

STATE OF COLORADO

OFFICE OF STATE PLANNING AND BUDGETING

111 State Capitol Building
Denver, Colorado 80203
(303) 866-3317

**MEMORANDUM**

Bill Ritter, Jr.
Governor

Todd Salzman
Director

To: Members of the Capital Development Committee
Jeremiah Berry
Kori Donaldson

From: Colorado Department of Higher Education
Office of State Planning and Budgeting
Office of the State Architect

Date: April 21, 2009

RE: Higher Education Capital Construction Flexibility: Controlled Maintenance

Thank you for continuing to accept our feedback about the bill(s) that would allow increased flexibility for higher education capital construction. We are pleased with the progress that has been made. There is one remaining issue that we would like to bring to your attention. We believe that the current draft of the bill will significantly expand the types of projects that have access to State-funded controlled maintenance. In this extremely tight budgetary environment, we are concerned that stretching the limited controlled maintenance dollars may harm the ability of State-funded projects to access these funds.

There currently are two types of cash funded projects at institutions of higher education: 1) regular cash funded projects, and 2) cash funded projects for auxiliary facilities (the SB 92-202 projects).

1. In existing statutes, the regular cash projects are described in paragraph (10) in C.R.S. 23-1-106. These projects are non-auxiliary, largely academic buildings in which the institution is self funding the construction of the project. The operation and maintenance of these cash-funded projects can be covered through institutional cash funds or from state sources (i.e., State-funded controlled maintenance).
2. The 202 projects are those that are auxiliary facilities, in other words, not core to the academic mission at the institution. Examples of auxiliary facilities are residence halls, dining halls, recreation centers, and parking facilities. Prior to 1992, these projects were not reviewed or approved by the Colorado Commission on Higher Education/Department of Higher Education, the Capital Development Committee (CDC), or the Joint Budget Committee (JBC). The purpose of SB 92-202 was to enable the CDC to be aware of these projects and to exercise some approval authority. It is expressly stated in paragraph (9) of the C.R.S. 23-1-106 that these projects must be built, operated, and maintained from

institutional cash sources. In other words, 202 projects are ineligible for State-funded controlled maintenance.

Due to HB 08-1205, both regular cash projects (paragraph (10)) and 202 projects (paragraph (9)) receive an expedited review by the DHE, CDC, and JBC. Prior to this legislation, only 202 projects received an expedited review. However, one distinction between the two types of projects remained in HB 08-1205, as 202 projects are still ineligible for State-funded controlled maintenance.

In its current form, the higher education capital construction flexibility legislation eliminates specific project review for any cash projects initiated by a governing board which is not participating in the Intercept Act. The distinction between projects eligible for controlled maintenance and those which are not remains for these institutions. (Note: the CU System is the only governing board which is not participating in the Intercept Act and thus the only governing board that would participate in this new process). For the other nine governing boards which are participating in the Intercept Act, the flexibility legislation establishes only one type of cash funded project and review process. The statutory restriction on State-funded controlled maintenance for the auxiliary 202 projects has been stricken from the C.R.S. 23-1-106 for those institutions participating in the Intercept Act.

Because they are auxiliary facilities, the 202 projects have a dedicated funding stream through the service they offer. For example, an institution charges rent to students who live in an on-campus residence hall. This rent is sufficient to cover any outstanding bond payment that was necessary to construct the facility, and to cover the operation and maintenance of the facility over time. It is for this reason, that these auxiliary facilities have never been eligible for State-funded controlled maintenance.

The FY 2008-09 annual report from the Office of the State Architect states that state-owned, General Funded buildings accounted for about 39.7 million gross square feet in FY 2006-07. In addition there was about 22 million GSF in auxiliary facilities, facilities that are not eligible for State-funded controlled maintenance. As written, these types of projects would become eligible for State-funded controlled maintenance resulting in additional workload for the Office of the State Architect and, more concerning, an additional obligation to provide State-funded controlled maintenance for auxiliary facilities. As a state, Colorado does not have sufficient funding to meet industry standards specific to maintenance even before increasing the number of facilities that would be eligible.

An initial review of 202 projects approved over the past two years (FY 2007-08 and 2008-09) and so far in the subsequent fiscal year (FY 2009-10) yielded the following results (rounded to nearest hundred thousand):

Fiscal Year	# of 202 Projects	Cash Funds	Federal Funds	Total Funds	Approximate Gross Square Feet
2007-08	13	\$236,600,000	\$0	\$236,600,000	1,300,000
2008-09	23	\$450,400,000	\$29,000,000	\$479,400,000	1,600,000
2009-10	7	\$186,400,000	\$0	\$186,400,000	600,000
Grand Total	43	\$873,400,000	\$29,000,000	\$902,400,000	3,500,000

Thank you for your consideration of this matter. Please do not hesitate to contact any of us for additional information.