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HOUSE BILL 12-1081

BY REPRESENTATIVE(S) Duran, Court, Fields, Fischer, Labuda, Schafer S., Solano, Todd, Tyler, Williams A., Young;
also SENATOR(S) Steadman.

CONCERNING THE OPERATIONS OF THE AURARIA HIGHER EDUCATION
CENTER.

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

SECTION 1. In Colorado Revised Statutes, 17-24-106.6, **amend** (1) (b) as follows:

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

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

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

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

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

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

23-5-117. Governing boards - delegation of personnel power. The governing board of any state-supported institution of higher education, INCLUDING THE AURARIA HIGHER EDUCATION CENTER ESTABLISHED IN ARTICLE 70 OF THIS TITLE, may delegate all or part of its power over personnel matters, including the power to hire or to fire employees exempt from the personnel system, to the chief executive officer of the institution governed by such board. The governing board may authorize the chief executive officer to delegate to other officers of the institution any power so delegated pursuant to this section. The governing board of each state-supported institution of higher education, except the university of Colorado, Colorado state university, the university of northern Colorado, the Colorado school of mines, Fort Lewis college, Adams state college, Colorado Mesa university, Western state college of Colorado, or Metropolitan state college of Denver, after consultation with faculty representatives chosen by the faculty, shall prepare, enact, promulgate, administer, and maintain in place policies and practices which afford due process procedures for those faculty members exempt from the state personnel system who are terminated, including terminations resulting from reductions in force.

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

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

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

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

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

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

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

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

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

(5) (b) The governing board of each institution of higher education, INCLUDING THE AURARIA HIGHER EDUCATION CENTER ESTABLISHED IN ARTICLE 70 OF TITLE 23, C.R.S., by formal action of the governing board, and the Colorado commission on higher education, by formal action of the commission, may elect to be excluded from the meaning of "state agency" pursuant to this subsection (5) and may obtain a risk management program independent of the program created pursuant to this part 15. Nothing in this paragraph (b) shall be construed to affect the exempt status of any

institution in the university of Colorado system, including the university of Colorado at Boulder, Denver, and Colorado Springs, and the university of Colorado health sciences center, from the state risk management system pursuant to section 24-30-1517 (2), or to require the governing board of any such institution in the university of Colorado system to take formal action in order to be exempt from the definition of "state agency".

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

24-30-1503.5. Risk management system - independent program.

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

(2) Before any institution of higher education, THE AURARIA HIGHER EDUCATION CENTER ESTABLISHED IN ARTICLE 70 OF TITLE 23, C.R.S., or the Colorado commission on higher education implements an independent risk management program, the institution, CENTER, or commission, as applicable, shall submit a written report detailing the findings of the analysis conducted pursuant to subsection (1) of this section to the president of the senate, the speaker of the house of representatives, the majority and minority leaders of the senate and the house of representatives, the members of the joint budget committee, the members of the business affairs and labor committee in the house of representatives, or any successor committee, and the members of the business, labor, and technology committee in the senate, or any successor committee.

(3) In the event that an institution of higher education, THE AURARIA HIGHER EDUCATION CENTER ESTABLISHED IN ARTICLE 70 OF TITLE 23, C.R.S., or the Colorado commission on higher education implements an independent risk management program, the institution, CENTER, or commission shall conduct the analysis and submit the report required

pursuant to this section within the existing resources of the institution, CENTER, or commission, as applicable.

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

24-50-109.5. Fiscal emergencies - emergency orders. (2) With the advice and assistance of the state personnel director, the governor shall take such actions as necessary to be utilized by each principal department and each institution of higher education, INCLUDING THE AURARIA HIGHER EDUCATION CENTER ESTABLISHED IN ARTICLE 70 OF TITLE 23, C.R.S., to reduce state personnel expenditures in the event of a fiscal emergency. Such actions shall include, but need not be limited to, separations, voluntary furloughs, mandatory furloughs, suspension of increases in salary and state contributions for group benefit plans, suspension of performance awards, job-sharing, hiring freezes, forced reallocation of vacant positions, or a combination thereof. Any suspension of salary increases, increases in state contributions for group benefit plans, or performance awards shall apply statewide to all employees in the state personnel system. If mandatory furloughs are utilized in any principal department or institution of higher education, INCLUDING THE AURARIA HIGHER EDUCATION CENTER ESTABLISHED IN ARTICLE 70 OF TITLE 23, C.R.S., such furloughs shall be implemented by each appointing authority so that all employees under such authority, regardless of status, position, or level of employment, are furloughed for the same length of time, consistent with section 24-2-103 (2). Employees of the following agencies and employees with duties as described shall not be subject to mandatory furlough: The Colorado state patrol, correctional officers, police officers, employees of the department of human services providing hands-on care, and employees providing hands-on nursing care.

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

time period specified in the joint resolution declaring the fiscal emergency.

SECTION 9. In Colorado Revised Statutes, 24-50-136, **amend** (1) as follows:

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

(1) Whenever a person currently or previously employed by the state of Colorado, not within the state personnel system, enters or is brought into the state personnel system, the person shall be credited with his or her former state service for purposes of accumulated leave, leave earning rates, seniority, and other benefits, excluding retirement credit, afforded an employee in the state personnel system. Previous employment with the state shall include any period of employment for which an officer or employee received compensation not limited solely to expense reimbursement. Credit for previous state employment shall not be given for temporary employment, including student employment at an institution of higher education OR THE AURARIA HIGHER EDUCATION CENTER ESTABLISHED IN ARTICLE 70 OF TITLE 23, C.R.S., or service as a member of a part-time board or commission.

SECTION 10. In Colorado Revised Statutes, **amend** 24-50-208 as follows:

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

SECTION 11. In Colorado Revised Statutes, 24-50-508, **amend** (1) (b) as follows:

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

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

SECTION 12. In Colorado Revised Statutes, 24-50-618, **amend** (1) as follows:

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

SECTION 13. In Colorado Revised Statutes, 24-82-801, **amend** (6) (a) as follows:

24-82-801. Lease-purchase agreements for acquisition of real or personal property. (6) (a) Notwithstanding any provision of this section to the contrary, the department of transportation, institutions of higher education, THE AURARIA HIGHER EDUCATION CENTER ESTABLISHED IN ARTICLE 70 OF TITLE 23, C.R.S., and the state treasurer may enter into lease-purchase agreements if the state controller as authorized by section 24-30-202 approves each lease-purchase agreement that requires total payments in excess of five hundred thousand dollars over the term of the agreement or as otherwise provided by law.

SECTION 14. In Colorado Revised Statutes, 24-101-105, **amend** (1) (b) as follows:

24-101-105. Application of this code - repeal. (1) (b) The

governing board of each institution of higher education, INCLUDING THE AURARIA HIGHER EDUCATION CENTER ESTABLISHED IN ARTICLE 70 OF TITLE 23, C.R.S., by formal action of the board, and the Colorado commission on higher education, by formal action of the commission, may elect to be exempt from the provisions of this code and may enter into contracts independent of the terms specified in this code.

SECTION 15. In Colorado Revised Statutes, 24-101-301, **amend** (10) (a) as follows:

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

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

(a) The governing board of each institution of higher education, INCLUDING THE AURARIA HIGHER EDUCATION CENTER ESTABLISHED IN ARTICLE 70 OF TITLE 23, C.R.S., by formal action of the board, and the Colorado commission on higher education, by formal action of the commission, may elect to be excluded from the meaning of "governmental body".

SECTION 16. In Colorado Revised Statutes, 24-113-102, **amend** (5) as follows:

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

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

SECTION 17. In Colorado Revised Statutes, 26-8.5-101, **amend** (2) as follows:

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

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

SECTION 18. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 8, 2012, if adjournment sine die is on May 9, 2012); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless

approved by the people at the general election to be held in November 2012 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Frank McNulty
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Brandon C. Shaffer
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO