

Second Regular Session  
Sixty-eighth General Assembly  
STATE OF COLORADO

**ENGROSSED**

*This Version Includes All Amendments Adopted  
on Second Reading in the House of Introduction*

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.*

SENATE  
Amended 2nd Reading  
February 10, 2012

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) (I) NOTWITHSTANDING ANY LAW TO THE CONTRARY, ==  
8 ALL ACADEMIC FACILITIES ACQUIRED OR CONSTRUCTED, OR AN AUXILIARY  
9 FACILITY REPURPOSED FOR USE AS AN ACADEMIC FACILITY, SOLELY FROM  
10 CASH FUNDS HELD BY THE INSTITUTION AND OPERATED AND MAINTAINED  
11 FROM SUCH CASH FUNDS OR FROM STATE MONEYS APPROPRIATED FOR  
12 SUCH PURPOSE, OR BOTH, INCLUDING, BUT NOT LIMITED TO, THOSE  
13 FACILITIES DESCRIBED IN PARAGRAPH (b) OF SUBSECTION (9) OF THIS  
14 SECTION AND SUBPARAGRAPH (II) OF PARAGRAPH (a) OF SUBSECTION (10)  
15 OF THIS SECTION, THAT DID NOT PREVIOUSLY QUALIFY FOR STATE  
16 CONTROLLED MAINTENANCE FUNDING WILL QUALIFY FOR STATE  
17 CONTROLLED MAINTENANCE FUNDING, SUBJECT TO FUNDING APPROVAL BY  
18 THE CAPITAL DEVELOPMENT COMMITTEE AND THE ELIGIBILITY GUIDELINES  
19 DESCRIBED IN SECTION 24-30-1303.9, C.R.S., AS ENACTED BY HOUSE BILL  
20 12-\_\_\_\_\_, ENACTED IN 2012.

21 ==  
22 (II) FOR PURPOSES OF THIS PARAGRAPH (a), THE ELIGIBILITY FOR  
23 STATE CONTROLLED MAINTENANCE FUNDING COMMENCES ON THE DATE  
24 OF THE ACCEPTANCE OF THE CONSTRUCTION OR REPURPOSING OF THE  
25 FACILITY OR THE CLOSING DATE OF ANY ACQUISITION. THE DATE OF THE  
26 ACCEPTANCE OF CONSTRUCTION OR REPURPOSING SHALL BE DETERMINED  
27 BY THE OFFICE OF THE STATE ARCHITECT.

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

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

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

16                (II) THE GUIDELINES ESTABLISHED PURSUANT TO THIS PARAGRAPH  
17          **(b)** SHALL USE THE DEFINITIONS SET FORTH IN SUBSECTION (10.3) OF THIS  
18          SECTION.

19                (10.3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE  
20          REQUIRES:

21                (a) "ACADEMIC FACILITY" MEANS ANY BUILDING OR OTHER  
22          PHYSICAL FACILITY, INCLUDING ANY SUPPORTING UTILITY  
23          INFRASTRUCTURE, THAT IS CENTRAL TO THE ROLE AND MISSION OF EACH  
24          INSTITUTION AS SET FORTH IN THIS TITLE. EXAMPLES INCLUDE, BUT ARE  
25          NOT LIMITED TO, CLASSROOMS, LIBRARIES, AND ADMINISTRATIVE  
26          BUILDINGS.

27                (b) "AUXILIARY FACILITY" MEANS ANY BUILDING OR OTHER

1 PHYSICAL FACILITY, INCLUDING ANY SUPPORTING UTILITY  
2 INFRASTRUCTURE, FUNDED FROM AN AUXILIARY SOURCE SUCH AS  
3 HOUSING OR PARKING REVENUE OR ANY BUILDING OR OTHER PHYSICAL  
4 FACILITY THAT HAS BEEN HISTORICALLY MANAGED AS AN AUXILIARY  
5 FACILITY AND IS ACCOUNTED FOR IN INSTITUTIONAL FINANCIAL  
6 STATEMENTS AS A SELF-SUPPORTING FACILITY. EXAMPLES INCLUDE, BUT  
7 ARE NOT LIMITED TO, HOUSING FACILITIES, DINING FACILITIES,  
8 RECREATIONAL FACILITIES, AND STUDENT ACTIVITIES FACILITIES.

9 **SECTION 2. Safety clause. The general assembly hereby finds,**  
10 **determines, and declares that this act is necessary for the immediate**  
11 **preservation of the public peace, health, and safety.**