

## CAPITAL CONSTRUCTION

<b>Capital Construction Projects</b>		
<b>HB 12-1200</b> (Enacted) <i>Supplemental Appropriations  for Capital Construction</i>	<b>HB 12-1335</b> (Enacted) <i>2012-13 Long Appropriations Bill</i>	
<b>Revenue for Capital Projects</b>		
<b>SB 12-168</b> (Sent to Governor) <i>Triggers for General Fund  Obligations</i>	<b>HB 12-1075</b> (Postponed Indefinitely) <i>Six Percent General Fund  Appropriations Limit</i>	<b>HB 12-1335</b> (Enacted) <i>2012-13 Long Appropriations Bill</i>
<b>HB 12-1344</b> (Enacted) <i>Transfers of Capital Construction  Moneys</i>	<b>HB 12-1357</b> (Enroll into an Act) <i>Unspent Proceeds of FML Lease Purchase</i>	
<b>Changes to Capital Process or Project Review</b>		
<b>SJR 12-024</b> (Adopted) <i>Demolition of Structures on State  Fair Property</i>	<b>SB 12-040</b> (Enacted) <i>Higher Education Facilities Eligible  for Controlled Maintenance</i>	<b>SR 12-002</b> (Postponed Indefinitely) <i>Modifications to Senate Rules</i>
<b>HB 12-1011</b> (Postponed Indefinitely) <i>15-Year Rule for State Controlled  Maintenance Funding</i>	<b>HB 12-1030</b> (Postponed Indefinitely) <i>Repeal Transportation-related Reports</i>	<b>HB 12-1166</b> (Postponed Indefinitely) <i>Track Utility Data High Performance  State Buildings</i>
<b>HB 12-1288</b> (Enacted) <i>Administration of IT Projects in  State Government</i>	<b>HB 12-1318</b> (Enacted) <i>Guidelines for Controlled Maintenance  Funding</i>	
<b>Changes to State Agencies that May Affect Future Capital Requests</b>		
<b>SB 12-148</b> (Enacted) <i>Name Change Metropolitan State  College of Denver</i>	<b>SB 12-150</b> (Enacted) <i>State Treasurer Authority to Manage  State Financing</i>	<b>HB 12-1019</b> (Enacted) <i>Transfer Ports of Entry to State Patrol</i>
<b>HB 12-1063</b> (Enacted) <i>Military Veterans Cemetery at  Homelake Expansion</i>	<b>HB 12-1080</b> (Enacted) <i>Adams State College Name Change</i>	<b>HB 12-1081</b> (Enacted) <i>Operations Auraria Higher Education  Center</i>
<b>HB 12-1317</b> (Sent to Governor) <i>Parks and Wildlife Commission  Composition and Terms</i>	<b>HB 12-1331</b> (Enacted) <i>Name Change Western State College  of Colorado</i>	<b>HB 12-1337</b> (Enacted) <i>Close Colorado State Penitentiary II</i>
<b>HB 12-1348</b> (Enacted) <i>Legislative Department Authority  Over Space</i>		

A number of the bills considered by the General Assembly during the 2012 legislative session affected capital construction and the duties of the Capital Development Committee (CDC).

### Capital Construction Projects

**Spending on capital construction.** House Bill 12-1335 (the Long Bill) provides funding in FY 2012-13 for 69 capital construction and controlled maintenance projects totaling \$170.3 million,

including \$71.7 million in state funds, and \$98.6 million in cash and federal funds. The bill funds 4 certificates of participation (COP) payments, 6 state-funded capital construction projects, 41 state-funded controlled maintenance projects, and 18 cash projects. Table 1 lists all FY 2012-13 capital construction projects by agency, including the total state funds and project type.

**Table 1  
FY 2012-13 Capital Construction Projects by Agency**

<b>Agency</b>	<b>Total State Funds</b>	<b>Capital Construction Projects</b>	<b>Controlled Maintenance Projects</b>	<b>Certificates of Participation*</b>	<b>Total # of Projects</b>
<b>State Departments</b>					
Agriculture	\$709,680	0	1	0	1
Colorado Historical Society	\$327,672	2	2	1	5
Corrections	\$21,761,083	1	4	1	6
Education	\$900,575	0	1	0	1
Higher Education	\$0	0	0	1	1
Human Services	\$2,766,814	1	3	0	4
Judicial	\$0	0	0	1	1
Military and Veterans Affairs	\$2,948,638	1	1	0	2
Natural Resources	\$0	6	0	0	6
Office of Information Technology	\$10,526,790	2	0	0	2
Personnel and Administration	\$6,158,653	2	4	0	6
Public Health and Environment	\$0	2	0	0	2
Revenue	\$4,473,254	5	1	0	6
Transportation	\$500,000	1	0	0	1
<b>Total State Departments</b>	<b>\$51,073,159</b>	<b>23</b>	<b>17</b>	<b>4</b>	<b>44</b>
<b>Higher Education Institutions</b>					
Adams State College	\$884,894	0	1	0	1
Arapahoe Community College	\$584,125	0	1	0	1
Auraria Higher Education Center	\$768,585	0	1	0	1
Colorado Community Colleges — Lowry	\$1,015,919	0	1	0	1
Colorado Northwestern Community College	\$275,000	0	1	0	1
Colorado School of Mines	\$1,111,310	0	2	0	2
Colorado State University	\$1,540,225	0	3	0	3
Fort Lewis College	\$660,000	0	1	0	1
Front Range Community College	\$492,510	0	1	0	1
Northeastern Junior College	\$598,000	0	1	0	1
Otero Junior College	\$440,370	0	1	0	1

**Table 1  
FY 2012-13 Capital Construction Projects by Agency (Cont.)**

<b>Agency</b>	<b>Total State Funds</b>	<b>Capital Construction Projects</b>	<b>Controlled Maintenance Projects</b>	<b>Certificates of Participation*</b>	<b>Total # of Projects</b>
<b>Higher Education Institutions (Cont.)</b>					
Pikes Peak Community College	\$287,882	0	1	0	1
Pueblo Community College	\$698,775	0	1	0	1
Trinidad State Junior College	\$132,700	0	1	0	1
University of Colorado at Boulder	\$1,266,888	0	2	0	2
University of Colorado at Colorado Springs	\$402,662	0	1	0	1
University of Colorado Denver	\$8,383,716	0	2	1	3
University of Northern Colorado	\$973,000	0	1	0	1
Western State College	\$108,248	0	1	0	1
<b>Total Higher Education</b>	<b>\$20,624,809</b>	<b>0</b>	<b>24</b>	<b>1</b>	<b>25</b>
<b>Statewide Total</b>	<b>\$71,697,968</b>	<b>23</b>	<b>41</b>	<b>5</b>	<b>69</b>

\*The Long Bill includes four annual lease payments for certificates of participation; however, one payment is split between two departments.

**House Bill 12-1200** makes supplemental capital construction appropriations for 23 projects, including an extension of time only for 2 projects. The combined impact of the 23 supplemental requests from all funding sources is \$18.8 million, including increased cash funds spending authority in the amount of \$21.0 million and decreased federal funds spending authority in the amount of \$2.2 million.

The largest supplemental adjustment made through HB 12-1200 was \$33.1 million in additional cash funds spending authority for expenses related to the construction of a new justice center and parking garage on Broadway between 12th and 14th Avenues. According to the Judicial Department, the amount of additional cash funds spending authority is commensurate with the amount originally budgeted for the project. However, the supplemental amount requested was not included in earlier appropriations. The total cost of the new judicial facilities is estimated at \$544.3 million, including annual lease payments to repay COPs that funded a portion of the project.

The bill also made supplemental adjustments impacting 14 projects in three fiscal years within the Department of Natural Resources, Colorado Parks and Wildlife (CPW) division. The total impact of the supplemental adjustment to these projects is negative \$16.6 million, including \$14.4 million cash funds and \$2.2 million federal funds. The division requested the negative supplemental adjustments in order to redirect funds from select projects to its Wildlife Cash Fund. According to the division, the Wildlife Cash Fund reserve is underfunded by about \$15.8 million as a result of calculation errors made in FY 2008-09 and FY 2009-10.

## Revenue for Capital Projects

**Revenue for FY 2012-13 state-funded capital construction.** Moneys for capital construction and controlled maintenance projects approved during the 2012 session were provided in two bills. **House Bill 12-1344** transfers \$60.4 million for FY 2012-13 projects, including \$59.9 million from the General Fund and \$0.5 million from the General Fund Exempt Account. **House Bill 12-1335** also provides \$0.8 million for FY 2012-13 projects from projected FY 2011-12 interest earnings of the Capital Construction Fund.

**Other revenue for capital construction.** Several bills considered by the General Assembly during the 2012 session concerned future funding for capital construction and controlled maintenance projects. Beginning in fall 2012, **House Bill 12-1357** will provide an estimated \$5.5 million for higher education capital projects. The bill makes provisions for the use of unspent moneys for capital construction projects financed in whole or part through a 2008 COP issuance. Additionally, the bill permits the transfer of a proportion of the unspent cash funds contributed for projects at two institutions of higher education (the Auraria Higher Education Center and Colorado Northwestern Community College). No later than August 15, 2012, the bill directs the State Treasurer's Office and the Office of the State Controller to calculate the amount of unspent moneys remaining, and to provide this information to the CDC. Within 30 days of receipt of this information, the bill directs the CDC to determine how the remaining unspent moneys should be spent, so long as the moneys are spent for a capital construction or eligible controlled maintenance project or projects at a state-supported institution of higher education. The CDC is directed to communicate its decision to the State Treasurer's Office in writing. Legislative Council Staff estimates about \$5.5 million will be available to spend on another capital construction or controlled maintenance project or projects. The cost savings are from three sources, including: (1) unspent state share of the COPs; (2) unspent higher education institution shares of the COPs; and (3) unspent higher education institution cash matches for projects.

**Senate Bill 12-168** delays the beginning of a statutory transfer authorized in Senate Bill 09-28 for one year. Senate Bill 09-228 established a five-year statutory transfer from the General Fund to the Capital Construction Fund and the Highway Users Tax Fund (HUTF). The statutory transfer for capital construction was scheduled to begin in FY 2012-13, provided Colorado personal income increased by 5 percent or more. Since personal income increased by less than 5 percent in 2012, the entire five-year block of transfers was postponed until the first fiscal year in which personal income increases by at least 5 percent during the calendar year in which the fiscal year originated. The scheduled transfer to the Capital Construction Fund is 0.5 percent of General Fund revenue in the first two years and 1.0 percent of General Fund revenue in the last three years. The March 2012 Legislative Council Staff economic forecast projects that personal income will grow by at least 5 percent in 2013. Under SB 09-228 the initial transfer of an estimated \$40.4 million for capital construction would have begun in FY 2013-14. Pursuant to SB 12-168, the initial transfer is expected to begin in FY 2014-15 and continue until FY 2018-19.

**House Bill 12-1075**, which was postponed indefinitely, would have reestablished a 6 percent annual growth limit for General Fund appropriations and a statutory transfer for capital construction. Prior to FY 2009-10, state law limited the growth of General Fund appropriations to 6 percent from one fiscal year to the next. Senate Bill 09-228 repealed the 6 percent limit and set the growth limit equal to 5 percent of Colorado personal income. The bill also repealed the automatic House Bill 02-1310 transfer to the Capital Construction Fund and the HUTF. Pursuant to HB 02-1310,

excess General Fund reserves were transferred two-thirds to highways and one-third to capital construction. House Bill 12-1075 would have established a transfer of any year-end surplus revenue above the 6 percent limit, after all other General Fund obligations were met, of 50 percent to a newly created State Reserve Fund, 25 percent to the HUTF, and 25 percent to the Capital Construction Fund. An estimated \$40.8 million was projected to be available for capital projects pursuant to this transfer in FY 2013-14.

## **Changes to Capital Process or Review**

Several bills considered by the General Assembly during the 2012 session affect the capital process or the review of capital projects. The Capital Development Committee sponsored several items of legislation concerning funding and eligibility for controlled maintenance. Other bills concerned the project review process, rules affecting committee membership, and reporting requirements.

***Eligibility for controlled maintenance funding.*** Recommended by the CDC, **House Bill 12-1318** codifies existing practice regarding determining eligibility for state controlled maintenance funding, expenditures for emergency controlled maintenance, and the reporting of such expenditures. The bill requires the Office of the State Architect (OSA), within the Department of Personnel and Administration, to develop guidelines to determine the timing of eligibility for state controlled maintenance funding. Pursuant to existing practice, state-owned buildings that are maintained with General Fund dollars are typically eligible for controlled maintenance funding after 15 years has elapsed from the date of purchase or substantial completion. The bill requires that these guidelines be annually reviewed and approved by the CDC. The bill also codifies the process through which a state department or public higher education institution can request a waiver of these eligibility requirements. The bill creates the Emergency Controlled Maintenance Account within the Capital Construction Fund, and allows the OSA to use the fund for emergency controlled maintenance. Another bill, which was postponed indefinitely, **House Bill 12-1011**, made similar provisions. However, it set in law the current practice of making projects eligible for controlled maintenance after 15 years has elapsed from the date of purchase or substantial completion, rather than making the timing of funding eligibility subject to annual review.

**Senate Bill 12-040**, which was also recommended by the CDC, clarifies that all state higher education academic facilities are eligible for future state controlled maintenance funding. In 2009, certain changes to the review and approval process for cash-funded capital construction projects at institutions of higher education were instituted. These changes affected how eligibility for state controlled maintenance funding for academic facilities was determined. Under current law, academic facilities approved on or after January 1, 2010, are eligible for state controlled maintenance funding, regardless of the source of funds used to construct, renovate, or purchase the facility. However, this change in law did not extend eligibility for controlled maintenance funding to academic facilities approved or constructed from auxiliary revenue sources prior to January 1, 2010. SB 12-040 extends eligibility to all academic facilities regardless of funding source or construction date and is expected to impact an estimated 20 facilities.

SB 12-040 also makes any auxiliary facility that is repurposed for academic use eligible for future state controlled maintenance funding. The bill requires the OSA to collaborate with the Department of Higher Education and the Governor's Office of State Planning and Budgeting (OSPB)

to develop guidelines pertaining to the classification of academic and auxiliary facilities, subject to the factors specified in the bill. The CDC is directed to annually review and approve these guidelines.

During the 2011 interim, the CDC learned about a controlled maintenance concern at the Colorado State Fairgrounds. A formal request to demolish and abate hazardous materials in the Naval and Marine Corps Reserve Building and several associated structures was later submitted for funding consideration. The request was not submitted as part of the prioritized list of controlled maintenance projects assembled by the OSA and recommended to the CDC by OSPB. Upon further investigation by legislative staff, it was discovered that the building may not be owned by the state, and the CDC recommended that a request be made to the federal government to address the asbestos abatement issues in the facility. **Senate Joint Resolution 12-024** summarizes the history of the building's construction, ownership, and hazardous materials contamination. It further summarizes earlier attempts made by state officials to seek federal support and funding for the demolition and abatement of hazardous materials in the building and associated structures. Finally, the resolution states that the state of Colorado needs an assurance from the federal government, no later than July 1, 2012, that it will demolish and abate the hazardous structures no later than July 1, 2013.

**Changes to CDC oversight and rules.** **House Bill 12-1288** expands the definition of capital construction to include the *purchase of services* from the Governor's Office of Information Technology (OIT). Expanding the definition of capital construction to include services provided by OIT may increase the number of projects subject to CDC review and approval. Current practice classifies information technology project costing more than \$500,000 as capital construction, and therefore subject to review and approval by the CDC. This classification is based on a 1997 memorandum of understanding between the CDC, the Joint Budget Committee, the Colorado Commission on Higher Education, and the OSPB.

**Senate Resolution 12-002**, which was postponed indefinitely, would have added the CDC to Senate Rule 21 (b), concerning the process of appointing members to certain standing committees. Pursuant to current rule, the Senate President is charged with appointing the Senate members to the CDC. The change to Senate Rule 21 (b) would have permitted the Senate Majority Leader to appoint the majority members and the Senate Minority Leader to appoint the minority member to the committee.

**Changes in reporting requirements.** Two bills considered by the General Assembly during the 2012 session created additional tracking and reporting requirements within the OSA. **House Bill 12-1318** requires the OSA to annually provide a status report to the CDC showing spending for emergency controlled maintenance projects from the newly created Emergency Controlled Maintenance Account within the Capital Construction Fund. **House Bill 12-1166**, which was postponed indefinitely, would have required state agencies, including higher education institutions, to monitor, track, and verify utility usage data for all state-assisted facilities that have achieved high performance certification. Agencies were directed to annually report utility usage data to the OSA.

Another bill, **House Bill 12-1030**, which was postponed indefinitely, would have eliminated a requirement that the Colorado Department of Transportation annually submit a capital construction funding request to the CDC.

## Changes to State Agencies that May Impact Future Capital Requests

*Changes to the authority or responsibilities of state agencies.* Several bills considered by the General Assembly during the 2012 session made changes to the authority or responsibilities of certain state agencies. These changes impact the departments of Corrections, Human Services, Natural Resources, Public Safety, and Revenue, as well as the State Treasurer's Office, the Legislative Branch, and the Auraria Higher Education Center. It is not anticipated that the duties and responsibilities of the CDC will change as a result of the passage of these bills. However, the type and scope of future capital requests will likely reflect the changes made to various state agencies.

**House Bill 12-1337** authorizes the closure of the south campus of the Centennial Correctional Facility, also known as Colorado State Penitentiary II. The facility was financed through the sale of COPs. The annual lease payments are scheduled to continue for nine more years, through FY 2020-21. These payments, which will average about \$15.3 million a year for the next nine years, are made from state funds through the capital section of the annual budget bill.

**House Bill 12-1063** authorizes the expansion of the existing Homelake Military Veterans Cemetery adjacent to the Colorado State Veterans Home at Homelake, once sufficient moneys are raised for this purpose from gifts, grants, donations, and fees for reservations, burials, and interments. Depending on the status of available funds and the project's scope, it is possible that the Department of Human Services may submit a future capital request for cash funds spending authority.

**House Bill 12-1317** replaces the Parks and Wildlife Board within the Department of Natural Resources with the Parks and Wildlife Commission. In 2011, Senate Bill 11-208 combined the divisions of Wildlife and Parks and Outdoor Recreation to form the Division of Parks and Wildlife. In so doing, the existing Wildlife Commission was merged with the existing Board of Parks and Outdoor Recreation to form the 16-member Parks and Wildlife Board. The new commission will be comprised of 11 voting members to be appointed by the Governor and two nonvoting *ex officio* members — the Executive Director of the Department of Natural Resources and the Commissioner of the Department of Agriculture. The bill gives the commission permanent authority to set fees for the use of parks and outdoor recreation facilities and programs.

**House Bill 12-1019** transfers the Motor Carrier Services Division within the Department of Revenue to the Colorado State Patrol within the Department of Public Safety. The Motor Carrier Services Division oversees the state's fixed and mobile ports of entry. Future capital requests associated with ports of entry will be submitted by the Department of Public Safety. The typical fund source requested for port projects, off-the-top moneys from the Highway Users Tax Fund, is not expected to change as a result of this transfer.

**Senate Bill 12-150**, which was recommended by the CDC, centralizes the management of certain state public finance transactions within the State Treasurer's Office. The bill requires the State Treasurer to act as the issuing manager for most state agencies for approved issuances or incurrences of financial obligations such as bonds, notes, or warranties, when the principal amount is at least \$1 million and repaid in whole or part from state revenues. The State Treasurer's Office is also directed to develop and issue rules for a state public financing policy. It is further directed to present this policy to the CDC. Finally, the State Treasurer's Office is directed to create and maintain an inventory of all state-owned real property used as leased or collateral property, and to annually provide a copy of this inventory to the CDC.

**House Bill 12-1348** clarifies that the existing authority of the General Assembly to designate and assign space in the State Capitol building and surrounding grounds for use of the legislative department includes:

- legislative space in the State Capitol subbasement, including access to all State Capitol subbasement tunnels;
- legislative space in the state office building located at 1525 Sherman Street;
- and the Legislative Services Building at 14th Avenue and Sherman Street.

The 2012 Long Bill authorized the legislative branch to occupy two floors in the state office building located at 1525 Sherman Street. The authorization included a \$3.1 million appropriation from the Capital Construction Fund to make renovations to the building after it is vacated by the Department of Law in spring 2013.

**House Bill 12-1081** clarifies that the Auraria Higher Education Center has the same statutory authority relative to other higher education institution governing boards with respect to capital construction, personnel, purchasing, lease-purchase agreements, and other provisions.



*Changes to the name of state colleges.* Three bills considered by the General Assembly during the 2012 session authorized name changes for state colleges. **House Bill 12-1080** changes the name of Adams State College to Adams State University. **House Bill 12-1331** changes the name of Western State College to Western State Colorado University. **Senate Bill 12-148** changes the name of Metropolitan State College of Denver to Metropolitan State University of Denver. In addition to rebranding three state colleges as universities, these bills may lead to the future consideration of additional graduate degree programs or other programmatic changes.