

November 19, 2025

Capital Outlay Subcommittee – Policy Initiative Updates

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Capital Development Program Funds

Previous Action: The subcommittee directed LFC and DFA staff to develop a criteria-based application process for 2026 capital development program funds open to local and tribal governments for planning and design or for construction of shovel-ready projects. DFA was asked to deliver a funding recommendation by LFC’s November meeting, with the committee to consider it for inclusion in the statewide framework.

Update:

- DFA opened and closed an application window for the \$26 million that will be available in 2026. The agency accepted applications from September 29 to October 29.
- Applicants could apply for:
 - Project completion grants of up to \$5 million for construction; and
 - Planning and design grants for projects with total costs exceeding \$5 million.
- **The agency received 101 applications totaling \$228.9 million in requests.** Requests ranged from \$20 thousand to \$12 million.
- DFA is currently scoring applications. It developed a detailed scoring rubric, which has been provided to LFC. Criteria include project readiness, implementation plan, community benefit, and quality of cost estimates. Scoring is anticipated to be complete by November 21. LFC staff will review the scoring results with DFA and the capital outlay subcommittee will have an opportunity to be briefed on the funding recommendation before LFC’s December meeting.

Reauthorizations and Reversions

Previous Action: The capital outlay subcommittee directed staff to draft legislation for potential committee endorsement including the following limits to reauthorizations and directives for reversions:

- a. Limit of one time extension per appropriation. Standard extension to remain at two years.
- b. Allow reauthorizations for technical changes and to correct drafting errors but not to change the purpose of an appropriation.
- c. Establishing an encumbrance threshold to be eligible for reauthorization.

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- d. Future reversions from general fund capital appropriations will go to the capital development and reserve fund. These reversions would contribute to future capital outlay capacity but would not remain assigned to legislators or communities.

Update: LFC staff have worked with partners in DFA and the Legislative Council Service to begin drafting a bill. This work has prompted additional questions for the subcommittee to consider.

- **How to define a technical change?**

- Potential definition: A technical change means a minor correction or an adjustment that does not alter the purpose of the initial capital outlay project and includes correcting a drafting error, changing the administering agency, changing the fiscal agent or expanding the eligible uses of an appropriation within the same project.
- Justification: LFC and DFA staff analyzed previous reauthorizations to identify common technical changes. These include expansions of language for the same project – for example, if language to acquire property was not included but is needed – and instances where projects were mistakenly sent to the wrong agency or fiscal agent or a fiscal agent was changed for another reason, from a city to a county, for instance.

- **Where to set an encumbrance threshold required to be eligible for a time extension?**

- Potential threshold: Ten percent.
- Justification: Ten percent is a rule of thumb portion of total project cost for architecture, engineering, and professional services. The committee’s intention in establishing an encumbrance threshold was to ensure grantees demonstrated activity on projects to qualify for time extensions. Ten percent is a minimally burdensome amount and could account for a lack of construction-related encumbrances due to funding shortfalls or other issues that may necessitate time extensions.
- Additional issues: Some members have expressed concern that a low threshold may result in grantees using mechanisms such as fiscal agent fees to demonstrate activity on a project. Language could be included in a bill to prohibit these types of expenses from counting toward the encumbrance requirement.

Limitations on Local Capital Outlay Eligibility

Previous Action #1: The subcommittee directed LFC staff to draft legislation for potential committee endorsement that includes requiring capital requests over a certain dollar threshold to appear on an ICIP.

Update: Discussion with DFA partners about implementation has raised questions about where the committee wishes to set that dollar threshold:

- **A higher threshold – such as \$500 thousand or \$1 million – would help ensure larger requests are backed by some level of planning and formal prioritization at the local level.** A higher limit is unlikely to be burdensome on smaller entities, such as acequias. At the same time, it would not incentivize improved planning by smaller entities nor limit the volume of lower-dollar, unplanned requests from large or small entities.
- **A lower threshold – such as \$100 thousand – would effectively require the completion of an ICIP for most requests but could be more burdensome** on both smaller and larger entities. It would be more likely to limit the volume of lower-dollar, unplanned requests.

Previous Action #2: The subcommittee directed LFC staff to draft legislation including a mechanism for limiting discretionary capital outlay for local drinking water and wastewater system improvement projects (not to include equipment appropriations). The committee expressed a preference for making certain types of water projects that could secure funding through other state grant programs ineligible for discretionary, local capital outlay appropriations. The proposal was to be developed in consultation with executive and NMFA partners.

Update: LFC staff worked with partners to identify a mechanism that would balance maintaining the Legislature’s flexibility to direct additional funding to critical water infrastructure with ensuring those funds reach ready projects at appropriate amounts.

Potential Mechanism: Disallow individual local capital outlay requests for certain water projects that are eligible for Water Trust Board funding, but **allow the agencies that administer other grant and loan programs to submit a request for supplemental funding for those programs through the statewide ICIP process, for potential inclusion in the statewide framework.** This would provide a more formal avenue for the approach the Legislature has recently taken to incentivize participation in the Water Trust Board over capital outlay through special appropriations to close the board’s funding gaps.

LFC worked with these partners to propose a definition for water projects for which capital outlay eligibility would be limited and with LCS on potential statutory language to achieve this goal.

Potential Limitation Language: Capital outlay authorizations and appropriations for a drinking water, wastewater, storm water or dam project, excluding equipment, shall not be made to an entity other than a state agency. ‘State agency’ means the state or any of its branches, agencies, departments, boards, instrumentalities or institutions.

Associated Issues: **If the Legislature pursues such limitations, it should consider suspending or eliminating legislative authorization for Water Trust Board projects.** This would allow the Water Trust Board to significantly shorten its application cycle by as much as six months and introduce increased flexibility, including an application process specifically designed to support small systems. It would also allow NMFA to administer larger sums of money without a significant increase in administrative staff by eliminating the significant peaks and valley in administrative workload currently associated with the program.