TOPIC: **PROPOSED LEGISLATION CONCERNING THE CAPITAL CONSTRUCTION APPROVAL PROCESS**

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I. SUMMARY

Due to ongoing concerns over construction hyper-inflation, delays from the lengthy capital construction review process and the increasing number of institutions that are self-funding capital projects (cash projects), the Department of Higher Education (Department) is proposing legislation to be carried by the Capital Development Committee (CDC) in the 2008 Legislative Session to modify how cash projects are reviewed and approved by the General Assembly. The bill would also raise thresholds below which formal approval is not required. Specifically, the bill would:

- Expedite the approval process for cash projects by mirroring the review process already in place for 202 projects, with approvals by the CDC and the Joint Budget Committee (JBC), but not requiring spending authority through the annual Long Bill;
- Raise the threshold below which an institution of higher education can request a waiver from program planning for state-funded projects from $500,000 to $2 million; and
- Raise the threshold below which cash and 202 projects do not need approval from the Department, the CDC, and the JBC from $500,000 (cash projects) and $1 million (202 projects), respectively, to $2 million for each.

II. BACKGROUND

Recognizing the realities of available state capital construction funding, institutions have begun to fund projects from cash sources. The University of Colorado at Boulder, Colorado State University, and the Colorado School of Mines have implemented capital construction fees with student support for the construction of academic facilities. These institutions, along with others, have also embarked on capital campaigns seeking donations for specific projects.

At the same time, construction inflation continues to be a real issue driving up total costs. Anecdotally, the most quoted inflationary figure is 1 to 1.5% per month; however, there is significant variance across the state. For example, this year the Governor's budget office (OSPB) allowed a 9% inflation factor for capital requests on the Front Range and a 26% factor for a project at Fort Lewis College. Delaying the start of projects drives up costs and, to the extent possible, review processes should be streamlined to minimize the effect of construction inflation.

Currently, cash projects are reviewed by the Commission and the CDC prior to inclusion in the Long Bill. A cash project cannot commence until the institution receives spending authority through the signed Long Bill. This creates a situation where a school could secure funding for a project in July for example, but not be allowed to start the project until the Long Bill is signed the following June. So-called 202 projects are typically auxiliary facilities (e.g., residence halls) which have their own funding stream. Unlike normal cash funded projects, 202 projects are not eligible for future state controlled maintenance funding and must be built, operated, and maintained from cash sources. The review process for 202 requests is streamlined and occurs year round. A 202 project can commence once it is approved by the Department and the CDC and JBC (it is included in the Long Bill for informational purposes only). Therefore, a 202 project submitted in July could likely commence in September once the necessary approvals have been secured.

Now that institutions are enterprises under the Taxpayer's Bill of Rights (TABOR), the differences between cash and 202 (auxiliary) projects have blurred. Some institutions have begun to submit projects as 202s in order to expedite the review process and begin more quickly, even though this forfeits future state maintenance funding. Both the CDC and JBC have approved these projects.

By allowing cash projects to receive the same expedited review that 202s receive, institutions would no longer be forced to choose an expedited review or future state maintenance dollars. The legislation would help to mitigate construction inflation's effect on a project's overall cost and allow more flexibility to institutions self-funding capital construction.

Further recognizing the impact from rising costs, the legislation would raise the thresholds below which program planning for state funded requests is required from $500,000 to $2 million and for cash and 202 projects from $500,000 and $1 million, respectively, to $2 million. The threshold below which cash and 202 projects do not require legislative approval would also be raised to $2 million. These small projects are reported annually to the Department.

III. STAFF RECOMMENDATION

That the Commission formerly endorse and support the proposed legislation to modify the review process for capital construction projects funded from cash sources and to increase the thresholds below which program planning and approval are not required.

STATUTORY AUTHORITY

C.R.S. 23-1-106