

CAPITAL CONSTRUCTION

Capital Construction Projects

SB 13-107 *(Enacted)*

Supplemental Appropriation Capital Construction

SB 13-230 *(Enacted)*

2013-14 Long Appropriations Bill

SB 13-236 *(Enacted)*

Transfers of Money Related to Capital Construction

HB 13-1191 *(Enacted)*

Nutrient Grant Domestic Wastewater Treatment Plant

Revenue for Capital Projects

SB 13-230 *(Enacted)*

2013-14 Long Appropriations Bill

SB 13-236 *(Enacted)*

Transfers of Money Related to Capital Construction

Changes to Capital Project Funding or Review

SB 13-199 *(Enacted)*

Higher Education Revenue Bond Intercept Program

SB 13-214 *(Enacted)*

BEST Program Oversight and Funding

SB 13-236 *(Enacted)*

Transfers of Money Related to Capital Construction

SB 13-263 *(Enacted)*

Development of Capitol Complex Master Plan

HB 13-1026 *(Enacted)*

WICHE Equipment and Renovation Fee Appropriation Requirement

HB 13-1079 *(Enacted)*

Creation of the Joint Technology Committee

Authorization to Enter Into Lease-Purchase Agreements

SB 13-190 *(Enacted)*

Implementation of Financial Report System Modernization

HB 13-1234 *(Enacted)*

Lease-Purchase Authority for DOA Office Consolidation

HB 13-1274 *(Enacted)*

State Board of Land Commissioners Real Property Investment

Programmatic Changes Affecting Future Capital Construction

SB 13-165 *(Postponed Indefinitely)*

Community College Limited Number Bachelor Degrees

SB 13-177 *(Enacted)*

Reduce Juvenile Detention Bed Cap

State Capitol Building

SJR 13-023 *(Enacted)*

Armenian Garden Replica Khachkar Approval

Contracting for Capital Construction and Avoiding Energy Costs

SB 13-028 *(Enacted)*

Track Utility Data High Performance State Building

SB 13-254 *(Enacted)*

Fleet Vehicle Energy Cost-Savings Contracts

SB 13-279 *(Enacted)*

K-12 School Energy Resource Efficiency

HB 13-1292 *(Enacted)*

Keep Jobs in Colorado Act

Real Property Transactions

SB 13-175 *(Enacted)*

Wildlife Habitat Stamp Program Continuation

HB 13-1235 *(Enacted)*

Valuations of Property Prior to State Purchase

A number of the bills considered by the General Assembly during the 2013 legislative session affected the capital construction process and the duties of the Capital Development Committee (CDC). Many of these bills were sponsored by the CDC.

Capital Construction Projects

Spending on capital construction. Senate Bill 13-230 (the Long Bill) provides funding in FY 2013-14 for 107 capital construction and controlled maintenance projects totaling \$283.7 million, including \$188.1 million in state funds, and \$95.6 million in cash, reappropriated, and federal funds. The bill funds 5 certificates of participation (COP) payments, 20 state-funded capital construction projects, 67 state-funded controlled maintenance projects, and 15 cash-funded projects. Table 1 lists all FY 2013-14 capital construction projects funded through SB 13-230 by agency, including the total state funds appropriated and number of projects by type.

**Table 1
FY 2013-14 Capital Construction Projects by Agency**

| Agency | Total State Funds | Capital Construction Projects | Controlled Maintenance Projects | Certificates of Participation | Total # of Projects |
|--------------------------------------|---------------------|-------------------------------|---------------------------------|-------------------------------|---------------------|
| State Departments | | | | | |
| Agriculture | \$988,738 | 1 | 1 | 0 | 2 |
| Corrections | \$27,225,308 | 3 | 5 | 1 | 9 |
| Education | \$519,058 | 0 | 1 | 0 | 1 |
| Higher Education | \$18,587,975 | 0 | 0 | 1 | 1 |
| History Colorado | \$3,437,752 | 4 | 3 | 1 | 8 |
| Human Services | \$4,522,711 | 0 | 5 | 0 | 5 |
| Judicial | \$0 | 0 | 0 | 1 | 1 |
| Military and Veterans Affairs | \$388,310 | 0 | 1 | 0 | 1 |
| Natural Resources | \$0 | 6 | 0 | 0 | 6 |
| Office of Information Technology | \$6,271,245 | 3 | 2 | 0 | 5 |
| Personnel and Administration | \$14,978,538 | 4 | 3 | 0 | 7 |
| Public Health and Environment | \$0 | 3 | 0 | 0 | 3 |
| Public Safety | \$792,700 | 1 | 1 | 0 | 2 |
| Revenue | \$752,070 | 0 | 1 | 0 | 1 |
| Transportation | \$500,000 | 1 | 0 | 0 | 1 |
| Total State Departments | \$78,964,405 | 26 | 23 | 4 | 53 |
| Higher Education Institutions | | | | | |
| Adams State University | \$20,375,105 | 1 | 2 | 0 | 3 |
| Arapahoe Community College | \$1,230,018 | 0 | 2 | 0 | 2 |

**Table 1 (Cont.)
FY 2013-14 Capital Construction Projects by Agency**

| Agency | Total State Funds | Capital Construction Projects | Controlled Maintenance Projects | Certificates of Participation | Total # of Projects |
|--|--------------------------|--------------------------------------|--|--------------------------------------|----------------------------|
| Higher Education Institutions (Cont.) | | | | | |
| Auraria Higher Education Center | \$5,656,734 | 1 | 2 | 0 | 3 |
| Colorado Community Colleges — Lowry | \$1,432,049 | 0 | 2 | 0 | 2 |
| Colorado Mesa University | \$11,264,974 | 1 | 3 | 0 | 4 |
| Colorado Northwestern Community College | \$175,000 | 0 | 1 | 0 | 1 |
| Colorado School of Mines | \$494,025 | 0 | 2 | 0 | 2 |
| Colorado State University | \$2,337,905 | 0 | 3 | 0 | 3 |
| Colorado State University — Pueblo | \$17,838,869 | 1 | 2 | 0 | 3 |
| Fort Lewis College | \$1,100,675 | 0 | 2 | 0 | 2 |
| Front Range Community College | \$842,095 | 0 | 2 | 0 | 2 |
| Lamar Community College | \$463,591 | 0 | 2 | 0 | 2 |
| Morgan Community College | \$297,509 | 0 | 1 | 0 | 1 |
| Northeastern Junior College | \$13,128,000 | 1 | 0 | 0 | 1 |
| Otero Junior College | \$2,388,300 | 1 | 1 | 0 | 2 |
| Pikes Peak Community College | \$1,460,027 | 0 | 2 | 0 | 2 |
| Pueblo Community College | \$981,255 | 0 | 2 | 0 | 2 |
| Red Rocks Community College | \$291,813 | 0 | 1 | 0 | 1 |
| Trinidad State Junior College | \$2,472,599 | 1 | 1 | 0 | 2 |
| University of Colorado at Boulder | \$10,867,654 | 1 | 6 | 0 | 7 |
| University of Colorado at Colorado Springs | \$4,958,917 | 1 | 1 | 0 | 2 |
| University of Colorado Denver | \$7,593,961 | 0 | 1 | 1 | 2 |
| University of Northern Colorado | \$935,700 | 0 | 1 | 0 | 1 |
| Western State Colorado University | \$518,313 | 0 | 2 | 0 | 2 |
| Total Higher Education | \$109,105,088 | 9 | 44 | 1 | 54 |
| Statewide Total | \$188,069,493 | 35 | 67 | 5 | 107 |

*The Long Bill includes four annual lease payments for certificates of participation; however, one payment is split between two departments.

Senate Bill 13-107 makes supplemental capital construction appropriations for three projects, including an extension of time only for one project. The combined impact of the three supplemental requests from all funding sources is \$358,400, including an increase of \$420,184 from state Capital Construction Funds (CCF) and a decrease of \$61,784 in cash and federal funds spending authority. The increase in state funds was required in order to address a shortfall in the projected availability of Federal Mineral Lease revenues for the annual lease payment for projects at several higher education campuses financed through the issuance of COPs.

Funding for local government water projects. In addition to the capital projects funded through SB 13-230, **House Bill 13-1191**, which was recommended by the CDC, establishes a fund to award matching grants to local governments for improvements to domestic wastewater treatment plants. The bill appropriates \$15 million from the General Fund to the newly created Nutrients Grant Fund in FY 2013-14. The Department of Public Health and Environment (DPHE) will use the fund to make grants to assist local governments that operate wastewater treatment facilities with planning, design, construction, and other improvements necessary for compliance with a new nutrients management control regulation adopted by the Water Quality Control Commission in June 2012. The request for funding was originally made as a regular capital construction request, but the CDC opted to recommend authorizing the new grant program, including funding for the grants, through separate legislation.

Another bill, **Senate Bill 13-236**, directs that up to \$30 million of the year-end General Fund surplus for FY 2013-14 be transferred to the Colorado Water Conservation Board Construction Fund. The fund is used by the DPHE for grants for local government projects to improve the quality of drinking water or to repair and rehabilitate existing water storage and delivery systems. Based on the June 20, 2013, economic forecast published by Legislative Council Staff, the full \$30 million will be transferred to the fund.

Revenue for Capital Projects

Revenue for FY 2013-14 state-funded capital construction. SB 13-236 transfers \$186,715,493 for 91 state-funded capital construction and controlled maintenance projects listed in the 2013 Long Bill, SB 13-230, including \$186,215,493 from the General Fund and \$500,000 from the General Fund Exempt account to the CCF.

Other revenue for capital construction. For FY 2012-13, SB 13-236 transfers \$420,184 from the General Fund to the CCF for additional costs authorized through SB 13-107. In addition, SB 13-230 includes two appropriations to the Controlled Maintenance Trust Fund (CMTF), including \$10.0 million for FY 2012-13 and \$48.0 million for FY 2013-14. The appropriations were made in an effort to increase the principal balance of the fund. Current law directs that interest earnings on the principal balance of the CMTF may only be spent on controlled maintenance projects.

Changes to Capital Project Funding and Review

Changes in law regarding funding for capital projects. The CDC sponsored two bills that make changes to how certain higher education capital projects are funded. In addition, the CDC recommended a change in the future funding source for a previously appropriated project. The first bill recommended by the CDC that changes how certain higher education capital projects are funded is **House Bill 13-1026**. This bill eliminates the requirement that an appropriation be made prior to spending a student fee assessed to out-of-state students who attend the veterinary medicine school at Colorado State University (CSU). Non resident veterinary medicine students, including those

students enrolled through the Western Interstate Commission for Higher Education (WICHE), are assessed a \$1,001 annual fee to be used for facility renovations and equipment purchases. The elimination of the appropriation requirement will permit cash-funded capital construction projects funded in whole or part from the equipment and renovation fee to conform to the existing streamlined approval process for higher education cash-funded capital projects. One capital project was directly impacted by this legislation during the 2013 legislative session. CSU sought supplemental cash funds spending authority for one project funded, in part, from the student fee assessed to out-of-state veterinary medicine students. The supplemental request was approved by the CDC in October 2012, but due to the passage of HB 13-1026, was not heard by the JBC or included in SB 13-107, which made supplemental appropriations for capital construction.

The second bill recommended by the CDC that changes how certain higher education capital projects are funded is **Senate Bill 13-199**. This bill changes how the borrowing limit is determined for higher education institutions participating in the Higher Education Revenue Bond Intercept Program (intercept program). Under current law, state institutions of higher education that have been granted enterprise status are permitted to issue revenue bonds. These bonds are typically repaid from cash fund sources such as tuition, student fees, auxiliary revenues, or indirect cost recoveries. The bonds may be backed by the institution's credit rating, or the institution may opt to participate in the intercept program, which allows an institution of higher education to bond for capital projects using the state's credit rating. The intercept program directs the State Treasurer to make bond payments of principal or interest on behalf of a state-supported institution of higher education in the event a higher education institution does not make a scheduled payment, unless a higher education institution adopts a resolution stating that it will not accept such payment prior to the issuance of the bonds for a project.

Under current law, the amount a participating school is permitted to borrow under the intercept program is determined by its prior year College Opportunity Fund fee-for-service appropriation. SB 13-199 changes the borrowing limit to a credit and coverage test. To meet the coverage test, the governing board of a higher education institution must have at least one credit rating of A or better from a major credit rating agency (Moody's, Standard & Poors, or Fitch), and no credit rating less than A. To meet the credit test, the governing board of a higher education institution must have a debt service coverage ratio of 150 percent or more of the governing board's net revenues. In other words, a governing board will have to show that it has at least one and one-half times the amount of revenue needed for current and future debt payments available and unobligated. Finally, the bill permits the State Treasurer to exempt a governing board from the credit and coverage test in order to refinance existing debt resulting in cost savings.

The CDC recommended a change in the future funding source for a previously appropriated project: the State Capitol Dome Renovation project. SB 13-236 repeals and amends existing statute to reflect that the FY 2013-14 costs associated with the project are appropriated from state Capital Construction Funds through the annual Long Bill rather than from the State Historical Fund. The CDC and the General Assembly recommended the use of state funds for the final phase of the project based on the greater availability of state funds for capital projects in FY 2013-14 than in prior years.

Oversight of capital projects. The CDC sponsored two bills that require future committee review of construction plans or projects. Another bill charges a newly created committee with some oversight of information technology projects. The first bill recommended by the CDC that requires future committee review of construction plans or projects is **Senate Bill 13-263**, which directs the Department of Personnel and Administration to develop a master plan for the Capitol Complex no later than December 1, 2014, with final approval from the Governor's Office of State Planning and Budgeting and the CDC. The master plan will develop a coordinated process for decision-making related to the use and occupancy of land and facilities within the Capitol Complex. The bill lists

various factors to be considered in the development of the master plan and the buildings, facilities, and surface parking lots included within the Capitol Complex.

The second bill recommended by the CDC that requires future committee review of construction plans or projects is **Senate Bill 13-214**, which requires the Public School Capital Construction Assistance Board (assistance board) within the Colorado Department of Education to ensure that by June 30 of each year, the balance of the Public School Capital Construction Assistance Fund is equal to the total amount of the state share of annual lease payments for the Building Excellent Schools Today (BEST) program. The BEST program was established in 2008 to provide grants to public schools to rebuild, repair, or replace the worst of the state's pre-school through 12th grade (P-12) facilities. The bill also grants the CDC limited oversight of the BEST program. Specifically, the CDC is added to the list of entities required to approve grant awards for P-12 capital construction to be financed through lease-purchase agreements. The bill also adds the CDC to the list of entities to whom the assistance board is required to report annually regarding its activities.

House Bill 13-1079 creates the Joint Technology Committee to oversee state agencies, projects, and issues related to information technology. The committee will oversee the Governor's Office of Information Technology (OIT), including its annual budget requests and any significant information technology projects managed or initiated by OIT. The committee also oversees and may review any information technology purchased or implemented by a state agency that is not managed by, or does not follow, the standards of OIT. Higher education institutions are exempt from the committee's oversight. The committee may submit recommendations about information technology capital requests to the CDC for consideration. Based on a current memorandum of understanding between the CDC, the Governor's Office of State Planning and Budgeting, and the Colorado Commission on Higher Education, information technology projects with a total cost of more than \$500,000 are categorized as capital construction.

Authorization to Enter Into Lease-Purchase Agreements

The CDC considered three bills to authorize the issuance of COPs for the new construction, renovation, or development of capital assets. **House Bill 13-1234**, which was recommended by the CDC, authorizes the State Treasurer to enter into lease-purchase agreements on behalf of the Department of Agriculture for a period of up to 20 years to purchase and renovate a new office building to house seven of the department's eight divisions. The bill authorizes the issuance of COPs in the amount of \$6.6 million. The bill also expands the allowable deposits to the Agriculture Management Cash Fund to include proceeds from the sale of a building which currently houses the department's Inspection and Consumer Services Division. The Department of Agriculture is seeking to finance the purchase cost and subsequent build out of a new building in order to consolidate its Denver Metro area offices in a single facility. The office consolidation will affect all of the divisions within the department, with the exception of the Colorado State Fair, which is located in Pueblo.

House Bill 13-1274 authorizes the State Treasurer to enter into one or more lease-purchase agreements for a period of up to 25 years on behalf of the State Board of Land Commissioners (Land Board) for the acquisition, construction, renovation, and improvement of commercial real property. The bill authorizes the issuance of lease-purchase agreements in the form of COPs in the amount of \$50 million. The bill specifies that it is the intent of the General Assembly that any commercial real property purchased in this manner will be leased as office space for state agencies or other tenants. The bill creates two new funds and establishes the legislative and executive branch review required prior to issuance of lease-purchase agreements authorized under the bill, including CDC review. The bill also directs how annual lease payments will be made and directs that all unencumbered and unspent revenue earned through the lease of commercial real property be deposited quarterly to the Permanent School Fund on behalf of P-12 education.

Senate Bill 13-190 authorizes the State Treasurer to enter into lease-purchase agreements on behalf of the OIT for a period of up to nine years to complete the Colorado Financial Reporting System (COFRS) Modernization project. The bill authorizes the issuance of COPs in the amount of \$33 million. The bill also requires OIT to add specific functions to COFRS identified as important by various legislative agencies, or to provide an explanation as to why such functionality cannot be incorporated into the system. Finally, the bill requires OIT to report to the Joint Budget Committee and the CDC regarding the progress of the project.

Programmatic Changes Affecting Future Capital Construction

Two bills introduced during the 2013 legislative session, one of which was postponed indefinitely, suggested changes to state agencies that could impact future capital construction need. **Senate Bill 13-177** reduces the bed cap for the Division of Youth Corrections (DYC) in the Department of Human Services (DHS). Beginning on April 1, 2013, the bed cap is reduced from 422 to 382. The bed cap reduction is part of a larger set of changes that will reduce detention, commitment, and assessment capacity at the DYC. In recent years, the number of youths held in DYC facilities has decreased significantly. This decline in population allows the bed cap to be reduced. It is anticipated that the reduction in population will change the types of capital construction and controlled maintenance requests submitted by DHS on behalf of DYC facilities.

Senate Bill 13-165, which was postponed indefinitely, would have permitted the State Board for Community Colleges and Occupational Education to establish up to seven baccalaureate degree programs to be offered at community colleges. The degree programs would have included technical or career and work force development bachelor's degrees. Changes to course offerings at local community colleges may have led to an increased demand for capital funding to address new and expanded programmatic needs.

State Capitol Building

Senate Joint Resolution 13-023 makes a change to the State Capitol building grounds. The resolution, which was recommended by the CDC, authorizes the donation of a replica khachkar, or gravestone, from the Armenians of Colorado to be placed on the northeast quadrant of the grounds.

Contracting for Capital Construction and Avoiding Energy Costs

One bill considered during the 2013 legislative session made changes to contracting for state-funded capital construction projects. **House Bill 13-1292** makes changes to contracting requirements for state and local government agencies, including changes to the enforcement of the 80 percent labor law, the preference for resident bidders, the addition of competitive sealed best value bidding, and the modification of disclosure requirements related to outsourcing services, labor, and manufactured goods. Specifically, for construction contracts paid in whole or part from state funds, the bill adds another type of allowable bid: competitive sealed best value bidding (best value bids). Best value bids allow the entity soliciting bids to consider factors other than cost, such as a vendor's employment practices or reliability, when awarding a bid. The bill lists the information that must be included in the invitation for best value bids. The bill also adds a requirement that a state agency, including an institution of higher education, must disclose its rationale for selecting a particular bidding process after it enters into a contract for a construction project.

Energy costs. Three bills introduced during the 2013 legislative session seek to monitor or reduce energy costs. **Senate Bill 13-028** requires state agencies, including higher education institutions, to monitor, track, and verify utility usage data for all state-assisted facilities designed, constructed, or substantially renovated on or after January 1, 2010. Agencies are directed to annually report utility usage data to the Office of the State Architect within the Department of Personnel and Administration. State-assisted facilities designed, constructed, or substantially renovated prior to January 1, 2010, are strongly encouraged, but not required, to follow the provisions of this bill.

Beginning January 1, 2014, **Senate Bill 13-279** requires the new construction or substantial renovation of school facilities that receive operating money from the state, including charter schools, to be designed and constructed to the highest practical energy efficiency standards. School districts may follow guidelines designated by the Public School Capital Construction Assistance Board within the Department of Education regarding the energy efficiency standards it should meet during the design and construction of a new or substantially renovated facility. The design for new construction or substantial renovation must be submitted to a federal agency or receive third-party verification that it meets the highest practical energy efficiency standards, including but not limited to, the federal Energy Star label or high performance certification.

Senate Bill 13-254 expands that authority of state agencies and political subdivisions to enter into "energy cost-savings" contracts to include contracts that reduce vehicle operational and fuel costs. The bill clarifies that special districts are included in the definition of a political subdivision for the purposes of entering into such contracts. State agencies that recommend new energy-related contracts (whether for facilities or vehicles) for approval by the state personnel director within the Department of Personnel and Administration must also consult with the Colorado Energy Office.

Real Property Transactions

Two bills introduced during the 2013 legislative session affect future real property transactions. **House Bill 13-1235**, which was recommended by the CDC, requires state agencies to obtain a written appraisal of value from an independent appraiser licensed in Colorado prior to exercising an option to purchase real property or any interest therein for properties with a total purchase price of more than \$100,000. Under current law, any real estate contract entered into by the state that includes an option to purchase for properties with a total purchase price of more than \$100,000 requires an appraisal of value at the time the contract is initiated, even if the state agency entering the contract has no immediate intention of exercising the option to purchase. This bill requires a contract to purchase real property to contain an appraisal clause to allow the state to secure an appraisal to substantiate the purchase price prior to purchase. The CDC reviews most real property transactions involving the acquisition or disposition of land, with the exception of transactions conducted by the Colorado Department of Transportation, the Land Board, and higher education institutions.

Senate Bill 13-175 continues the Habitat Stamp Program and the Wildlife Habitat Stamp Committee until July 1, 2027, and repeals the Colorado Wildlife Passport and its cash fund. Money from the sale of habitat stamps is used, in part, by the Division of Parks and Wildlife within the Department of Natural Resources to acquire an interest in real property. Transactions of more than \$100,000 or for more than 25 years are submitted to the CDC for review and comment.