

CAPITAL CONSTRUCTION

Budget Balancing		
<p>House Bill 10-1327 (Enacted) <i>Cash Fund Transfers to Augment General Fund</i></p>	<p>House Bill 10-1389 (Enacted) <i>Capital Construction Transfers</i></p>	
Capital Construction Projects		
<p>House Bill 10-1140 (Enacted) <i>Transfers from Veterans Trust Fund for Armory Projects</i></p>	<p>House Bill 10-1157 (Postponed Indefinitely) <i>County Financial Assistance for Higher Education</i></p>	<p>House Bill 10-1376 (Enacted) <i>Long Appropriations Bill</i></p>
<p>House Bill 10-1389 (Enacted) <i>Capital Construction Transfers</i></p>		
Changes to the Capital Process		
<p>House Bill 10-1181 (Enacted) <i>DPA Administrative Clean Up</i></p>	<p>Senate Bill 10-003 (Enacted) <i>Higher Education Flexibility</i></p>	<p>Senate Bill 10-094 (Enacted) <i>Define Capital Appropriation for Art in Public Places</i></p>
Legislation Concerning Renovation of State Capitol Dome		
<p>House Bill 10-1402 (Enacted) <i>Capitol Dome Restoration Fundraising</i></p>	<p>Senate Bill 10-192 (Enacted) <i>Fund Capitol Dome Repair from Limited Gaming</i></p>	
Legislation Concerning Lease-Purchase Agreements		
<p>House Bill 10-1083 (Enacted) <i>Lease-Purchase Agreements for Day Surgery Center</i></p>	<p>Senate Bill 10-166 (Enacted) <i>Lease-Purchase Building Agreements</i></p>	<p>Senate Bill 10-207 (Enacted) <i>Finance State Energy Efficiency Projects</i></p>
Legislation Concerning Real Property Transactions		
<p>House Bill 10-1197 (Enacted) <i>Reduce Conservation Easement Tax Credit</i></p>	<p>House Bill 10-1217 (Postponed Indefinitely) <i>Repeal Authority to Sell Trinidad Nursing Home</i></p>	<p>House Bill 10-1219 (Postponed Indefinitely) <i>Authorization to Sell Correctional Facilities</i></p>
<p>House Bill 10-1361 (Postponed Indefinitely) <i>Habitat Stamp Real Property Acquisition</i></p>	<p>House Bill 10-1375 (Enacted) <i>Metro State College Finance Authority</i></p>	<p>House Bill 10-1421 (Deemed Lost) <i>Decommission a Prison</i></p>
<p>House Bill 10-1426 (Deemed Lost) <i>Trinidad State Nursing Home Fund</i></p>		

A number of the bills considered by the General Assembly during the 2010 legislative session affected capital construction and the duties of the Capital Development Committee (CDC).

Budget Balancing

The effects of an economic recession that began in FY 2008-09 continued to create a state budget shortfall for FY 2009-10, leading the General Assembly to consider a number of budget balancing measures during the 2010 session. **House Bill 10-1327** transfers moneys from various cash funds to augment state General Fund revenue for FY 2009-10. The transfers include two cash funds that affect capital construction, the Higher Education Federal Mineral Lease Maintenance and Reserve Fund (maintenance and reserve fund) and the Controlled Maintenance Trust Fund (CMTF). The transfer amount from the principal of the maintenance and reserve fund for FY 2009-10 is \$2.3 million. This amount is based on actual fund earnings to date. The transfer amount for FY 2009-10 from the principal of the CMTF is \$335,000. This represents the remaining principal balance of the fund.

House Bill 10-1389 transfers moneys from funds typically reserved for capital projects to the General Fund and eliminates certain transfers from the General Fund to the Capital Construction Fund. The certificates of participation (COPs) issued for three capital projects were refinanced during the 2009 interim, which resulted in three negative supplemental requests that either eliminated or reduced the funds appropriated for the FY 2009-10 payments. The savings realized from the negative supplemental requests were transferred, in part, to the General Fund to offset the budgetary shortfall for FY 2009-10 and FY 2010-11. The transfers include \$20.9 million for FY 2009-10 and \$10.4 million for FY 2010-11.

Capital Construction Projects

Spending on capital construction. **House Bill 10-1376** (the Long Bill) provides funding in FY 2010-11 for 56 capital construction and controlled maintenance projects totaling \$411.3 million, including \$16.8 million in state funds, and \$394.5 million in cash and federal funds. The bill funds 3 certificates of participation payments, 2 state-funded capital construction projects, 19 state-funded controlled maintenance projects, and 32 cash projects.

The add-on to the 2010 Long Bill makes supplemental capital construction appropriations for 22 projects, including 2 requests for extensions of time only. The combined impact of the 22 supplemental requests from all funding sources is \$13.7 million. Some state-funded appropriations for prior fiscal years were adjusted by these supplemental requests, but no new state funds were appropriated for any projects.

Figure 1 lists all FY 2010-11 state-funded capital construction projects by agency, including the total state funds and project type.

Figure 1
FY 2010-11 State-Funded Capital Construction Projects by Agency

Agency	Total State Funds	Capital Construction Projects	Controlled Maintenance Projects	Certificates of Participation	Total # of Projects
State Departments					
Colorado Historical Society	\$0	0	1	0	1
Corrections	\$2,012,428	0	3	1	4
Cumbres & Toltec	\$0	0	1	0	1
Education	\$0	0	1	0	1
Higher Education	\$0	0	0	1	1
Human Services	\$0	0	2	0	2
Office of Information Technology	\$0	0	1	0	1
Personnel and Administration	\$2,011,621	0	3	0	3
Revenue	\$10,177,308	1	0	0	1
Transportation	\$500,000	1	0	0	1
Total State Departments	\$14,701,357	2	12	2	16
Higher Education Institutions					
Colorado School of Mines	\$0	0	1	0	1
Fort Lewis College	\$0	0	1	0	1
Front Range Community College	\$0	0	1	0	1
Pueblo Community College	\$0	0	1	0	1
University of Colorado at Boulder	\$0	0	1	0	1
University of Colorado at Colorado Springs	\$0	0	1	0	1
University of Colorado Denver	\$1,996,149	0	0	1	1
Western State College	\$65,000	0	1	0	1
Total Higher Education	\$2,061,149	0	7	1	8
Statewide Total	\$16,762,506	2	19	3	24

Various cash funds were identified to offset the cost of controlled maintenance and some state-funded capital construction and certificates of participation payments.

Revenue for state-funded capital construction. Moneys for capital construction and controlled maintenance projects approved during the 2010 session were provided in two bills. **House Bill 10-1389** provides \$9.1 million in revenue for FY 2010-11 projects from a General Fund transfer to the Capital Construction Fund. **House Bill 10-1376** provides \$7.6 million in revenue for FY 2010-11 projects from the balance and projected FY 2009-10 interest earnings of the Capital Construction Fund.

Other revenue for capital construction. **House Bill 10-1140** authorizes the appropriation of cash funds from the State Veterans Trust Fund for the construction of three readiness centers requested by the Department of Military and Veterans Affairs. The appropriation for the three projects is listed in the 2010 Long Bill.

House Bill 10-1157, which was postponed indefinitely, would have authorized county commissioners to seek voter approval to impose either a property or sales tax increase to support a state college or community college whose main campus is located within the county. One of the uses of revenues earned from such a tax would have been to construct new or renovate existing college facilities.

Changes to the Capital Process

Several bills considered by the General Assembly during the 2010 session make changes to the capital process, including changes to public notice requirements, how certain types of projects are reviewed, and what projects are subject to the requirement to allocate money for art in public places. **House Bill 10-1181** makes changes to public notice requirements for state departments in order to conform to changes made for higher education institutions in Senate Bill 09-290. The threshold for giving public notice for professional services for all state agencies is now \$1 million for total project costs and \$100,000 for professional services.

Another bill, **Senate Bill 10-003**, makes one change to current law that directly affects the capital process for higher education institutions. The act repeals the requirement that the Colorado Commission on Higher Education approve acquisitions of real property funded from cash sources. Rather, acquisition projects expected to cost more than \$2 million in cash funds are to be listed as part of an institution's two-year projection of cash need. The CDC considers and approves two-year projections of cash need once a year. Institutions of higher education are authorized to commence projects on the two-year list once the list has been considered by the CDC and so long the cost of a project does not exceed the original estimate by more than 15 percent.

Senate Bill 10-094 expands the types of capital projects subject to the Art in Public Places Program administered by the State Council on the Arts. Under current law, the common practice has been to require state agencies to allocate 1 percent of a project's state-funded construction costs to the program. The act defines capital construction appropriation to include any appropriation or transfer for a public construction project from state funds, including the cost of financing a capital construction project. This act extends the 1 percent requirement to projects financed through mechanisms such as certificates of participation.

Legislation Concerning the Renovation of the State Capitol Dome

The General Assembly considered two bills that make provisions for repairs to the State Capitol dome. **House Bill 10-1402** authorizes a nonprofit statewide historic preservation organization (nonprofit organization) to raise money for crucial dome repairs using cause marketing, a children's campaign, a public campaign, gifts, and/or grants. **Senate Bill 10-192** directs the transfer of moneys from the State Historical Fund to the Capitol Dome Restoration Fund for repairs

to the State Capitol dome. The act transfers up to \$12.0 million from the State Historical Fund to the newly created Capitol Dome Restoration Fund over the course of three fiscal years beginning in FY 2010-11, or \$4.0 million annually. The moneys transferred in FY 2011-12 and FY 2012-13 are to be reduced by the amount donated by the nonprofit organization and/or the amount granted for the dome repair project by the Colorado Historical Society. **House Bill 10-1402** creates the Capitol Dome Restoration Trust Fund and outlines the process by which moneys raised by the nonprofit organization will be credited to the newly created fund. As moneys are needed for discrete phases of the project, the nonprofit organization and the Department of Personnel and Administration are directed to coordinate the timing and amount of the donations of moneys raised through the fundraising efforts.

House Bill 10-1402 expands the duties of the CDC to require the committee to review, approve, and oversee a two-year, private fundraising campaign for repairs to the State Capitol dome. The CDC is required to provide periodic reports to the Executive Committee of Legislative Council regarding the types and status of approved fundraising efforts. The act also directs the Capitol Building Advisory Committee to review, advise, and make recommendations to the CDC about any proposed fundraising efforts. The authority of the CDC to oversee the fundraising process and the advisory role of the Capitol Building Advisory Committee in that process are repealed on July 1, 2012.

Neither act makes an appropriation. Prior to commencing any repair work on the State Capitol dome, the Department of Personnel and Administration must submit a capital construction request for the project to the CDC for review and approval. It is anticipated that the department, with the assistance of the Governor's Office of State Planning and Budgeting, will submit such a request during the 2010 interim as an emergency supplemental request for cash funds spending authority. The project will therefore require approval from both the CDC and the Joint Budget Committee before any moneys can be expended. The project would later be listed in the 2011 Long Bill

Legislation Concerning Lease-Purchase Agreements

Lease-purchase transactions authorized during the 2010 session. **House Bill 10-1083** authorizes the state to enter into lease-purchase agreements for the purchase of a day surgery center for the Denver Reception and Diagnostic Center (DRDC) within the Department of Corrections (DOC). The lease-purchase agreements are authorized for a period of up to 12 years and for a total amount not to exceed \$2.8 million. The department will locate a modular surgical facility adjacent to the existing DRDC facility. **Senate Bill 10-207** authorizes the State Treasurer to enter into lease-purchase agreements on behalf of the state to finance capital construction projects proposed by the Governor's Energy Office in order to improve the energy efficiency of state facilities. The act establishes the process for identifying, recommending, and approving eligible projects. After consideration of a prioritized list of projects, the CDC is directed to provide a letter specifying the final approval priority of the projects to the Governor's Energy Office, OSPB, the Joint Budget Committee, and the State Treasurer. The act limits the total par value of any lease-purchase agreement to \$73 million and grants the State Treasurer the sole discretion to determine the timing of any agreements.

Changes to the approval process for lease-purchase agreements. Under current law, lease-purchase agreements for real property that require total payments in excess of \$500,000 must be approved by a bill other than the general appropriation bill or a supplemental appropriation bill. **Senate Bill 10-166** authorizes the executive director of the Department of Personnel and Administration to enter into a lease-purchase agreement for real property if two conditions are met, including: (1) the amount of rent appropriated for the state agency to be located in the building plus any anticipated rent from private persons exceeds the amount of annual costs for lease-purchase payments, operating costs, maintenance costs, and all other lease-purchase costs; and (2) the plan for the transaction is approved by the Office of State Planning and Budgeting and the CDC. The bill does not change the responsibilities of the CDC regarding the review of reports submitted prior to the acquisition of property through a lease-purchase agreement.

Legislation Concerning Real Property Transactions

The General Assembly considered several bills concerning the sale, lease, or purchase of real property during the 2010 session. **House Bill 10-1375** grants Metropolitan State College of Denver the power of eminent domain, or the authority to acquire real property, for the purpose of receiving more favorable interest rates when it bonds for certain capital projects. **House Bill 10-1219**, which was postponed indefinitely, would have authorized the Department of Corrections to sell a correctional facility. The bill also would have authorized the department to place inmates in a private contract prison, regardless of custody level. Another bill, **House Bill 10-1421**, which was deemed lost, would have required the department to reduce its prison bed capacity by at least 300 beds or create comparable savings.

Sale of the Trinidad State Nursing Home. The General Assembly considered two bills that would have affected the sale of the Trinidad State Nursing Home. The sale of the home was authorized during the 2009 session. Both bills considered by the General Assembly during the 2010 session were postponed indefinitely. **House Bill 10-1217** would have repealed the authority of the executive director of the Department of Human Services to sell the Trinidad State Nursing Home. **House Bill 10-1426** would have created the Trinidad State Nursing Home Cash Fund in order to separate the finances of the home from the operation of the other four state veterans nursing homes. The bill permitted the sale of the home, but specified that money from the sale would have been deposited into the newly created cash fund in order to be used to pay costs associated with the sale of the home.

Department of Natural Resources real property transactions. The General Assembly considered two bills concerning real property transactions within the Department of Natural Resources during the 2010 session. **House Bill 10-1197** caps the total state income tax credit taxpayers are allowed to claim for donating a conservation easement. The bill caps the total amount of credit that may be claimed for income tax purposes for tax years 2011, 2012, and 2013. The aggregate cap is \$26 million annually. **House Bill 10-1361**, which was postponed indefinitely, would have restricted the authority of the Division of Wildlife, within the Department of Natural Resources, to purchase and retain a fee simple title to real property using proceeds from the sale of habitat stamps. This type of purchase would have been permitted only when no other type of interest in the property was viable or available.