

Second Regular Session  
Sixty-eighth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 12-0241.01 Esther van Mourik x4215

SENATE BILL 12-040

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SENATE SPONSORSHIP

**Bacon**, Harvey, Renfroe, Schwartz

HOUSE SPONSORSHIP

**Vigil**, Brown, Sonnenberg

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Senate Committees  
Education

House Committees

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A BILL FOR AN ACT

101 CONCERNING THE QUALIFICATION OF CERTAIN STATE HIGHER  
102 EDUCATION FACILITIES FOR STATE CONTROLLED MAINTENANCE  
103 FUNDING.

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**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>.)*

**Capital Development Committee.** The bill establishes that:

! Beginning January 1, 2010, all state higher education academic facilities that did not previously qualify for state controlled maintenance funding now qualify, subject to

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.*

specific limitations; and

- ! If any auxiliary facility acquired or constructed and operated and maintained solely from cash funds held by a state institution of higher education is reconstructed for use as an academic facility on or after January 1, 2010, then that facility qualifies for state controlled maintenance funding, subject to specific limitations.

The bill also requires the office of the state architect to collaborate with the department of higher education and the office of state planning and budgeting to develop guidelines regarding the classification of academic facilities and auxiliary facilities. The bill provides the two factors that must be considered in the classification and specifies definitions to be used in the guidelines.

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

2           **SECTION 1.** In Colorado Revised Statutes, 23-1-106, **amend** (9)  
3 (a), (9) (b), (10) (a) (I), and (10) (a) (II); and **add** (10.2) and (10.3) as  
4 follows:

5           **23-1-106. Duties and powers of the commission with respect**  
6 **to capital construction and long-range planning - legislative**  
7 **declaration - definitions.** (9) (a) Except as provided in paragraph (d) of  
8 this subsection (9), a capital construction or acquisition project FOR AN  
9 AUXILIARY FACILITY initiated by the governing board of a state-supported  
10 institution of higher education that is contained in the most recent unified,  
11 two-year capital improvements project projection approved pursuant to  
12 subparagraph (II) of paragraph (c) of subsection (7) of this section, as the  
13 projection may be amended from time to time, and that is to be acquired  
14 or constructed and operated and maintained solely from cash funds held  
15 by the institution shall not be subject to additional review or approval by  
16 the commission, the office of state planning and budgeting, the capital  
17 development committee, or the joint budget committee.

1 (b) Except as provided in paragraph (d) of this subsection (9), a  
2 capital construction or acquisition project for an academic ~~building~~  
3 FACILITY initiated by the governing board of a state-supported institution  
4 of higher education that is contained in the most recent unified, two-year  
5 capital improvements project projection approved pursuant to  
6 subparagraph (II) of paragraph (c) of subsection (7) of this section, as the  
7 projection may be amended from time to time, and that is to be acquired  
8 or constructed solely from cash funds held by the institution and operated  
9 and maintained from such funds or from state moneys appropriated for  
10 such purpose, or both, shall not be subject to additional review or  
11 approval by the commission, the office of state planning and budgeting,  
12 the capital development committee, or the joint budget committee. Any  
13 capital construction project subject to this paragraph (b) shall comply  
14 with the high performance standard certification program established  
15 pursuant to section 24-30-1305, C.R.S.

16 (10) (a) (I) The commission shall review and approve any plan for  
17 a capital construction or acquisition project FOR AN AUXILIARY FACILITY  
18 that is estimated to require total expenditures exceeding two million  
19 dollars and that is to be acquired or constructed and operated and  
20 maintained solely from cash funds held by the institution that, in whole  
21 or in part, are subject to the higher education revenue bond intercept  
22 program established pursuant to section 23-5-139.

23 (II) The commission shall review and approve any plan for a  
24 capital construction or acquisition project for an academic ~~building~~  
25 FACILITY that is estimated to require total expenditures exceeding two  
26 million dollars, that is to be acquired or constructed solely from cash  
27 funds held by the institution that, in whole or in part, are subject to the

1 higher education revenue bond intercept program established pursuant to  
2 section 23-5-139, and that is operated and maintained from such cash  
3 funds or from state moneys appropriated for such purpose, or both. Any  
4 capital construction project subject to this subparagraph (II) shall comply  
5 with the high performance standard certification program established  
6 pursuant to section 24-30-1305, C.R.S.

7 (10.2) (a) NOTWITHSTANDING ANY LAW TO THE CONTRARY,  
8 BEGINNING JANUARY 1, 2010, ALL ACADEMIC FACILITIES ACQUIRED OR  
9 CONSTRUCTED SOLELY FROM CASH FUNDS HELD BY THE INSTITUTION AND  
10 OPERATED AND MAINTAINED FROM SUCH CASH FUNDS OR FROM STATE  
11 MONEYS APPROPRIATED FOR SUCH PURPOSE, OR BOTH, INCLUDING, BUT  
12 NOT LIMITED TO, THOSE FACILITIES DESCRIBED IN PARAGRAPH (b) OF  
13 SUBSECTION (9) OF THIS SECTION AND SUBPARAGRAPH (II) OF PARAGRAPH  
14 (a) OF SUBSECTION (10) OF THIS SECTION, THAT DID NOT PREVIOUSLY  
15 QUALIFY FOR STATE CONTROLLED MAINTENANCE FUNDING WILL QUALIFY  
16 FOR STATE CONTROLLED MAINTENANCE FUNDING, SUBJECT TO FUNDING  
17 APPROVAL BY THE CAPITAL DEVELOPMENT COMMITTEE AND THE  
18 FIFTEEN-YEAR RULE ESTABLISHED IN SECTION 24-30-1303.9, C.R.S., AS  
19 ENACTED BY HOUSE BILL 12-\_\_\_\_\_, ENACTED IN 2012.

20 (b) NOTWITHSTANDING ANY LAW TO THE CONTRARY, IF ANY  
21 AUXILIARY FACILITY ACQUIRED OR CONSTRUCTED AND OPERATED AND  
22 MAINTAINED SOLELY FROM CASH FUNDS HELD BY THE INSTITUTION IS  
23 REPURPOSED FOR USE AS AN ACADEMIC FACILITY ON OR AFTER JANUARY  
24 1, 2010, THEN THAT FACILITY QUALIFIES FOR STATE CONTROLLED  
25 MAINTENANCE FUNDING, SUBJECT TO FUNDING APPROVAL BY THE CAPITAL  
26 DEVELOPMENT COMMITTEE AND THE FIFTEEN-YEAR RULE ESTABLISHED IN  
27 SECTION 24-30-1303.9, C.R.S., AS ENACTED BY HOUSE BILL 12-\_\_\_\_\_,

1 ENACTED IN 2012. FOR PURPOSES OF THIS PARAGRAPH (b), THE  
2 FIFTEEN-YEAR RULE COMMENCES ON THE DATE OF THE ACCEPTANCE OF  
3 THE REPURPOSING OF THE FACILITY. THE DATE OF THE ACCEPTANCE SHALL  
4 BE DETERMINED BY THE OFFICE OF THE STATE ARCHITECT.

5 (c) (I) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND  
6 DECLARES THAT THE CLASSIFICATION OF FACILITIES AS ACADEMIC  
7 FACILITIES OR AUXILIARY FACILITIES CAN BE DIFFICULT, AND SUCH  
8 CLASSIFICATIONS OFTEN CHANGE AS ACADEMIC NEEDS, STUDENT NEEDS,  
9 AND NEW CONSTRUCTION AND DESIGN PRACTICES EMERGE. THEREFORE,  
10 THE OFFICE OF THE STATE ARCHITECT, IN COLLABORATION WITH THE  
11 DEPARTMENT OF HIGHER EDUCATION AND THE OFFICE OF STATE PLANNING  
12 AND BUDGETING, SHALL DEVELOP GUIDELINES IN ORDER TO ASSIST SUCH  
13 CLASSIFICATION. THE GUIDELINES SHALL BE ANNUALLY REVIEWED AND  
14 APPROVED BY THE CAPITAL DEVELOPMENT COMMITTEE. THE GUIDELINES  
15 SHALL ADDRESS THE FOLLOWING TWO FACTORS THAT HAVE HISTORICALLY  
16 BEEN CONSIDERED WHEN CLASSIFYING ACADEMIC FACILITIES AND  
17 AUXILIARY FACILITIES:

18 (A) THE FUNDING SOURCE FOR THE FACILITY; AND

19 (B) THE NATURE AND USE OF THE FACILITY.

20 (II) THE GUIDELINES PROMULGATED PURSUANT TO THIS  
21 PARAGRAPH (c) SHALL USE THE DEFINITIONS SET FORTH IN SUBSECTION  
22 (10.3) OF THIS SECTION.

23 (10.3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE  
24 REQUIRES:

25 (a) "ACADEMIC FACILITY" MEANS ANY BUILDING OR OTHER  
26 PHYSICAL FACILITY, INCLUDING ANY SUPPORTING UTILITY  
27 INFRASTRUCTURE, THAT IS CENTRAL TO THE ROLE AND MISSION OF EACH

1 INSTITUTION AS SET FORTH IN THIS TITLE, THAT IS FUNDED BY AN  
2 ACADEMIC FACILITY FEE, BY AN APPROPRIATION IN THE ANNUAL GENERAL  
3 APPROPRIATIONS ACT OR ANY SUPPLEMENTAL APPROPRIATIONS ACTS, OR  
4 FROM TUITION. EXAMPLES INCLUDE, BUT ARE NOT LIMITED TO,  
5 CLASSROOMS, LIBRARIES, AND ADMINISTRATIVE BUILDINGS.

6 (b) "AUXILIARY FACILITY" MEANS ANY BUILDING OR OTHER  
7 PHYSICAL FACILITY, INCLUDING ANY SUPPORTING UTILITY  
8 INFRASTRUCTURE, FUNDED FROM AN AUXILIARY SOURCE SUCH AS  
9 HOUSING OR PARKING REVENUE OR ANY BUILDING OR OTHER PHYSICAL  
10 FACILITY THAT HAS BEEN HISTORICALLY MANAGED AS AN AUXILIARY  
11 FACILITY AND IS ACCOUNTED FOR IN INSTITUTIONAL FINANCIAL  
12 STATEMENTS AS A SELF-SUPPORTING FACILITY. EXAMPLES INCLUDE, BUT  
13 ARE NOT LIMITED TO, HOUSING FACILITIES, DINING FACILITIES,  
14 RECREATIONAL FACILITIES, AND STUDENT ACTIVITIES FACILITIES.

15 **SECTION 2. Act subject to petition - effective date.** This act  
16 takes effect at 12:01 a.m. on the day following the expiration of the  
17 ninety-day period after final adjournment of the general assembly (August  
18 7, 2012, if adjournment sine die is on May 9, 2012); except that, if a  
19 referendum petition is filed pursuant to section 1 (3) of article V of the  
20 state constitution against this act or an item, section, or part of this act  
21 within such period, then the act, item, section, or part will not take effect  
22 unless approved by the people at the general election to be held in  
23 November 2012 and, in such case, will take effect on the date of the  
24 official declaration of the vote thereon by the governor.