

Second Regular Session  
Sixty-eighth General Assembly  
STATE OF COLORADO

REVISED

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

LLS NO. 12-0241.01 Esther van Mourik x4215

SENATE BILL 12-040

SENATE SPONSORSHIP

**Bacon**, Harvey, Renfroe, Schwartz

HOUSE SPONSORSHIP

**Vigil**, Brown, Sonnenberg

Senate Committees  
Education

House Committees  
Education

A BILL FOR AN ACT

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

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.*

HOUSE  
Am ended 2nd Reading  
March 23, 2012

SENATE  
Am ended 3rd Reading  
February 13, 2012

SENATE  
Am ended 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, 23-1-102, amend (2)**  
3 **as follows:**

4 **23-1-102. Commission established - terms of office. (2) There**  
5 **is hereby established a central policy and coordinating board for higher**  
6 **education in the state of Colorado, to be known as the Colorado**  
7 **commission on higher education, referred to in this article as the**  
8 **"commission". The duties and powers delegated to the commission by this**  
9 **article shall apply to all state-supported institutions of higher education,**  
10 **including, but not limited to, all postsecondary institutions in the state**  
11 **supported in whole or part by state funds, and including junior colleges**  
12 **and community colleges, extension programs of the state-supported**  
13 **universities and colleges, local district colleges, and area vocational**  
14 **schools, THE AURARIA HIGHER EDUCATION CENTER ESTABLISHED IN**  
15 **ARTICLE 70 OF THIS TITLE, and specifically the regents of the university of**  
16 **Colorado and the institutions it governs. The governing boards and**  
17 **institutions of the public system of higher education in Colorado,**  
18 **including the university of Colorado, are obligated to conform to the**

1 policies set by the commission within the authorities delegated to it in this  
2 article.

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

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

19 (b) Except as provided in paragraph (d) of this subsection (9), a  
20 capital construction or acquisition project for an academic ~~building~~  
21 FACILITY initiated by the governing board of a state-supported institution  
22 of higher education that is contained in the most recent unified, two-year  
23 capital improvements project projection approved pursuant to  
24 subparagraph (II) of paragraph (c) of subsection (7) of this section, as the  
25 projection may be amended from time to time, and that is to be acquired  
26 or constructed solely from cash funds held by the institution and operated  
27 and maintained from such funds or from state moneys appropriated for

1 such purpose, or both, shall not be subject to additional review or  
2 approval by the commission, the office of state planning and budgeting,  
3 the capital development committee, or the joint budget committee. Any  
4 capital construction project subject to this paragraph (b) shall comply  
5 with the high performance standard certification program established  
6 pursuant to section 24-30-1305, C.R.S.

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

14 (II) The commission shall review and approve any plan for a  
15 capital construction or acquisition project for an academic ~~building~~  
16 FACILITY that is estimated to require total expenditures exceeding two  
17 million dollars, that is to be acquired or constructed solely from cash  
18 funds held by the institution that, in whole or in part, are subject to the  
19 higher education revenue bond intercept program established pursuant to  
20 section 23-5-139, and that is operated and maintained from such cash  
21 funds or from state moneys appropriated for such purpose, or both. Any  
22 capital construction project subject to this subparagraph (II) shall comply  
23 with the high performance standard certification program established  
24 pursuant to section 24-30-1305, C.R.S.

25 (10.2) (a) (I) NOTWITHSTANDING ANY LAW TO THE CONTRARY, ==  
26 ALL ACADEMIC FACILITIES ACQUIRED OR CONSTRUCTED, OR AN AUXILIARY  
27 FACILITY REPURPOSED FOR USE AS AN ACADEMIC FACILITY, SOLELY FROM

1 CASH FUNDS HELD BY THE INSTITUTION AND OPERATED AND MAINTAINED  
2 FROM SUCH CASH FUNDS OR FROM STATE MONEYS APPROPRIATED FOR  
3 SUCH PURPOSE, OR BOTH, INCLUDING, BUT NOT LIMITED TO, THOSE  
4 FACILITIES DESCRIBED IN PARAGRAPH (b) OF SUBSECTION (9) OF THIS  
5 SECTION AND SUBPARAGRAPH (II) OF PARAGRAPH (a) OF SUBSECTION (10)  
6 OF THIS SECTION, THAT DID NOT PREVIOUSLY QUALIFY FOR STATE  
7 CONTROLLED MAINTENANCE FUNDING WILL QUALIFY FOR STATE  
8 CONTROLLED MAINTENANCE FUNDING, SUBJECT TO FUNDING APPROVAL BY  
9 THE CAPITAL DEVELOPMENT COMMITTEE AND THE ELIGIBILITY GUIDELINES  
10 DESCRIBED IN SECTION 24-30-1303.9, C.R.S., AS ENACTED BY HOUSE BILL  
11 12-1318, ENACTED IN 2012.

12                   
13           (II) FOR PURPOSES OF THIS PARAGRAPH (a), THE ELIGIBILITY FOR  
14 STATE CONTROLLED MAINTENANCE FUNDING COMMENCES ON THE DATE  
15 OF THE ACCEPTANCE OF THE CONSTRUCTION OR REPURPOSING OF THE  
16 FACILITY OR THE CLOSING DATE OF ANY ACQUISITION. THE DATE OF THE  
17 ACCEPTANCE OF CONSTRUCTION OR REPURPOSING SHALL BE DETERMINED  
18 BY THE OFFICE OF THE STATE ARCHITECT.

19           (b) (I) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND  
20 DECLARES THAT THE CLASSIFICATION OF FACILITIES AS ACADEMIC  
21 FACILITIES OR AUXILIARY FACILITIES CAN BE DIFFICULT, AND SUCH  
22 CLASSIFICATIONS OFTEN CHANGE AS ACADEMIC NEEDS, STUDENT NEEDS,  
23 AND NEW CONSTRUCTION AND DESIGN PRACTICES EMERGE. THEREFORE,  
24 THE OFFICE OF THE STATE ARCHITECT, IN COLLABORATION WITH THE  
25 DEPARTMENT OF HIGHER EDUCATION AND THE OFFICE OF STATE PLANNING  
26 AND BUDGETING, SHALL DEVELOP GUIDELINES IN ORDER TO ASSIST SUCH  
27 CLASSIFICATION. THE GUIDELINES SHALL BE ANNUALLY REVIEWED AND

1 APPROVED BY THE CAPITAL DEVELOPMENT COMMITTEE. THE GUIDELINES  
2 SHALL ADDRESS THE FOLLOWING TWO FACTORS THAT HAVE HISTORICALLY  
3 BEEN CONSIDERED WHEN CLASSIFYING ACADEMIC FACILITIES AND  
4 AUXILIARY FACILITIES:

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

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

7 (II) THE GUIDELINES ESTABLISHED PURSUANT TO THIS PARAGRAPH  
8 (b) SHALL USE THE DEFINITIONS SET FORTH IN SUBSECTION (10.3) OF THIS  
9 SECTION.

10 (10.3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE  
11 REQUIRES:

12 (a) "ACADEMIC FACILITY" MEANS ANY BUILDING OR OTHER  
13 PHYSICAL FACILITY, INCLUDING ANY SUPPORTING UTILITY  
14 INFRASTRUCTURE, THAT IS CENTRAL TO THE ROLE AND MISSION OF EACH  
15 INSTITUTION AS SET FORTH IN THIS TITLE. EXAMPLES INCLUDE, BUT ARE  
16 NOT LIMITED TO, CLASSROOMS, LIBRARIES, AND ADMINISTRATIVE  
17 BUILDINGS.

18 (b) "AUXILIARY FACILITY" MEANS ANY BUILDING OR OTHER  
19 PHYSICAL FACILITY, INCLUDING ANY SUPPORTING UTILITY  
20 INFRASTRUCTURE, FUNDED FROM AN AUXILIARY SOURCE SUCH AS  
21 HOUSING OR PARKING REVENUE OR ANY BUILDING OR OTHER PHYSICAL  
22 FACILITY THAT HAS BEEN HISTORICALLY MANAGED AS AN AUXILIARY  
23 FACILITY AND IS ACCOUNTED FOR IN INSTITUTIONAL FINANCIAL  
24 STATEMENTS AS A SELF-SUPPORTING FACILITY. EXAMPLES INCLUDE, BUT  
25 ARE NOT LIMITED TO, HOUSING FACILITIES, DINING FACILITIES,  
26 RECREATIONAL FACILITIES, AND STUDENT ACTIVITIES FACILITIES.

27 **SECTION 3.** In Colorado Revised Statutes, 24-30-1301, **amend**

1 (7) as follows:

2 **24-30-1301. Definitions.** As used in this part 13, unless the  
3 context otherwise requires:

4 (7) "Facility" means any public building or facility of the state but  
5 does not include highways. "FACILITY" ALSO INCLUDES AN ACADEMIC OR  
6 AUXILIARY FACILITY THAT QUALIFIES FOR CONTROLLED MAINTENANCE AS  
7 SPECIFIED IN SECTION 23-1-106 (10.2), C.R.S.

8 **SECTION 4. Safety clause.** The general assembly hereby finds,  
9 determines, and declares that this act is necessary for the immediate  
10 preservation of the public peace, health, and safety.