

**TOPIC:** NEW AND CONTINUING STATE-FUNDED CAPITAL PROJECTS AND PRIORITY LIST, FISCAL YEAR 2017-18

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**I. SUMMARY**

State law, C.R.S. 23-1-106(7)(a), requires the Colorado Commission on Higher Education (CCHE) to annually submit a recommended capital construction priority list to the General Assembly’s Capital Development Committee (CDC) by November 1<sup>st</sup>.

The Commission’s Fiscal Affairs and Audit Standing Committee (FAA) and Department staff reviewed a total of thirty-two (32) new state funded capital construction requests for FY 2017-18. Of these thirty-two (32) projects, twenty-six (26) are capital construction and six (6) are Information Technology (IT) projects. Eight (8) projects require program plan approval, and six (6) projects are seeking a program plan waiver for being under the \$2 million threshold for a program plan.

On October 7<sup>th</sup>, the Fiscal Affairs and Audit Standing Committee recommended to the CCHE a prioritized list of capital requests asking for \$353,347,029 in state funds with a total institutional cash contribution of \$115,988,005 (see Attachment A).

Once approved by the CCHE, department staff will forward the final CCHE prioritization list to the Capital Development Committee (CDC), the Joint Budget Committee (JBC), and the Governor’s Office of State Planning and Budgeting for integration into the Governor’s budget request. For FY2017-2018, OSPB limited the CCHE submission of projects to its top 20 priorities.

**II. BACKGROUND**

Last year the Commission recommended a list of 31 ranked capital requests totaling \$289,893,754 in state funds and \$112,375,279 in cash contributions to the CDC. Approximately \$42.5 million was appropriated for four higher education projects. An additional \$16.0 million was allocated for 20 Level I controlled maintenance projects at institutions. The total amount of capital construction funding, including controlled maintenance, allocated to higher education was \$58.5 million. The table below details the breakdown of FY 2016-17 state capital construction funding by system.

<b>FY 2016-17 Long Bill Capital Appropriations by System</b>				
<b>Governing Board</b>	<b>Capital Construction</b>	<b>Long Bill Appropriation</b>	<b>Controlled Maintenance</b>	<b>Long Bill Appropriation</b>
AHEC	0	\$0.00	2	\$1,167,631
Fort Lewis College	0	\$0.00	1	\$650,911
CSU-System	1	\$12,471,940	3	\$1,467,433
CU-System	0	\$0.00	4	\$2,967,375
Metro State - Denver	0	\$0.00	0	\$0.00
Colorado Mesa University	1	\$9,230,212	0	\$0.00
Adams State University	0	\$0.00	1	\$1,514,508
Western State University	0	\$0.00	1	\$1,651,869

Community College System	1	\$5,807,143	5	\$4,136,909
Colorado School of Mines	0	\$0.00	1	\$343,275
University of Northern Colorado	1	\$15,000,000	2	\$2,122,824
<b>Higher Education Total</b>	<b>4</b>	<b>\$42,509,295</b>	<b>20</b>	<b>\$16,022,735</b>

The CCHE capital construction process was revised for FY 2014-15 to provide a scoring mechanism for capital projects and to reflect best practices for project prioritization. The criteria have remained unchanged since then and any project that was not considered a continuation project was scored in this manner. FY 2017-18 requests did not contain any continuation projects.

The FAA Standing Committee’s recommended priorities are detailed in Attachment A. Note that under C.R.S. 23-1-106(5) (b), projects costing less than \$2,000,000 do not require project plan approval from the Commission. This year, six (6) projects met that requirement and were prioritized alongside requests with costs exceeding \$2,000,000.

**III. STAFF ANALYSIS**

For FY 2017-18, DHE staff received and evaluated a total of thirty-two (32) new state funded capital construction requests (see Attachment A). Eight (8) submissions require program approval, while six (6) projects do not meet the \$2 million threshold for a program plan.

Of note is that the FY 2017-18 prioritized list includes three (3) projects from CSU-FC that are part of the National Western Center. House Bill 15-1344 allows lease-purchase agreements (COPs) for CSU’s National Western Center facilities and affiliated facilities on the CSU Fort Collins campus after July 1, 2019. A COP is a financing mechanism where the government enters into an agreement to make regular lease payments for the use of an asset over some period, after which the title for the asset transfers to the government.

There are a total of six (6) CSU projects that have been identified for the National Western Center and Affiliated Programs/Facilities. The six programs are split between three on-campus programs affiliated with the National Western Center and three projects which are at the National Western Center. The three projects which are on the CSU campus and affiliated with the National Western Center are requested as FY 2017-18 projects in the capital request provided to CCHE. Per CCHE criteria, COPs are prioritized at the top of the list annually.

**FY17-18 National Western Center Requested Projects\*\***

<b>Project</b>	<b>FY 17-18 Cash Funds</b>	<b>FY 17-18 Sum from CCF</b>
Malone Center Integrated Biological Translational Therapies	\$78,300,000	\$6,500,000
Health Education Outreach Center	\$1,000,000	\$22,300,000
Equine Veterinary Teaching Hospital	\$44,058,627	\$21,200,000
<b>Total</b>	<b>\$123,358,627</b>	<b>\$50,000,000</b>

**\*\*National Western Center COP requests pending approval of project implementation conditioned upon the payments beginning July 1, 2019.** For FY 2017-18, the total funding amount requested by institutions of higher education is \$469,335,034, which includes \$353,347,029 in state funds. The total funding requested for the top twenty projects, which will be submitted to OSPB, is \$360,834,499, with \$246,740,840 requested in state funding.

To develop the priority list, staff used the CCHE approved criteria. Criteria were adopted to provide an objective and analytical review of higher education's capital needs. The CCHE approved criteria are:

- Health, Life Safety, and Code Issues (10 points possible, if applicable)
  - Other Fund Sources (15 points possible, if applicable)
  - Space Needs Analysis (10 points possible, if applicable)
  - Clear Identification of Beneficiaries (8 points possible, if applicable)
  - Achieves Goals (5 points possible, if applicable)
  - Governing Board Priority (20 points possible, if applicable)
- Total points possible: 68 points**

A draft priority list was developed and shared with the FAA Committee and institutions on September 19, 2016. After the meeting, institutions were invited to provide supplemental information for proposed scoring changes. DHE staff met with various institutions of higher education to discuss and address their concerns related to the process, methodology, and preliminary scoring of the submitted projects. In addition, staff received supplemental project documentation from institutions to address their concerns and reviewed and analyzed each proposal with recommendations to the FAA. On October 7, 2016, the FAA took action to approve the prioritized list.

#### **IV. STAFF RECOMMENDATION**

**Staff recommends that the Commission take the following four actions:**

- 1. Approve the following request for a waiver from program planning requirements:**
  - **Colorado Mesa University – Marching Band Storage**
  - **Lamar Community College – Technology Infrastructure**
  - **Otero Junior College – Agriculture Science Remodel**
  - **Otero Junior College – Communication Technology Upgrades**
  - **Pueblo Community College – Wireless Networking, Conferencing Solutions and Related Technologies**
  - **Pike's Peak Community College - Campus Emergency Notification and Power**
  
- 2. Approve the following new or revised program plans:**
  - **Colorado Mesa University – Electric Lineworker Program**
  - **Colorado State University FC – Institute for Biological and Translational Therapies**
  - **Colorado State University FC – Health Education Outreach Center**
  - **Colorado State University FC – Equine Veterinary Teaching Hospital**
  - **Community College of Denver – Boulder Creek**
  - **Front Range Community College – Larimer Campus Health Care Career Center**
  - **Pueblo Community College – Weld Shop Expansion**

- **Western State University – Region 10 Broadband Blueprint**
- 3. **Approve the FY 2017-18 capital priority list as recommended by the Fiscal Affairs and Audit Standing Committee included as Attachment A and grant the Department the ability to make any necessary technical adjustments to project amounts based on revenue forecasts, and report these changes to the Commission.**
- 4. **Acknowledge and forward to the Governor’s Office and the General Assembly the complete list reflecting number and costs for all higher education capital projects submitted in FY 2017-2018 for informational purposes.**

**V. STATUTORY AUTHORITY**

C.R.S. §23-1-106 Duties and powers of the commission with respect to capital construction and long-range planning.

(1) Except as permitted by subsection (9) of this section, it is declared to be the policy of the general assembly not to authorize any activity requiring capital construction or capital renewal for state institutions of higher education unless approved by the commission.

(2) The commission shall, after consultation with the appropriate governing boards of the state institutions of higher education and the appropriate state agencies, have authority to prescribe uniform policies, procedures, and standards of space utilization for the development and approval of capital construction or capital renewal programs by institutions.

(3) The commission shall review and approve facility master plans for all state institutions of higher education on land owned or controlled by the state or an institution and capital construction or capital renewal program plans for projects other than those projects described in subsection (9) of this section. The commission shall forward the approved facility master plans to the office of the state architect. Except for those projects described in subsection (9) of this section, no capital construction or capital renewal shall commence except in accordance with an approved facility master plan and program plan.

(4) The commission shall ensure conformity of facilities master planning with approved educational master plans and facility program plans with approved facilities master plans.

(5) (a) The commission shall approve plans for any capital construction or capital renewal project at any state institution of higher education regardless of the source of funds; except that the commission need not approve plans for any capital construction or capital renewal project at a local district college or area technical college or for any capital construction or capital renewal project described in subsection (9) of this section.

(b) The commission may except from the requirements for program and physical planning any project that requires two million dollars or less if the capital construction project is for new construction and funded solely from cash funds held by the institution or the project is funded through the higher education

revenue bond intercept program established pursuant to section 23-5-139, or ten million dollars or less if the project is not for new construction and is funded solely from cash funds held by the institution.

(6) (a) The commission shall request annually from each governing board of each state institution of higher education a five-year projection of capital construction or capital renewal projects to be constructed but not including those projects described in subsection (9) of this section. The projection must include the estimated cost, the method of funding, a schedule for project completion, and the governing board-approved priority for each project. The commission shall determine whether a proposed project is consistent with the role and mission and master planning of the institution and conforms to standards recommended by the commission.

(b) The commission shall request annually from the governing board of each state institution of higher education a two-year projection of capital construction projects to be undertaken pursuant to subsection (9) of this section and estimated to require total project expenditures exceeding two million dollars if the capital construction project is for new acquisitions of real property or new construction and funded solely from cash funds held by the institution or the project is funded through the higher education revenue bond intercept program established pursuant to section 23-5-139, or exceeding ten million dollars if the project is not for new acquisitions of real property or new construction and is funded solely from cash funds held by the institution. The projection must include the estimated cost, the method of funding, and a schedule for project completion for each project. A state institution of higher education shall amend the projection prior to commencing a project that is not included in the institution's most recent projection.

(7) (a) The commission annually shall prepare a unified, five-year capital improvements report of projects to be constructed, but not including those capital construction or capital renewal projects to be undertaken pursuant to subsection (9) of this section, coordinated with education plans. The commission shall transmit the report to the office of state planning and budgeting, the office of the state architect, the capital development committee, and the joint budget committee, consistent with the executive budget timetable, together with a recommended priority of funding of capital construction or capital renewal projects for the system of public higher education. The commission shall annually transmit the recommended priority of funding of capital construction or capital renewal projects to the capital development committee no later than November 1 of each year.

(b) Except as provided in subsection (5) of this section, it is the policy of the general assembly to appropriate funds only for capital construction or capital renewal projects approved by the commission.

(c) (I) (A) The commission annually shall prepare a unified, two-year report for capital construction or capital renewal projects described in subsection (9) of this section that are not for new acquisitions of real property or new construction and are estimated to require total project expenditures exceeding ten million dollars, coordinated with education plans. The commission shall transmit the report to the office of state planning and budgeting, the governor, the capital development committee, and the joint budget committee, consistent with the executive budget timetable.

(B) The commission annually shall prepare a unified, two-year report for capital construction projects for new acquisitions of real property or for new construction, described in subsection (10) of this section, estimated to require total project expenditures exceeding two million dollars, coordinated with education plans. The commission shall transmit the report to the office of state planning and budgeting, the governor, the capital development committee, and the joint budget committee, consistent with the executive budget timetable.

(II) (A) The commission shall submit the two-year projections prepared by each state institution of higher education for each two-year period to the office of state planning and budgeting and the capital development committee. The capital development committee shall conduct a hearing in each regular legislative session on the projections and either approve the projections or return the projections to the state institution of higher education for modification. The commission and the office of state planning and budgeting shall provide the capital development committee with comments concerning each projection.

(B) A state institution of higher education may submit to the staff of the capital development committee, the commission, and the office of state planning and budgeting an amendment to its approved two-year projection. The capital development committee shall conduct a hearing on the amendment within thirty days after submission during a regular legislative session of the general assembly or within forty-five days after submission during any period that the general assembly is not in regular legislative session. The capital development committee shall either approve the projections or return the projections to the state institution of higher education for modification. The commission and the office of state planning and budgeting shall provide the capital development committee with comments concerning each amendment.

(8) Repealed.

(9) (a) Except as provided in paragraph (d) of this subsection (9), a capital construction or capital renewal project for an auxiliary facility initiated by the governing board of a state institution of higher education that is contained in the most recent two-year projection approved pursuant to subparagraph (II) of paragraph (c) of subsection (7) of this section, as the projection may be amended from time to time, and that is to be acquired or constructed and operated and maintained solely from cash funds held by the institution is not subject to additional review or approval by the commission, the office of state planning and budgeting, the capital development committee, or the joint budget committee; except that, if the capital construction or capital renewal project for an auxiliary facility is to be acquired or constructed in whole or in part using moneys subject to the higher education revenue bond intercept program established pursuant to section 23-5-139, then the governing board of a state institution of higher education must obtain approval from the general assembly as specified in that section.

(b) Except as provided in paragraph (d) of this subsection (9), a capital construction or capital renewal project for an academic facility initiated by the governing board of a state institution of higher education that is contained in the most recent two-year projection approved pursuant to subparagraph (II) of

paragraph (c) of subsection (7) of this section, as the projection may be amended from time to time, and that is to be acquired or constructed solely from cash funds held by the institution and operated and maintained from such funds or from state moneys appropriated for such purpose, or both, is not subject to additional review or approval by the commission, the office of state planning and budgeting, the capital development committee, or the joint budget committee; except that, if the capital construction or capital renewal project for an academic facility is to be acquired or constructed in whole or in part using moneys subject to the higher education revenue bond intercept program established pursuant to section 23-5-139, then the governing board of a state institution of higher education must obtain approval from the general assembly as specified in that section. Any capital construction or capital renewal project subject to this paragraph (b) must comply with the high performance standard certification program established pursuant to section 24-30-1305.5, C.R.S.

(c) Each governing board shall ensure, consistent with its responsibilities as set forth in section 5 (2) of article VIII of the state constitution, that a capital construction or capital renewal project initiated pursuant to this subsection (9) is in accordance with its institution's mission, be of a size and scope to provide for the defined program needs, and be designed in accordance with all applicable building codes and accessibility standards.

(d) (I) (Deleted by amendment, L. 2016.)

(II) A plan for a capital construction or capital renewal project is not subject to review or approval by the commission if such project is:

(A) Estimated to require total expenditures of two million dollars or less if the capital construction project is for new acquisitions of real property or for new construction and funded solely from cash funds held by the institution or the project is funded through the higher education revenue bond intercept program established pursuant to section 23-5-139; or

(B) Estimated to require total expenditures of ten million dollars or less if the project is not for new acquisitions of real property or for new construction and is funded solely from cash funds held by the institution.

(e) A capital construction or acquisition project approved and appropriated prior to January 1, 2010, may be contained in the most recent unified two-year capital improvements project projection approved pursuant to subparagraph (II) of paragraph (c) of subsection (7) of this section. The projection may be amended from time to time and is not subject to additional review or approval by the commission, the office of state planning and budgeting, the capital development committee, or the joint budget committee.

(f) The governing board of a state institution of higher education that enters into an agreement to lease a building from a school district, as authorized in section 22-32-110 (1) (f.5), C.R.S., shall notify the capital development committee of the existence of the agreement and provide to the committee a summary of the

terms of the agreement.

(10) Repealed.

(10.2) (a) (I) Notwithstanding any law to the contrary, all academic facilities acquired or constructed, or an auxiliary facility repurposed for use as an academic facility, solely from cash funds held by the state institution of higher education and operated and maintained from such cash funds or from state moneys appropriated for such purpose, or both, including, but not limited to, those facilities described in paragraph (b) of subsection (9) of this section, that did not previously qualify for state controlled maintenance funding will qualify for state controlled maintenance funding, subject to funding approval by the capital development committee and the eligibility guidelines described in section 24-30-1303.9, C.R.S.

(II) For purposes of this paragraph (a), the eligibility for state controlled maintenance funding commences on the date of the acceptance of the construction or repurposing of the facility or the closing date of any acquisition. The date of the acceptance of construction or repurposing shall be determined by the office of the state architect.

(b) (I) The general assembly hereby finds, determines, and declares that the classification of facilities as academic facilities or auxiliary facilities can be difficult, and such classifications often change as academic needs, student needs, and new construction and design practices emerge. Therefore, the office of the state architect, in collaboration with the department of higher education and the office of state planning and budgeting, shall develop guidelines in order to assist such classification. The guidelines shall be annually reviewed and approved by the capital development committee. The guidelines must address the following two factors that have historically been considered when classifying academic facilities and auxiliary facilities:

(A) The funding source for the facility; and

(B) The nature and use of the facility.

(II) The guidelines established pursuant to this paragraph (b) must use the definitions set forth in subsection (10.3) of this section.

(10.3) As used in this section, unless the context otherwise requires:

(a) "Academic facility" means any facility, including any supporting utility infrastructure and site improvements, that is central to the role and mission of each state institution of higher education as set forth in this title. Examples include, but are not limited to, classrooms, libraries, and administrative buildings.

(b) "Auxiliary facility" means any facility, including any supporting utility infrastructure and site

improvements, funded from an auxiliary source such as housing or parking revenue or any facility that has been historically managed as an auxiliary facility and is accounted for in financial statements of state institutions of higher education as a self-supporting facility. Examples include, but are not limited to, housing facilities, dining facilities, recreational facilities, and student activities facilities.

(c) "Capital construction" has the same meaning as set forth in section 24-30-1301 (2), C.R.S.

(d) "Capital renewal" has the same meaning as set forth in section 24-30-1301 (3), C.R.S.

(e) "Facility" has the same meaning as set forth in section 24-30-1301 (8), C.R.S.

(e.5) "Real property" has the same meaning as set forth in section 24-30-1301 (15), C.R.S.

(f) "State institution of higher education" means a state institution of higher education as defined in section 23-18-102 (10), and the Auraria higher education center created in article 70 of this title.

(10.5) (a) For any project subject to subsection (9) of this section, if, after commencement of construction, the governing board of the state institution of higher education receives an additional gift, grant, or donation for the project, the governing board may amend the project without the approval of the commission, the office of state planning and budgeting, the capital development committee, or the joint budget committee so long as the governing board notifies the commission, the office of state planning and budgeting, the capital development committee, and the joint budget committee in writing, explaining how the project has been amended and verifying the receipt of the additional gift, grant, or donation.

(b) For any project subject to subsection (9) of this section, the governing board may enhance the project in an amount not to exceed fifteen percent of the original estimate of the cost of the project without the approval of the commission, the office of state planning and budgeting, the capital development committee, or the joint budget committee so long as the governing board notifies the commission, the office of state planning and budgeting, the capital development committee, and the joint budget committee in writing, explaining how the project has been enhanced and the source of the moneys for the enhancement.

(c) For any project subject to subsection (9) of this section, the governing board of the state institution of higher education implementing the project is not required to submit for the project quarterly expenditure reports as described in section 24-30-204 (2), C.R.S. The governing board shall submit for the project annual expenditure reports as required in section 24-30-204 (1), C.R.S.

(11) (a) Each state institution of higher education shall submit to the commission on or before September 1 of each year a list and description of each project for which an expenditure was made during the immediately preceding fiscal year that:

(I) Was not subject to review by the commission pursuant to subsection (9) of this section;

(II) Repealed.

(III) Was estimated to require total expenditures of two million dollars or less if the capital construction project is for new acquisitions of real property or for new construction and was funded solely from cash funds held by the institution or the project was funded through the higher education revenue bond intercept program established pursuant to section 23-5-139, or was estimated to require total expenditures of ten million dollars or less if the project was not for new acquisitions of real property or for new construction and was funded solely from cash funds held by the institution; or

(IV) Was amended or enhanced after commencement of construction pursuant to subsection (10.5) of this section.

(b) The commission shall submit a compilation of the projects to the office of the state architect and the capital development committee on or before December 1 of each year.

(12) Each state institution of higher education shall submit to the commission a facility management plan or update required by section 24-30-1303.5 (3.5), C.R.S. The commission shall review the facility management plan or update and make recommendations regarding it to the office of the state architect.

(13) (Deleted by amendment, L. 2014.)

**ATTACHMENTS:**

Attachment A - Fiscal Affairs and Audit Standing Committee Recommended FY 2017-18 State Funded Capital Priorities.