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MEMORANDUM

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April 23, 2009

**TO:** Capital Development Committee

**FROM:** Kori Donaldson, Senior Research Assistant, (303) 866-4976

**SUBJECT:** Long Bill Reporting Requirements Pursuant to Senate Bill 09-290

This memorandum addresses the reporting requirements for higher education cash-funded capital construction projects pursuant to Senate Bill 09-290, as introduced. Specifically, this memorandum provides a brief overview of current law regarding higher education cash-funded projects, summarizes the review process for these projects created by Senate Bill 09-290, and presents alternate reporting options for higher education cash-funded projects approved by the Capital Development Committee (CDC).

**Current law.** Under current law, cash-funded projects at higher education institutions fall into two categories, including: (1) Senate Bill 92-202 projects, which are constructed from auxiliary funds; and (2) House Bill 08-1205 projects, which are constructed from higher education institution cash sources. Both types of cash-funded projects are reviewed by the Colorado Commission on Higher Education (CCHE) and the CDC and included in the Long Bill for informational purposes only. There is no statutory requirement to list such projects in the Long Bill for informational purposes; however, it is the common practice of the Joint Budget Committee (JBC) staff to do so.

**Senate Bill 09-290.** Senate Bill 09-290 changes the review process for cash-funded capital construction projects at higher education institutions and changes how various cash-funded projects are categorized. As introduced, Senate Bill 09-290 categorizes cash-funded projects at higher education institutions into three categories, including:

1. non-academic buildings that are to be constructed, operated, and maintained solely from cash funds;

2. academic buildings to be constructed from cash funds and operated and maintained from such cash funds, or from state moneys appropriated for such purposes; and
3. projects subject to the higher education revenue bond intercept program<sup>1</sup> and constructed from cash funds and operated and maintained from such cash funds, or from state moneys appropriated for such purposes.

Pursuant to the bill, cash-funded projects are listed in a two-year projection of capital need prepared by each higher education institution and submitted annually to the CCHE no later than September 1. The CCHE in turn provides in a unified list of two-year projection of capital need to the CDC by December 1 each year. The bill directs the CDC to review and approve the two-year projection of capital need. Cash projects subject to the higher education revenue bond intercept program are included in the two-year projection of capital need, but must also follow the existing review process and receive approval from the CCHE, CDC, and JBC.

***Reporting requirements for cash projects pursuant to Senate Bill 09-290.*** There is no requirement in Senate Bill 09-290 to list higher education cash-funded projects in the annual Long Bill for informational purposes. However, the bill directs higher education institutions to submit, in writing, a list of projects for which an expenditure over \$2 million was made during the immediately preceding fiscal year that were not subject to review by the CCHE. Projects not subject to review include those cash projects listed in the two-year projection of cash-funded capital need and not subject to the higher education revenue bond intercept program. Under current law<sup>2</sup>, CCHE provides a compilation of small cash-funded capital construction projects commenced at higher education institutions to the CDC annually. This list, called the 209 report, tracks capital expenditures that are not subject to review by CCHE costing less than \$2 million. Pursuant to the bill, the 209 report will be expanded to include certain cash projects costing in excess of \$2 million.

***Reporting requirements for cash projects subject to the higher education revenue bond intercept program pursuant to Senate Bill 09-290.*** There is no requirement in Senate Bill 09-290 to list higher education cash-funded projects subject to the higher education revenue bond intercept program in the Long Bill for informational purposes. The bill does not direct higher education institutions or the CCHE to report on spending for these projects. However, since this type of cash project is subject to full review, the JBC will be provided the necessary information to list these projects in the Long Bill for informational purposes if it continues to follow its existing practice.

***Reporting requirements for program plan amendments for cash projects pursuant to Senate Bill 09-290.*** The bill directs higher education institutions to submit,

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<sup>1</sup>The higher education revenue bond intercept program directs the state treasurer to make payments of principal and/or interest on bonds, on behalf of a state-supported institute of higher education, in the event a higher education institution does not make a scheduled payment, unless a higher education institutions adopts a resolution stating that it will not accept such payment prior to the issuance of the bonds for a project.

<sup>2</sup>Section 23-1-106 (11), C.R.S.

in writing, any changes in the amount or source of cash funds for approved cash-funded projects to the CCHE, Governor's Office of State Planning and Budgeting (OSP), CDC, and JBC to verify the receipt of additional moneys. The bill directs the JBC to list these changes in the amount or source of cash funds in the annual Long Bill for informational

purposes. This reporting requirement applies to all cash projects, even those subject to the higher education revenue bond intercept program.

**Table 1** below outlines the reporting requirements for the various cash-funded project types under current law and pursuant to Senate Bill 09-290, as introduced.

**Table 1  
Reporting Requirements for Higher Education Institution  
Cash-Funded Capital Construction Projects**

Project Type	Listed in Long Bill?	Reporting Requirement	Explanation
<i>Current Practice</i>			
Regular Cash Projects	Yes	No	There is no statutory requirement to list these projects in the Long Bill for informational purposes; however, it is the common practice of the JBC staff to do so.
202 Projects	Yes	No	There is no statutory requirement to list these projects in the Long Bill for informational purposes; however, it is the common practice of the JBC staff to do so.
<i>Pursuant to Senate Bill 09-290, as Introduced</i>			
Regular Cash Projects – Academic Building	No	209 Report	Projects will be listed in the annual 209 report compiled by the CCHE and provided to the CDC. The JBC could list this information in the Long Bill for informational purposes.
Regular Cash Projects – Auxiliary Facility	No	209 Report	Projects will be listed in the annual 209 report compiled by the CCHE and provided to the CDC. The JBC could list this information in the Long Bill for informational purposes.
Cash Projects Subject to Higher Education Revenue Bond Intercept Program	No	No	There is no statutory requirement to list these projects in the Long Bill for informational purposes; however, JBC staff could follow its existing common practice and do so.
Amended Cash Projects	Yes	Long Bill	Changes in the amount or source of cash funds for an approved cash project must be listed in the Long Bill for informational purposes only.

***Alternate reporting methods.*** The following four options offer alternate reporting methods for higher education cash-funded projects:

1. *Eliminate Long Bill reporting requirements* in the bill. As introduced, Senate Bill 09-290 directs the JBC to list any changes to the source or amount of cash funds for approved projects in the Long Bill for informational purposes only. One possible alternative to this reporting method is to direct that additional cash funds instead be reported in the annual 209 report compiled by the CCHE. In order to eliminate the existing reporting requirements for changes to the source or amount of cash funds for an approved project, Senate Bill 09-290 would need to be amended to delete on page 7, lines 3-7, the following: "For informational purposes, the Joint Budget Committee shall identify the new source of moneys in the general appropriations bill enacted at the next regular legislative session." This option will remove the Long Bill reporting requirement for projects that receive additional cash funds in order to provide consistency in the reporting process for all higher education cash-funded projects. This option does not provide a reporting requirement for projects subject to the higher education revenue bond intercept program.
2. *Expand the Long Bill reporting requirements* in the bill to require higher education institutions to notify, in writing, the CCHE, OSPB, CDC, and/or the JBC upon commencement of a cash-funded project and also upon receipt of additional cash funds. Direct the JBC to include all such projects in the annual Long Bill for informational purposes only and remove the existing requirement that certain cash-funded projects be listed in the annual 209 report prepared by the CCHE. This option will allow the JBC to list accurate and complete information about all types of cash-funded projects commenced in a given fiscal year at higher education institutions.
3. *Create a reporting requirement* for cash projects subject to the higher education revenue bond intercept program. Direct higher education institutions to provide, in writing, a list of cash projects commenced under the higher education revenue bond intercept program to the CCHE for inclusion in either the 209 report or the annual Long Bill. This option will allow accurate and complete information about all cash projects to be listed either in the annual 209 report or Long Bill.
4. *Modify the existing Long Bill reporting requirement* in the bill to direct higher education institutions to include information about the original project request amount when it informs the CCHE, OSPB, CDC, and JBC of any changes in the amount or source of cash funds for an approved cash-funded project. Direct the JBC to list both the changes in the amount or source of cash funds and the original request amount in the annual Long Bill for informational purposes. This option will promote transparency in higher education spending for capital construction because it will direct the JBC to show changes to project approval amounts. Cash projects not subject to the higher education revenue bond intercept act will still be listed in the annual 209 report compiled by the CCHE. This option does not provide a reporting requirement for projects subject to the higher education revenue bond intercept program.