

## SECTION III

### PART Q POLICIES FOR SELF-FUNDED CAPITAL CONSTRUCTION

#### 1.00 Introduction

1.1 The Cash Funds Fiscal Accountability Reporting Policy and Implementation Plan was established pursuant to the FY 1989-90 Long Bill (S.B. 245), Footnote 34 requesting the Commission to develop recommendations on the use of cash funds for capital construction and controlled maintenance projects. This policy does not apply to any project funded wholly or in part by state moneys as defined in C.R.S. 24-75-302(1). Ratified by the legislative Capital Development Committee and Joint Budget Committee during November 1989, this policy was amended July 1, 1999, to bring it into compliance with the new requirements of section C.R.S. 23-1-106 brought about by General Assembly Passage of SB01-209. The passage of HB08-1205 and SB09-290 again change this policy.

1.2 Minor projects are considered: (1) Projects costing less than \$2,000,000 that are constructed, operated, and maintained with cash funds held by the institution and (2) projects costing less than \$2,000,000 and constructed with cash funds held by the institution but operated and maintained with cash funds, general fund or a combination of both, do not require Commission approval. These projects will be reported on the annual SB01-209 small projects report.

The intent of the legislation and this policy is to permit more timely and efficient implementation of cash-funded minor space remodeling, capital equipment purchases and demolition projects while continuing CCHE approval and legislative fiscal oversight of more expensive major capital projects.

1.3 The statutory revisions to C.R.S. 23-1-106 (9)(a) do not require that the Commission review and approve any plan for a capital construction project estimated to require expenditures exceeding \$2,000,000 that is constructed, operated and maintained from cash funds held by the institution, and not financed under the terms of the Higher Education Revenue Bond Intercept Program (C.R.S. 23-5-139). However, these projects are to be included in the annual two-year list. These projects were previously referred to as 202 projects, and are now commonly referred to as Non-Intercept Auxiliary cash projects.

1.4 The statutory provisions in C.R.S. 23-1-106 (9)(b) do not require that the Commission review and approve any plan for an academic capital construction project that is estimated to require total expenditures exceeding \$2,000,000 that is constructed solely from cash funds held by the institution, not financed under the terms of the Higher Education Revenue Bond Intercept Program (C.R.S. 23-5-139), and maintained from such funds or from state funds. However, these projects are to be included in the annual two-year list. These projects were previously referred to as "Regular Cash" or "1205" projects, and are now commonly referred to as Non-Intercept Academic cash projects.

- 1.5 The statutory revisions to C.R.S. 23-1-106 (10)(a)(I) require that the Commission review and approve any plan for a capital construction project estimated to require expenditures exceeding \$2,000,000 that is constructed, operated and maintained from cash funds held by the institution, and financed under the terms of the Higher Education Revenue Bond Intercept Program (C.R.S. 23-5-139). Such projects are also to be included in the annual two-year list. These projects were previously referred to as 202 projects, and are now commonly referred to as Intercept Auxiliary cash projects.
- 1.6 The statutory provisions in C.R.S. 23-1-106 (10)(a)(II) require that the Commission review and approve any plan for an academic capital construction project that is estimated to require total expenditures exceeding \$2,000,000 that is constructed solely from cash funds held by the institution, financed under the terms of the Higher Education Revenue Bond Intercept Program (C.R.S. 23-5-139), and maintained from such funds or from state funds. Such projects are also to be included in the annual two-year list. These projects were previously referred to as “Regular Cash” or “1205” projects, and are now commonly referred to as Intercept Academic cash projects.
- 1.7 CCHE Tuition and Fees Policy (CCHE approved policy VI-C Approved in October of 2008) permits institutions to use student fees, tuition or general fund increases to pay for academic facility construction projects. Institutions should refer to this Policy Section VI-C for further guidance.
- 1.8 The statutory provisions in C.R.S. 23-1-106 refer to cash funds held by the institution. It is the interpretation of the Commission that this phrase means any funds other than state moneys appropriated from the Capital Construction Fund (CCF).

## **2.00 Legislative Fiscal Oversight and Fiscal Accountability Reporting Policy**

- 2.1 Any cash funded capital construction project with a total value of more than \$2,000,000 must be specifically approved by the legislature’s Capital Development Committee in the annual two-year list as specified in CCHE approved policy III-E. This policy does not exempt from legislative spending authorization any capital construction project which is conditional upon or requires expenditures of state-controlled funds for capital construction.
- 2.2 Effective September 1, 2001, and every September 1 thereafter, each institution shall submit to the Commission in an electronic format a list and description of each project for which expenditure was made during the immediately preceding fiscal year that was not subject to Commission review in 1.03, 1.04, 1.05, or 1.06 for the purposes of compiling the annual report required in C.R.S. 23-1-106 (11).
- 2.3 The annual fiscal reporting on the cumulative impact of all prior and current cash-funded capital projects is intended to assure the General Assembly that the proposed use of cash funds is prudent: will not endanger cash reserves; and will not – by themselves – lead to higher General Fund support or student tuition levels.

## **3.00 Approval Procedures for Cash-Funded Capital Projects**

- 3.1 Governing boards currently have statutory duties for control and direction of all funds and appropriations. CCHE has statutory duties for review and approval of program and financial plans for capital construction.
- (A) The governing boards and the state-supported institutions of higher education may not authorize, or acquire, sites, or initiate any program or activity requiring capital construction for the use of state-supported institutions of higher education, regardless of the source of funding, unless it has obtained the prior approval of CCHE. This includes the acquisition of real property for state-supported institutions of higher education by lease-purchase, purchase, gift or otherwise.
  - (B) Governing boards are required to annually submit to CCHE a prioritized and unified five-year list of proposed projects for state funds [C.R.S. 23-1-106 (6)(a)] and an unprioritized and unified two-year list of proposed projects for cash funds [C.R.S. 23-1-106 (6)(b)].
  - (C) CCHE will review and approve master and program planning for all capital construction projects for institutions of higher education on state-owned or controlled land, regardless of the source of funds (except as otherwise noted in 1.03 and 1.04). No capital construction can commence except in accordance with the CCHE approved master plan, program plan, and physical plan.
  - (D) CCHE will forward to the legislature's Capital Development Committee a unified two-year list for projects to be constructed with cash funds held by the institution [C.R.S. 23-1-106 (7)(c)].
  - (E) Any capital construction project for the use and benefit of any state-supported institution of higher education to be funded through private, foundation, or federal funds requires review and approval of CCHE prior to acquisition or commencement of any such project (except as otherwise noted in 1.03 and 1.04).
- 3.2 CCHE requires governing board actions to specifically make documented findings of fact that sufficient cash funds will be available to pay the capital project costs, and that projected operating funds will not be adversely affected by the project. The Governing Board should also disclose the source and use of cash funds for each project.
- 3.3 CCHE requires the governing board documented findings of fact in (3.02) above, as well as the source and use of cash funds, to be appended to each cash-funded major capital project's budget request document.

HISTORY: CCHE Agenda Item III, C – November 5, 2009