

MEMORANDUM

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

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

Date: April 7, 2009

RE: Higher Education Capital Construction Approval Bill, LLS 09-875.03

Thank you for the opportunity to review this draft. We appreciate the ability to work together to resolve this bill. We have been reviewing the recent version provided Friday evening and offer the final recommendations for change. These edits are in reference to the "Redraft 4.3.09" document.

Page 7, line 8

Please insert the word "additional" in between "to" and "review." This will avoid a conflict with text elsewhere that references the CDC's ability to review and approve projects on the 2-year list.

Page 7, line 19

Because we expect that there will be some confusion about which projects would be considered academic buildings, we recommend that the term "academic" be defined. We recommend that this be defined by the Commission in rule.

Paragraph (10), starting on page 8

We fear that the number of projects that would have access to state-funded controlled maintenance has been significantly expanded beyond what was intended. We believe that paragraph (10)(a) should be split into two paragraphs, one for academic building that can access state-funded controlled maintenance and one for non-academic buildings that do not include state-funded controlled maintenance. Please see the following recommendations:

(10)(a) The commission shall review and approve any plan for AN ACADEMIC capital construction project that is estimated to require total expenditures exceeding two million dollars, and that is to be constructed solely from cash funds held by the institution other than those funds specified in paragraph (a) of subsection (9) of this section THAT, IN WHOLE OR IN PART, ARE SUBJECT TO THE HIGHER EDUCATION REVENUE BOND INTERCEPT PROGRAM ESTABLISHED PURSUANT TO SECTION 23-5-139, and THAT IS operated and maintained from such cash funds or from state moneys appropriated for such purpose, or

both. Any plan for any such capital construction project that is estimated to require total expenditures of two million dollars or less shall not be subject to review or approval by the commission.

(10) (b) (NEW) THE COMMISSION SHALL REVIEW AND APPROVE ANY PLAN FOR A NONACADEMIC CAPITAL CONSTRUCTION PROJECT THAT IS ESTIMATED TO REQUIRE TOTAL EXPENDITURES EXCEEDING TWO MILLION DOLLARS, AND THAT IS TO BE CONSTRUCTED AND MAINTAINED SOLELY FROM CASH SOURCES ~~HELD BY THE INSTITUTION OTHER THAN THOSE FUNDS SPECIFIED IN PARAGRAPH (A) OF SUBSECTION (9) OF THIS SECTION THAT, IN WHOLE OR IN PART, ARE SUBJECT TO THE HIGHER EDUCATION REVENUE BOND INTERCEPT PROGRAM ESTABLISHED PURSUANT TO SECTION 23-5-139, AND THAT IS OPERATED AND MAINTAINED FROM SUCH CASH FUNDS OR FROM STATE MONEYS APPROPRIATED FOR SUCH PURPOSE, OR BOTH.~~ ANY PLAN FOR ANY SUCH CAPITAL CONSTRUCTION PROJECT THAT IS ESTIMATED TO REQUIRE TOTAL EXPENDITURES OF TWO MILLION DOLLARS OR LESS SHALL NOT BE SUBJECT TO REVIEW OR APPROVAL BY THE COMMISSION.

Strikethroughs and double underlines are provided to illustrate the differences between the paragraphs. The new paragraph (10)(b) restores the former 202 process that allows abbreviated review for non-academic fully funded cash projects that are not subject to the Intercept Act and do not require state-funded controlled maintenance.

That way:

- Paragraph (9)(a) addresses cash funded non-academic buildings for schools who are outside the Intercept Act;
- Paragraph (9)(b) addresses cash funded academic buildings for schools who are outside the Intercept Act;
- Paragraph (10)(a) addresses cash funded academic buildings for schools who are participating in the Intercept Act; and
- Paragraph (10)(b) addresses cash funded non-academic buildings for schools who are participating in the Intercept Act.

Paragraph (10.5), page 9

Please add “(3),” at the end of line 18. This will ensure that all projects of any kind may proceed with a revision to project, if that revision is solely due to the receipt of a gift, grant, or donation specific to that project. We do not think we should limit this to projects in the special review processes in paragraphs (9) and (10).

Page 10, line 21

Please insert “and (10)” after “(9)” in paragraph (c.3)(I). This will clarify the current intent to not require OSPB review the 100% cash funded projects that CDHE already reviews.

Please let us know any questions or concerns you have about this draft. We appreciate your consideration.