

**Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 12-0362.01 Jane Ritter x4342

HOUSE BILL 12-1081

HOUSE SPONSORSHIP

Duran,

SENATE SPONSORSHIP

Steadman,

House Committees
Education

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE OPERATIONS OF THE AURARIA HIGHER EDUCATION**
102 **CENTER.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill clarifies numerous statutory sections that concern the operations of the Auraria higher education center, including, among others, capital construction, the personnel system, risk management, and lease-purchase agreements.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 17-24-106.6, **amend**

3 (1) (b) as follows:

4 **17-24-106.6. Surplus state property.** (1) As used in this section,
5 unless the context otherwise requires:

6 (b) "State agency" means this state or any department or other
7 agency of the state, but not including the department of transportation OR
8 THE AURARIA HIGHER EDUCATION CENTER ESTABLISHED IN ARTICLE 70 OF
9 TITLE 23, C.R.S.

10 **SECTION 2.** In Colorado Revised Statutes, 23-1-106, **amend** (1)
11 as follows:

12 **23-1-106. Duties and powers of the commission with respect**
13 **to capital construction and long-range planning.** (1) Except as
14 permitted by subsections (9) and (10) of this section, it is declared to be
15 the policy of the general assembly not to authorize or to acquire sites or
16 initiate any program or activity requiring capital construction for
17 state-supported institutions of higher education, WHICH, FOR THE
18 PURPOSES OF THIS SECTION, SHALL INCLUDE THE AURARIA HIGHER
19 EDUCATION CENTER ESTABLISHED IN ARTICLE 70 OF THIS TITLE, unless
20 approved by the commission.

21 **SECTION 3.** In Colorado Revised Statutes, **amend** 23-5-117 as
22 follows:

23 **23-5-117. Governing boards - delegation of personnel**
24 **power.** The governing board of any state-supported institution of higher
25 education, INCLUDING THE AURARIA HIGHER EDUCATION CENTER
26 ESTABLISHED IN ARTICLE 70 OF THIS TITLE, may delegate all or part of its

1 power over personnel matters, including the power to hire or to fire
2 employees exempt from the personnel system, to the chief executive
3 officer of the institution governed by such board. The governing board
4 may authorize the chief executive officer to delegate to other officers of
5 the institution any power so delegated pursuant to this section. The
6 governing board of each state-supported institution of higher education,
7 except the university of Colorado, Colorado state university, the
8 university of northern Colorado, the Colorado school of mines, Fort
9 Lewis college, Adams state college, Colorado Mesa university, Western
10 state college of Colorado, or Metropolitan state college of Denver, after
11 consultation with faculty representatives chosen by the faculty, shall
12 prepare, enact, promulgate, administer, and maintain in place policies and
13 practices which afford due process procedures for those faculty members
14 exempt from the state personnel system who are terminated, including
15 terminations resulting from reductions in force.

16 **SECTION 4.** In Colorado Revised Statutes, 24-2-103, **amend** (1)
17 (b) (II) and (1) (d) as follows:

18 **24-2-103. Compensation of heads of departments and other**
19 **officers and employees.** (1) (b) If the compensation of an officer or
20 employee who is exempt from the state personnel system is not fixed by
21 law, the officer's or employee's compensation shall be determined as
22 follows:

23 (II) The governing board of each institution of higher education,
24 INCLUDING THE AURARIA HIGHER EDUCATION CENTER ESTABLISHED IN
25 ARTICLE 70 OF TITLE 23, C.R.S., shall determine the compensation for the
26 head of the institution, and the head of each institution shall determine the
27 compensation for officers and employees of the institution.

1 (d) Nothing in this subsection (1) shall prevent departments and
2 institutions of higher education, INCLUDING THE AURARIA HIGHER
3 EDUCATION CENTER ESTABLISHED IN ARTICLE 70 OF TITLE 23, C.R.S., from
4 sharing personnel if the terms and conditions of the personnel sharing
5 agreement are in writing and include a provision concerning the
6 distribution of compensation.

7 **SECTION 5.** In Colorado Revised Statutes, 24-30-1404, **amend**
8 (7) (g) (I) as follows:

9 **24-30-1404. Contracts.** (7) (g) This subsection (7) shall not
10 apply to:

11 (I) A capital construction project at an institution of higher
12 education, INCLUDING THE AURARIA HIGHER EDUCATION CENTER
13 ESTABLISHED IN ARTICLE 70 OF TITLE 23, C.R.S., that is to be constructed
14 solely from cash funds held by the institution or federal funds made
15 available for the project or a combination of the cash funds and the
16 federal funds; or

17 **SECTION 6.** In Colorado Revised Statutes, 24-30-1502, **amend**
18 (5) (b) as follows:

19 **24-30-1502. Definitions.** As used in this part 15, unless the
20 context otherwise requires:

21 (5) (b) The governing board of each institution of higher
22 education, INCLUDING THE AURARIA HIGHER EDUCATION CENTER
23 ESTABLISHED IN ARTICLE 70 OF TITLE 23, C.R.S., by formal action of the
24 governing board, and the Colorado commission on higher education, by
25 formal action of the commission, may elect to be excluded from the
26 meaning of "state agency" pursuant to this subsection (5) and may obtain
27 a risk management program independent of the program created pursuant

1 to this part 15. Nothing in this paragraph (b) shall be construed to affect
2 the exempt status of any institution in the university of Colorado system,
3 including the university of Colorado at Boulder, Denver, and Colorado
4 Springs, and the university of Colorado health sciences center, from the
5 state risk management system pursuant to section 24-30-1517 (2), or to
6 require the governing board of any such institution in the university of
7 Colorado system to take formal action in order to be exempt from the
8 definition of "state agency".

9 **SECTION 7.** In Colorado Revised Statutes, **amend** 24-30-1503.5
10 as follows:

11 **24-30-1503.5. Risk management system - independent**
12 **program.** (1) If an institution of higher education, THE AURARIA HIGHER
13 EDUCATION CENTER ESTABLISHED IN ARTICLE 70 OF TITLE 23, C.R.S., or
14 the Colorado commission on higher education elects to be excluded from
15 the meaning of "state agency" and to obtain an independent risk
16 management program pursuant to section 24-30-1502 (5) (b), such
17 institution, CENTER, or commission shall conduct an analysis of the
18 institution's, CENTER'S, or commission's ability to provide workers'
19 compensation and the estimated property and liability losses, insurance
20 costs, and administrative costs of risk management that the institution,
21 CENTER, or commission will incur by implementing an independent
22 program.

23 (2) Before any institution of higher education, THE AURARIA
24 HIGHER EDUCATION CENTER ESTABLISHED IN ARTICLE 70 OF TITLE 23,
25 C.R.S., or the Colorado commission on higher education implements an
26 independent risk management program, the institution, CENTER, or
27 commission, as applicable, shall submit a written report detailing the

1 findings of the analysis conducted pursuant to subsection (1) of this
2 section to the president of the senate, the speaker of the house of
3 representatives, the majority and minority leaders of the senate and the
4 house of representatives, the members of the joint budget committee, the
5 members of the business affairs and labor committee in the house of
6 representatives, or any successor committee, and the members of the
7 business, labor, and technology committee in the senate, or any successor
8 committee.

9 (3) In the event that an institution of higher education, THE
10 AURARIA HIGHER EDUCATION CENTER ESTABLISHED IN ARTICLE 70 OF
11 TITLE 23, C.R.S., or the Colorado commission on higher education
12 implements an independent risk management program, the institution,
13 CENTER, or commission shall conduct the analysis and submit the report
14 required pursuant to this section within the existing resources of the
15 institution, CENTER, or commission, as applicable.

16 **SECTION 8.** In Colorado Revised Statutes, 24-50-109.5, **amend**
17 (2) and (3) as follows:

18 **24-50-109.5. Fiscal emergencies - emergency orders.** (2) With
19 the advice and assistance of the state personnel director, the governor
20 shall take such actions as necessary to be utilized by each principal
21 department and each institution of higher education, INCLUDING THE
22 AURARIA HIGHER EDUCATION CENTER ESTABLISHED IN ARTICLE 70 OF
23 TITLE 23, C.R.S., to reduce state personnel expenditures in the event of a
24 fiscal emergency. Such actions shall include, but need not be limited to,
25 separations, voluntary furloughs, mandatory furloughs, suspension of
26 increases in salary and state contributions for group benefit plans,
27 suspension of performance awards, job-sharing, hiring freezes, forced

1 reallocation of vacant positions, or a combination thereof. Any
2 suspension of salary increases, increases in state contributions for group
3 benefit plans, or performance awards shall apply statewide to all
4 employees in the state personnel system. If mandatory furloughs are
5 utilized in any principal department or institution of higher education,
6 INCLUDING THE AURARIA HIGHER EDUCATION CENTER ESTABLISHED IN
7 ARTICLE 70 OF TITLE 23, C.R.S., such furloughs shall be implemented by
8 each appointing authority so that all employees under such authority,
9 regardless of status, position, or level of employment, are furloughed for
10 the same length of time, consistent with section 24-2-103 (2). Employees
11 of the following agencies and employees with duties as described shall
12 not be subject to mandatory furlough: The Colorado state patrol,
13 correctional officers, police officers, employees of the department of
14 human services providing hands-on care, and employees providing
15 hands-on nursing care.

16 (3) Promptly after the adoption of a joint resolution declaring a
17 fiscal emergency, the head of each principal department and the
18 governing board of each institution of higher education AND THE
19 AURARIA HIGHER EDUCATION CENTER ESTABLISHED IN ARTICLE 70 OF
20 TITLE 23, C.R.S., shall order into effect, on an emergency basis and in
21 accordance with the actions taken by the governor pursuant to subsection
22 (2) of this section, those measures they find necessary and appropriate to
23 reduce the personnel expenditures of their departments or institutions to
24 enable them to operate within available revenues. No such order shall
25 have an effect beyond the time period specified in the joint resolution
26 declaring the fiscal emergency.

27 **SECTION 9.** In Colorado Revised Statutes, 24-50-135, **amend**

1 (1) (f) and (2) (a) as follows:

2 **24-50-135. Exemptions from personnel system.**

3 (1) Administrators employed in educational institutions and departments
4 not charitable or reformatory in character shall be exempt from the state
5 personnel system. For purposes of this section, "administrators employed
6 in educational institutions and departments" means:

7 (f) Professional officers and professional staff of the department
8 of higher education OR THE AURARIA HIGHER EDUCATION CENTER
9 ESTABLISHED IN ARTICLE 70 OF TITLE 23, C.R.S.; and

10 (2) (a) The president of each educational institution OR THE CHIEF
11 EXECUTIVE OFFICER OF THE AURARIA HIGHER EDUCATION CENTER or a
12 person designated by the president OR CHIEF EXECUTIVE OFFICER shall
13 determine which administrative positions in ~~that~~ HIS OR HER RESPECTIVE
14 institution OR CENTER are exempt from the state personnel system under
15 subsection (1) of this section, subject to an appeal to the board; except
16 that a position shall not be determined to be exempt while it is held by an
17 existing employee in the state personnel system. The president of an
18 educational institution OR THE CHIEF EXECUTIVE OFFICER OF THE AURARIA
19 HIGHER EDUCATION CENTER may decide not to exempt a position funded
20 through auxiliary activities if the president OR CHIEF EXECUTIVE OFFICER
21 determines that exempting the position is not in the best interests of the
22 institution OR CENTER.

23 **SECTION 10.** In Colorado Revised Statutes, 24-50-136, **amend**
24 (1) as follows:

25 **24-50-136. Persons brought into the personnel system.**

26 (1) Whenever a person currently or previously employed by the state of
27 Colorado, not within the state personnel system, enters or is brought into

1 the state personnel system, the person shall be credited with his or her
2 former state service for purposes of accumulated leave, leave earning
3 rates, seniority, and other benefits, excluding retirement credit, afforded
4 an employee in the state personnel system. Previous employment with the
5 state shall include any period of employment for which an officer or
6 employee received compensation not limited solely to expense
7 reimbursement. Credit for previous state employment shall not be given
8 for temporary employment, including student employment at an
9 institution of higher education OR THE AURARIA HIGHER EDUCATION
10 CENTER ESTABLISHED IN ARTICLE 70 OF TITLE 23, C.R.S., or service as a
11 member of a part-time board or commission.

12 **SECTION 11.** In Colorado Revised Statutes, **amend** 24-50-208
13 as follows:

14 **24-50-208. Voluntary separation incentive program.** The state
15 personnel director may adopt procedures establishing a program for
16 voluntary separation incentives available to all state employees in lieu of
17 layoffs based on a determination by the head of a principal department or
18 institution of higher education, INCLUDING THE AURARIA HIGHER
19 EDUCATION CENTER ESTABLISHED IN ARTICLE 70 OF TITLE 23, C.R.S., that
20 the program is necessitated by a shortage of work, shortage of funds, or
21 a reorganization. Any program established pursuant to this section shall
22 not conflict with laws, rules, or procedures governing the state personnel
23 system or the public employees' retirement association. A voluntary
24 separation incentive shall not be considered a perquisite for purposes of
25 section 24-30-202 (22).

26 **SECTION 12.** In Colorado Revised Statutes, 24-50-508, **amend**
27 (1) (b) as follows:

1 **24-50-508. Intergovernmental agreements - agreements by**
2 **state institutions of higher education - excluded.** (1) The following
3 contracts are not subject to the provisions of this part 5:

4 (b) Contracts entered into by a state institution of higher education
5 OR THE AURARIA HIGHER EDUCATION CENTER ESTABLISHED IN ARTICLE 70
6 OF TITLE 23, C.R.S., so long as the chief executive officer of the
7 institution OR THE CENTER, or his or her designee, has determined that the
8 conditions set forth in section 24-50-503 are met for those contracts that
9 implicate the state personnel system.

10 **SECTION 13.** In Colorado Revised Statutes, 24-50-618, **amend**
11 (1) as follows:

12 **24-50-618. Group benefit plans - institutions of higher**
13 **education.** (1) A state institution of higher education, WHICH, FOR THE
14 PURPOSES OF THIS SECTION, SHALL INCLUDE THE AURARIA HIGHER
15 EDUCATION CENTER ESTABLISHED IN ARTICLE 70 OF TITLE 23, C.R.S., or
16 a group of state institutions may establish and offer one or more group
17 benefit plans, in addition to or in lieu of a plan contracted for by the
18 director pursuant to this part 6, to employees of the institution or
19 institutions who are in the state personnel system.

20 **SECTION 14.** In Colorado Revised Statutes, 24-82-801, **amend**
21 (6) (a) as follows:

22 **24-82-801. Lease-purchase agreements for acquisition of real**
23 **or personal property.** (6) (a) Notwithstanding any provision of this
24 section to the contrary, the department of transportation, institutions of
25 higher education, THE AURARIA HIGHER EDUCATION CENTER ESTABLISHED
26 IN ARTICLE 70 OF TITLE 23, C.R.S., and the state treasurer may enter into
27 lease-purchase agreements if the state controller as authorized by section

1 24-30-202 approves each lease-purchase agreement that requires total
2 payments in excess of five hundred thousand dollars over the term of the
3 agreement or as otherwise provided by law.

4 **SECTION 15.** In Colorado Revised Statutes, 24-101-105, **amend**
5 (1) (b) as follows:

6 **24-101-105. Application of this code - repeal.** (1) (b) The
7 governing board of each institution of higher education, INCLUDING THE
8 AURARIA HIGHER EDUCATION CENTER ESTABLISHED IN ARTICLE 70 OF
9 TITLE 23, C.R.S., by formal action of the board, and the Colorado
10 commission on higher education, by formal action of the commission,
11 may elect to be exempt from the provisions of this code and may enter
12 into contracts independent of the terms specified in this code.

13 **SECTION 16.** In Colorado Revised Statutes, 24-101-301, **amend**
14 (10) (a) as follows:

15 **24-101-301. Definitions.** The terms defined in this section shall
16 have the following meanings whenever they appear in this code, unless
17 the context in which they are used clearly requires a different meaning or
18 a different definition is prescribed for a particular article or portion
19 thereof:

20 (10) "Governmental body" means any department, commission,
21 council, board, bureau, committee, institution of higher education,
22 agency, government corporation, or other establishment or official, other
23 than an elected official, of the executive branch of state government in
24 this state; except that:

25 (a) The governing board of each institution of higher education,
26 INCLUDING THE AURARIA HIGHER EDUCATION CENTER ESTABLISHED IN
27 ARTICLE 70 OF TITLE 23, C.R.S., by formal action of the board, and the

1 Colorado commission on higher education, by formal action of the
2 commission, may elect to be excluded from the meaning of
3 "governmental body".

4 **SECTION 17.** In Colorado Revised Statutes, 24-113-102, **amend**
5 (5) as follows:

6 **24-113-102. Definitions.** As used in this article, unless the
7 context otherwise requires:

8 (5) "State agency" means a department, office, commission,
9 institution, board, or other agency of state government. Such term shall
10 not include the Colorado state museum, ~~or~~ the state historical society, OR
11 THE AURARIA HIGHER EDUCATION CENTER ESTABLISHED IN ARTICLE 70 OF
12 TITLE 23, C.R.S., nor shall such term include institutions of higher
13 education.

14 **SECTION 18.** In Colorado Revised Statutes, 26-8.5-101, **amend**
15 (2) as follows:

16 **26-8.5-101. Definitions.** As used in this article, unless the context
17 otherwise requires:

18 (2) "State property" means any building, land, or other real
19 property owned, leased, or occupied by any department or agency of the
20 state of Colorado, but "state property" does not include any property
21 owned, leased, or occupied by any institution of higher education, THE
22 AURARIA HIGHER EDUCATION CENTER ESTABLISHED IN ARTICLE 70 OF
23 TITLE 23, C.R.S., or the board of commissioners of the Colorado state fair
24 authority.

25 **SECTION 19. Act subject to petition - effective date.** This act
26 takes effect at 12:01 a.m. on the day following the expiration of the
27 ninety-day period after final adjournment of the general assembly (August

1 8, 2012, if adjournment sine die is on May 9, 2012); except that, if a
2 referendum petition is filed pursuant to section 1 (3) of article V of the
3 state constitution against this act or an item, section, or part of this act
4 within such period, then the act, item, section, or part will not take effect
5 unless approved by the people at the general election to be held in
6 November 2012 and, in such case, will take effect on the date of the
7 official declaration of the vote thereon by the governor.