prohibits legislative involvement in the execution of the budget after its adoption. However, the executive would need legislative approval when state matching funds are required.

Missouri--So long as prior legislative authorization exists for that federal source, the executive is free to accept and spend unanticipated federal revenue. When an agency expects but can only estimate the amount of federal revenue it will receive for the fiscal period, the budget bill reflects this fact. Estimates are sufficient authorization to spend actual receipts. Agencies must notify legislative fiscal staff when federal receipts exceed budget estimates.

Montana--The governor is the controlling authority for the executive branch, the chief justice for the judicial branch, the Board of Regents for the university system.

Nebraska--Typically, federal funds are shown in appropriations bills as an estimate, thus the amounts shown are generally not an absolute expenditure restriction. Allotments of federal funds received in excess of budget estimates are delegated to the executive branch via the appropriations bills, however this delegation is discretionary. Without language delegating such authority and providing an estimate, funds can be received by the executive branch but not spent.

Nevada--Between legislative sessions, the Interim Finance Committee must approve gifts over \$10,000 and grants over \$100,000 not included in the General Authorization Act. Grants that involve the approval of new positions require Interim Finance Committee approval regardless of amount. The Interim Finance Committee includes all members who served on the Assembly Ways & Means and Senate Finance Committee during the preceding session.

New Hampshire--Unanticipated federal funds may not be expended for personnel costs or consultants without prior approval of the Legislative Fiscal Committee and Governor and Council Committee (executive branch).

New Jersey--Prior authorization is required unless otherwise specified in the budget act. It has been the practice to extend to the governor the authority to accept and spend certain federal grants without limit as in the case of grants awarded to New Jersey universities on a competitive basis. Limits may be set in advance to accommodate unanticipated federal funds. For example, an agency may be authorized to spend unanticipated federal receipts up to 125 percent of current authorized levels. Or the governor may be given discretion over small grants under \$300,000. Federal spending authority also can be transferred between programs upon request to the legislature.

All authority to accept and expend federal funds is provided through the annual appropriations act (including supplements thereto). The annual appropriations act makes specific appropriations of federal funds in specific amounts, but also appropriates and allows the expenditure of the following unanticipated federal funds:

Emergency disaster aid funds;

Pass--through grants to political subdivisions of the state for which the state has no discretion in the use or distribution of the funds and for which no state matching funds are required;

The first 25 percent of unanticipated grant awards, and increases of up to 25 percent above the previously anticipated grant amount;

Federal financial aid for higher education student above the amount specifically appropriated;

Any Low Income Home Energy Assistance Program (LIHEAP) funds received in excess of the amount appropriated; and

All other grants of \$500,000 or less that have been awarded competitively.

Transfers of federal appropriations authority ceilings among unrelated programs will be allowed only with legislative approval and only under emergency or special conditions.

New Mexico--General Appropriation Act authorizes budget increases of unforeseen federal funds to agencies. There is some uncertainty or dispute whether this applies to the 2003 Federal flexible grant.

New York--Payments from any funds, including federal monies, of the state or under state management are prohibited without legislative appropriation.

North Carolina-- A 1982 North Carolina Supreme Court advisory opinion found unconstitutional the delegation of the authority to approve/disapprove interim federal receipts to North Carolina's Joint Legislative Committee to Review Federal Funds that had been provided for in a 1981 law.

Controlling Authority: Primarily the Executive Branch with broad spending parameters set by the Legislature in the Executive Budget Act.

Advisory: During its 2001 Session, the N.C. General Assembly enacted a statutory requirement that, while the Legislature is not in session, agencies requesting to establish new positions to be financed with unanticipated revenue, be reviewed by its joint legislative oversight commission prior to establishment.

North Dakota-- An emergency commission (the Governor, Secretary of State, chair of the Legislative Council and chairs of the House and Senate appropriation committees) proposes how to spend unanticipated federal funds. That allocation plan must be approved by the budget section of the Legislative Council.

Ohio--The State Controlling Board (six legislators and the director of the Office of Budget and Management) can adjust appropriations authority for other than general fund line items in the interim.

Oklahoma--The Contingency Review Board (the two presiding officers of the Legislature plus the Governor) can permit the expenditure of federal funds that exceed expenditure limitations included in appropriations acts.

Oregon--The Emergency Board (the Joint Ways and Means Committee plus presiding officers) controls use of unanticipated federal funds in the interim.

Rhode Island--An agency can spend federal funds received up to the amount specified in an appropriation. Receipts in excess of the amount cannot be spent without express consent by the governor and the two presiding officers.

South Carolina--The State Budget and Control Board has the authority to review and approve the expenditure of unanticipated funds

South Dakota--Interim Committee on Appropriations (the appropriations committee out of session) must approve the governor's recommendation for the expenditure of unanticipated funds.

Tennessee--The governor's use of funds received in the interim is reviewed in the appropriations process in the following session.

Texas--Efforts are made to use language broad enough to allow unanticipated funds to be used; the Legislative Budget Board (presiding officers, four fiscal committee chairs, four other legislators) may authorize the expenditure of unanticipated funds in the interim.

Utah--Executive may accept federal funds if no matching state funds are required. In the latter case, the legislature reviews a summary of all grant applications 3-4 times during interim. An additional new report will track those applications through receipt, including any modifications.

Vermont--Grants require legislative interim committee approval or legislative approval. Excess receipts from existing grant can be accepted by the administration.

West Virginia--Under a bill passed during the 1982 session, the governor must submit a statement to the legislative auditor explaining why the unanticipated funds could not be reasonably have been anticipated in the budget process and describing how the funds will be spent. If the legislature is in session, unanticipated federal funds must be appropriated. Unanticipated funds received during the interim may not be spent for the creation of a new program or for a significant alteration of an existing program.

Wisconsin--The Legislature, through the Joint Committee on Finance, has some review/approval authority over expenditure of such unanticipated federal funds in certain situations.

Source: National Conference of State Legislatures survey of legislative fiscal offices, 2003.

Posted September 2004.

Email statebudget-info@ncsl.org for more information.

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DRAFT

December 1, 2011

Henry Sobanet
Director
Governor's Office of State Planning and Budgeting
State Capitol, Room 114
Denver, Colorado 80203

Dear Mr. Sobanet:

The Joint Budget Committee has been discussing the extent to which various funds are shown in the Long Bill solely for informational purposes because they are not subject to annual appropriation or are deemed to be custodial funds that are under the control of the Executive Branch. Based on this discussion, we have decided to implement a new Long Bill notation, starting with the FY 2012-13 Long Bill, to more clearly identify funds shown for informational purposes (an "(I)" notation), and we are working with our staff to impose greater consistency in what amounts are shown for informational purposes in appropriation bills and how frequently these amounts are adjusted.

We would appreciate the cooperation of the Office of State Planning and Budgeting and the Controller's Office as we work to improve legislators' and the public's understanding of funding sources that are not controlled through the annual state appropriation process. We would specifically request your assistance on the following issues.

1. In the attached document, we have outlined the circumstances under which we would like to include informational funds in appropriation bills, when amounts should not be included, and under what circumstances amounts shown for informational purposes should be adjusted. We would be interested in any feedback you have and would appreciate if OSPB would include direction consistent with our decisions in its FY 2013-14 budget instructions for state agencies.
2. We do not intend to change the current policy of excluding food assistance and unemployment insurance benefit amounts from the Long Bill, given the funding sources for these programs and that they are subject to large adjustments based on economic factors over which the General Assembly has little or no control. However, we would appreciate if you would submit a brief annual report identifying recent actual, estimated, and projected expenditures for these and any other major off-budget programs with annual expenditures

of \$250 million or more along with or as part of the November 1 budget submission. This would facilitate the discussion of these programs in briefing documents and budget overviews.

3. If the State proceeds with the development of a new accounting system in the next few years, we would like the new system to include mechanisms for reports that would allow the General Assembly to more clearly identify non-appropriated funds and funds spent based on continuous spending authority.

For example, a new system might include:

- ▶ a mechanism by which the Controller could tag spending authority as a duplicate/reappropriation of another appropriation (*e.g.*, where spending authority is provided for funds transferred from one department to another), using a definition of "duplicate"/reappropriation that would be functional for the General Assembly. This would include a report function that would facilitate comparison with the Long Bill; and
- ▶ a system for attaching descriptions to non-appropriated and custodial funding to briefly identify the source of the funding, the nature of the grant or program funded, and the length of time for which the grant is provided.

We also believe that it would be helpful to incorporate Joint Budget Committee/legislative staff input in the development of any new accounting and budgeting system to ensure that it meets legislative, as well as executive, needs.

4. In the next year, we expect to look more closely at the question of under what circumstances programs should have "continuous" spending authority. We would welcome your input in this review.

An effective budget process is reliant on collaboration between the legislative and executive branches. We thus consider this the beginning of a discussion and not the end. If you would suggest modifications to any of the items above, including the proposed guidelines for what funds should be included in the Long Bill or not, we would be interested in your feedback. We also note that some of the changes outlined above may be most appropriately addressed through statutory change.

Thank you for your assistance. We look forward to hearing from you.

Sincerely,

Cheri Gerou
Chair

cc:
John Ziegler, JBC Staff
David McDermott, State Controller