

CHAPTER 260

EDUCATION - UNIVERSITIES AND COLLEGES

HOUSE BILL 95-1364

BY REPRESENTATIVES Grampas, Owen, Romero, Berry, Dean, Entz, Lamm, Morrison, and Schwarz;
also SENATORS Lacy, Blickensderfer, Rizzuto, and Mutzebaugh.

AN ACT**CONCERNING CAPITAL PROJECTS RELATED TO HIGHER EDUCATION, AND MAKING APPROPRIATIONS
IN CONNECTION THEREWITH.**

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

SECTION 1. Appropriations for the 1994-95 fiscal year. (1) In addition to any other appropriation made for the current fiscal year, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the capital construction fund created in section 24-75-302, Colorado Revised Statutes, the sum of sixty million ninety-seven thousand twenty-seven dollars (\$60,097,027).

(2) In addition to any other appropriation made for the current fiscal year, there is hereby appropriated, out of any moneys in the capital construction fund created in section 24-75-302, Colorado Revised Statutes, not otherwise appropriated, the following amounts:

(a) One million six hundred ninety-seven thousand three hundred dollars (\$1,697,300), or so much thereof as may be necessary, to the board of directors of the Auraria higher education center for the repair and replacement of deteriorated and inadequate mechanical systems in the arts and science buildings at the Auraria higher education campus;

(b) Four hundred eighty thousand seven hundred thirty-six dollars (\$480,736), or so much thereof as may be necessary, to the trustees of the state colleges in Colorado for the campus lighting project at Adams state college;

(c) Three hundred eighty-five thousand seven hundred dollars (\$385,700), or so much thereof as may be necessary, to the state board of agriculture for the replacement of deteriorated roofing on the auditorium and gym "C" wing at the

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

Colorado state university;

(d) Four hundred eighty thousand dollars (\$480,000), or so much thereof as may be necessary, to the state board of agriculture for the replacement of the heating system in the industrial science building at the Colorado state university;

(e) Seven hundred seventy-three thousand three hundred eighty-eight dollars (\$773,388), or so much thereof as may be necessary, to the board of regents of the university of Colorado for the replacement of the roof on the events center at the university of Colorado at Boulder;

(f) One hundred one thousand nine hundred sixty-four dollars (\$101,964), or so much thereof as may be necessary, to the trustees of the state colleges in Colorado for repair and replacement of the roof on the Leon memorial building at Adams state college;

(g) Three hundred sixteen thousand five hundred twenty dollars (\$316,520), or so much thereof as may be necessary, to the state board of agriculture for the replacement of the deteriorated electrical system serving Spruce hall, the veterinary science annex, and the College Avenue gym at the Colorado state university;

(h) One million two hundred seventy-four thousand eight hundred twenty-four dollars (\$1,274,824), or so much thereof as may be necessary, to the board of regents of the university of Colorado for the replacement of the central power plant chiller water generation system at the university of Colorado health sciences center;

(i) One hundred eighty-five thousand one hundred eighty-one dollars (\$185,181), or so much thereof as may be necessary, to the state board of agriculture for the replacement of the main electrical distribution equipment in the student services building at the Colorado state university;

(j) One million three hundred eighteen thousand nine hundred dollars (\$1,318,900), or so much thereof as may be necessary, to the state board for community colleges and occupational education for the replacement of the existing solar system at Front Range community college with a conventional boiler, chillers, and piping system;

(k) Five hundred fifty thousand dollars (\$550,000), or so much thereof as may be necessary, to the board of regents of the university of Colorado for the replacement of the deteriorated cooling tower and chiller water pumping system at the university of Colorado at Boulder;

(l) Seven hundred thirty-one thousand nine hundred dollars (\$731,900), or so much thereof as may be necessary, to the state board of agriculture for the repair and replacement of deteriorated items, including plaster walls and ceilings, doors and windows, the transformer vault, and restrooms and locker rooms, in Ammons hall at the Colorado state university;

(m) One hundred five thousand seven hundred sixty-eight dollars (\$105,768), or so much thereof as may be necessary, to the state historical society for the improvement of security and fire protection systems at five historical society facilities

located in the state of Colorado;

(n) Two hundred eight thousand six hundred thirteen dollars (\$208,613), or so much thereof as may be necessary, to the state board of agriculture for the replacement of deteriorated mechanical systems in the chemistry building, the anatomy and zoology building, and the Guggenheim building at the Colorado state university;

(o) Twenty-one thousand nine hundred eighty dollars (\$21,980), or so much thereof as may be necessary, to the state board for community colleges and occupational education for the repair and replacement of the plumbing waste system serving the chemistry and biology laboratories at Pikes Peak community college;

(p) Six hundred twenty-nine thousand dollars (\$629,000), or so much thereof as may be necessary, to the board of trustees for the university of northern Colorado for the repair and replacement of the Michener library plaza deck at the university of northern Colorado;

(q) One hundred sixty-three thousand three hundred twenty-nine dollars (\$163,329), or so much thereof as may be necessary, to the state board of agriculture for the repair and overlay of campus roads on the west and northeast portions of the university of southern Colorado;

(r) Two hundred nine thousand three hundred twenty dollars (\$209,320), or so much thereof as may be necessary, to the trustees of the state colleges in Colorado for the repair and replacement of the domestic water system at Western state college;

(s) Three hundred ninety-six thousand three hundred sixty-seven dollars (\$396,367), or so much thereof as may be necessary, to the board of regents of the university of Colorado for the repair and replacement of the stormwater main and lateral drainage systems along Eighteenth Street and Colorado Avenue at the university of Colorado at Boulder;

(t) One hundred fifty-four thousand five hundred dollars (\$154,500), or so much thereof as may be necessary, to the state board for community colleges and occupational education for the replacement of the HVAC system at the environmental training center and the installation of a natural gas line at Red Rocks community college;

(u) Two million two hundred fifteen thousand dollars (\$2,215,000), or so much thereof as may be necessary, to the state board for community colleges and occupational education for additions and renovations to building A at the Larimer campus of the Front Range community college;

(v) Seven hundred eighty-eight thousand six hundred ninety-nine dollars (\$788,699), or so much thereof as may be necessary, to the state board for community colleges and occupational education for the renovation and modification of existing space at and the acquisition of technological equipment for the Morgan community college;

(w) Two million six hundred thousand dollars (\$2,600,000), or so much thereof

as may be necessary, to the state board for community colleges and occupational education for the north education center expansion project at Pikes Peak community college;

(x) Two hundred seventy-three thousand dollars (\$273,000), or so much thereof as may be necessary, to the state board for community colleges and occupational education for the installation and construction of a campus-wide fire alert and security system at Trinidad state junior college;

(y) Seven million five hundred sixty-eight thousand eight hundred nine dollars (\$7,568,809), or so much thereof as may be necessary, to the board of regents of the university of Colorado for the construction of a new classroom and office building at the university of Colorado at Colorado Springs;

(z) Two million six hundred thousand dollars (\$2,600,000), or so much thereof as may be necessary, to the board of regents of the university of Colorado for the construction of new space for the consolidation of the cancer and urology programs at the university of Colorado health sciences center;

(aa) One million five hundred thousand dollars (\$1,500,000), or so much thereof as may be necessary, to the trustees of the state colleges in Colorado for the construction and implementation of the system-wide telecommunications project;

(bb) Two million three hundred seventy-nine thousand dollars (\$2,379,000), or so much thereof as may be necessary, to the board of trustees for the university of northern Colorado for the construction of the Frasier hall music library addition and the remodeling of existing space at the university of northern Colorado;

(cc) One million six hundred five thousand seven hundred fifteen dollars (\$1,605,715), or so much thereof as may be necessary, to the trustees of the state colleges in Colorado for the replacement of the boiler plant and steam distribution system at Western state college;

(dd) Nine hundred fifty thousand dollars (\$950,000), or so much thereof as may be necessary, to the state board for community colleges and occupational education for expansion of the humanities center at Otero junior college; and

(ee) Four million dollars (\$4,000,000), or so much thereof as may be necessary, to the board of trustees of the Colorado school of mines for the removal of the hazardous waste pile at the Colorado school of mines research institute.

(3) In addition to any other appropriation made for the current fiscal year, there is hereby appropriated to the board of regents of the university of Colorado the sum of three million three hundred thousand dollars (\$3,300,000), or so much thereof as may be necessary, for the acquisition and installation of instructional equipment for the engineering integrated teaching and learning laboratories at the university of Colorado at Boulder. Of said sum, one million five hundred thousand dollars (\$1,500,000) shall be out of any moneys in the capital construction fund created in section 24-75-302, Colorado Revised Statutes, not otherwise appropriated, and one

million eight hundred thousand dollars (\$1,800,000) shall be from cash funds consisting of gifts, grants, and donations.

(4) In addition to any other appropriation made for the current fiscal year, there is hereby appropriated to the state board of agriculture the sum of three million five hundred thousand dollars (\$3,500,000), or so much thereof as may be necessary, for construction of the Morgan library addition at the Colorado state university. Of said sum, two million seven hundred thirty-three thousand six hundred twenty-seven dollars (\$2,733,627) shall be out of any moneys in the capital construction fund created in section 24-75-302, Colorado Revised Statutes, not otherwise appropriated, and seven hundred sixty-six thousand three hundred seventy-three dollars (\$766,373) shall be from cash funds consisting of gifts, grants, and donations.

(5) In addition to any other appropriation made for the current fiscal year, there is hereby appropriated to the state board of agriculture the sum of two million four hundred fifty-one thousand eight hundred dollars (\$2,451,800), or so much thereof as may be necessary, for relocation of the college of business to and construction of the Rockwell hall addition at the Colorado state university. Of said sum, one million five hundred thousand dollars (\$1,500,000) shall be out of any moneys in the capital construction fund created in section 24-75-302, Colorado Revised Statutes, not otherwise appropriated, and nine hundred fifty-one thousand eight hundred dollars (\$951,800) shall be from cash funds consisting of gifts, grants, and donations.

(6) In addition to any other appropriation made for the current fiscal year, there is hereby appropriated to the state board of agriculture the sum of three million seven hundred fifty-three thousand three hundred thirty-nine dollars (\$3,753,339), or so much thereof as may be necessary, for the construction of the school of business building at the university of southern Colorado. Of said sum, three million two hundred twenty-one thousand one hundred twenty-nine dollars (\$3,221,129) shall be from the capital construction fund created in section 24-75-302, Colorado Revised Statutes, not otherwise appropriated, and five hundred thirty-two thousand two hundred ten dollars (\$532,210) shall be from cash funds consisting of gifts, grants, and donations.

(7) In addition to any other appropriation made for the current fiscal year, there is hereby appropriated to the state board for community colleges and occupational education the sum of seventeen million one hundred ninety-four thousand three hundred thirty-nine dollars (\$17,194,339), or so much thereof as may be necessary, for the construction and implementation of telecommunications and technology infrastructure, including training and production facilities, for the entire community college and occupational education system. Of said sum, eight million seven hundred seventy-six thousand seven hundred fifty-eight dollars (\$8,776,758) shall be out of any moneys in the capital construction fund created in section 24-75-302, Colorado Revised Statutes, not otherwise appropriated, and eight million four hundred seventeen thousand five hundred eighty-one dollars (\$8,417,581) shall be from cash funds consisting of gifts, grants, and donations.

(8) In addition to any other appropriation made for the current fiscal year, there is hereby appropriated to the trustees of the state colleges in Colorado the sum of four million seven hundred thousand dollars (\$4,700,000), or so much thereof as may be necessary, for construction of phase II of the unified technical education center of

Mesa state college. Of said sum, two million three hundred fifty thousand dollars (\$2,350,000) shall be from the capital construction fund created in section 24-75-302, Colorado Revised Statutes, not otherwise appropriated, and one million two hundred thousand dollars (\$1,200,000) shall be raised from local sources, including cash funds consisting of gifts, grants, or donations before state funds can be encumbered. Effective July 1, 1995, no further state general fund or state cash fund appropriation shall be requested or authorized for this project; except that further appropriations of cash funds consisting of gifts, grants, or donations for this project may be requested or authorized.

(9) In addition to any other appropriation made for the current fiscal year, there is hereby appropriated to the department of public health and environment the sum of four million two hundred thousand dollars (\$4,200,000), or so much thereof as may be necessary, for the renovation of building 1307 at the former Lowry Air Force Base and relocation of the department of health laboratory from the university of Colorado health sciences center to said building 1307. Of said sum, three million three hundred fifty thousand dollars (\$3,350,000) shall be from the capital construction fund created in section 24-75-302, Colorado Revised Statutes, not otherwise appropriated, and eight hundred fifty thousand dollars (\$850,000) shall be from cash funds consisting of gifts, grants, and donations.

(10) (a) The appropriations made in this section shall become available upon passage of this act and, if any appropriated project is initiated within the fiscal year, the appropriation for the project shall remain available until completion of the project or for a period of three years, whichever comes first, at which time unexpended and unencumbered balances shall revert to the funds from which they were appropriated.

(b) Except as otherwise specifically noted, appropriations from state funds shall be reduced by the amount of any funds received from federal, local, private, or other state sources and not appropriated in this act or the general appropriation act for the fiscal year commencing July 1, 1994.

~~SECTION 2. 23-1-123, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:~~

~~**23-1-123. Commission directive - fee policies.** (8) (a) EFFECTIVE JULY 1, 1995, EACH STATE-SUPPORTED INSTITUTION OF HIGHER EDUCATION, INCLUDING THE AURARIA HIGHER EDUCATION CENTER, SHALL SEPARATELY ITEMIZE IN ITS STUDENT BILLING STATEMENTS EACH FEE CHARGED TO THE STUDENTS BY THE GOVERNING BOARD FOR THE INSTITUTION, THE INSTITUTION, AND ANY AUXILIARY FACILITY ASSOCIATED WITH THE INSTITUTION. IN ADDITION, THE BILLING STATEMENT AND THE CATALOGUE OR SCHEDULE OF COURSES FOR THE INSTITUTION SHALL INCLUDE A DESCRIPTION OF EACH FEE SPECIFYING THE PURPOSES FOR WHICH THE INSTITUTION USES REVENUES FROM THE FEE AND WHETHER THE COSTS OF COLLECTING THE FEE ARE REIMBURSED TO THE INSTITUTION FROM THE REVENUE COLLECTED.~~

~~—(b) EFFECTIVE JULY 1, 1995, EACH BILLING STATEMENT ISSUED BY A STATE-SUPPORTED INSTITUTION OF HIGHER EDUCATION, INCLUDING THE AURARIA HIGHER EDUCATION CENTER, SHALL CONSPICUOUSLY IDENTIFY ANY OPTIONAL FEES OR CHARGES THAT ARE AUTOMATICALLY ASSESSED UNLESS THE STUDENT CHOOSES NOT TO PAY THE FEE THROUGH A NEGATIVE CHECKOFF. A FORM THAT STUDENTS MAY USE TO CHOOSE NOT TO PAY OPTIONAL FEES SHALL ACCOMPANY THE BILLING STATEMENT.~~

~~—(c) ANY OPTIONAL FEES OR CHARGES COLLECTED ON OR AFTER JULY 1, 1995, THAT ARE AUTOMATICALLY ASSESSED UNLESS THE STUDENT CHOOSES NOT TO PAY THE FEE THROUGH A NEGATIVE CHECKOFF SHALL BE REFUNDED BY THE INSTITUTION, UPON REQUEST, TO ANY STUDENT WHO PAID SUCH FEE. THE REFUND IS AVAILABLE ONLY DURING THE SEMESTER IN WHICH THE STUDENT PAID THE FEE.~~

~~—(9) FOR FISCAL YEAR 1996-97, IN DETERMINING APPROPRIATIONS FOR CAPITAL DEVELOPMENT PROJECTS, THE CAPITAL DEVELOPMENT COMMITTEE SHALL CONSIDER ANY INSTITUTION'S FAILURE TO IMPLEMENT THE FEE POLICIES REQUIRED IN THIS SECTION. FOR FISCAL YEAR 1997-98 AND FISCAL YEARS THEREAFTER, THE COMMISSION SHALL ADOPT POLICIES TO ENSURE THAT EACH INSTITUTION ADOPTS THE FEE POLICIES REQUIRED IN THIS SECTION.~~

~~—SECTION 3. 23-5-122, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:~~

(Governor lined through this section. See the editor's note and the Governor's letter following this act.)

~~—23-5-122. Intra-institutional and intrasystem transfers - course scheduling.~~

~~(2) EFFECTIVE JULY 1, 1995, EACH STATE-SUPPORTED INSTITUTION OF HIGHER EDUCATION SHALL:~~

~~—(a) SCHEDULE ITS CLASSES IN SUCH A MANNER THAT ITS STUDENTS CAN ACHIEVE AN ASSOCIATE DEGREE IN FOUR SEMESTERS OR A BACCALAUREATE DEGREE IN EIGHT SEMESTERS; EXCEPT THAT THE COLORADO SCHOOL OF MINES SHALL SCHEDULE ITS CLASSES SO THAT ITS STUDENTS CAN ACHIEVE A BACCALAUREATE DEGREE IN NINE SEMESTERS;~~

~~—(b) INCREASE THE CAPACITY OF ITS CORE CURRICULUM COURSES BY INCREASING THE FREQUENCY WITH WHICH THE COURSES ARE OFFERED. EACH INSTITUTION SHALL ENSURE THAT ANY STUDENT WHO IS UNABLE TO TAKE A CORE CURRICULUM COURSE DURING A PARTICULAR SEMESTER BECAUSE THE COURSE CAPACITY IS FULL SHALL HAVE PRIORITY IN TAKING THE COURSE DURING THE NEXT SEMESTER IN WHICH THE COURSE IS OFFERED.~~

~~—(c) INCREASE THE CAPACITY OF ITS REQUIRED AND PREREQUISITE COURSES BY INCREASING THE FREQUENCY WITH WHICH THE COURSES ARE OFFERED TO ENSURE THAT THE INSTITUTION MEETS AT LEAST NINETY-FIVE PERCENT OF THE STUDENT DEMAND FOR THE COURSE IN EVERY SEMESTER IN WHICH THE COURSE IS OFFERED.~~

~~—(3) FOR PURPOSES OF THIS SECTION, THE BOULDER CAMPUS, THE DENVER CAMPUS,~~

~~AND THE COLORADO SPRINGS CAMPUS OF THE UNIVERSITY OF COLORADO ARE EACH A SEPARATE INSTITUTION UNDER THE CONTROL OF THE UNIVERSITY OF COLORADO BOARD OF REGENTS, AND THE UNIVERSITY OF COLORADO HEALTH SCIENCES CENTER IS A SEPARATE INSTITUTION UNDER THE CONTROL OF THE UNIVERSITY OF COLORADO BOARD OF REGENTS.~~

~~—(4) FOR FISCAL YEAR 1996-97, IN DETERMINING APPROPRIATIONS FOR CAPITAL DEVELOPMENT PROJECTS, THE CAPITAL DEVELOPMENT COMMITTEE SHALL CONSIDER EACH INSTITUTION'S PROGRESS IN MEETING THE REQUIREMENTS OF THIS SECTION. FOR FISCAL YEAR 1997-98 AND FISCAL YEARS THEREAFTER, THE COLORADO COMMISSION ON HIGHER EDUCATION SHALL ADOPT POLICIES TO ENSURE THAT EACH INSTITUTION MEETS THE REQUIREMENTS OF THIS SECTION.~~

(Governor lined through this section. See the editor's note and the Governor's letter following this act.)

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

Approved in part and disapproved in part: June 5, 1995

Editor's note: The following is a reprinting of the Governor's message filed with House Bill 95-1364 when he approved the bill in part and vetoed it in part on June 5, 1995. Markings were made on the bill by the Governor purporting to veto provisions contained in sections 2 and 3 of the bill. For the reasons set forth in the letter to the Governor on page 131 of Volume 1 of the 1989 Session Laws of Colorado, the President of the Senate and the Speaker of the House of Representatives expressed their opinion that similar markings made on the 1989 long bill did not constitute valid vetoes. However, the Colorado Supreme Court has held that such purported vetoes are entitled to a presumption of validity. See Romer v. Colorado General Assembly, 810 P.2d 215 (Colo. 1991). In view of this holding, the purported vetoes are reflected in the version of the bill printed on the preceding pages.

June 5, 1995

The Honorable Colorado House of Representatives
Sixtieth General Assembly
First Regular Session
Denver, Colorado 80203

Ladies and Gentlemen:

I am returning to the Secretary of State House Bill 95-1364, "Concerning Capital Projects Related to Higher Education, and Making Appropriations in Connection Therewith," which I have approved in part and disapproved in part today at 2:23 p.m.

While I have approved this bill as a whole, in accordance with Article IV, Sections 11 and 12 of the Colorado State Constitution, I have vetoed a portion of this Act on June 5, 1995 at 2:23 p.m. I have vetoed Sections 2 and 3 of this bill on pages 7 through 9. As this is an appropriations bill, I have exercised my line item veto authority to disapprove these distinct sections of the bill.

Sections 2 and 3 were originally two separate substantive bills that were defeated earlier in the session. On the last day of the session, they were attached to this appropriations bill. Section 2 of the bill deals with fees charged to students and adds provisions to assure that students are aware of the fees and their purposes. It also requires that optional fees be noted and the negative check-off requirement on such fees be clearly indicated.

Section 3 of the bill requires each state-supported institution of higher education to schedule classes in a manner that students can achieve an associate degree in four (4) semesters or a baccalaureate degree in eight (8) semester (except for the Colorado School of Mines where it will be nine (9) semesters). The Section also requires that institutions increase the capacity of core curriculum courses as well as the frequency of such offerings, and provide sufficient required and prerequisite courses so that 90% of student demand is met in every semester.

These provisions constitute micro-management of the higher education system and involve major policy decisions regarding higher education operations. These kinds of substantive decisions have no place in an appropriations bill. I also believe they constitute an improper intrusion into the executive's ability to manage higher education, and would be unconstitutional even if I did not veto them.

In addition, of major concern is the provision in both sections 2 and 3 that institutions of higher education must report their progress on meeting these new requirements to the legislative Capital Development Committee. The Capital Development Committee would then determine capital appropriations for each institution based on their progress in meeting these new requirements.

The Capital Development Committee's purview is construction project requests. Such requests should be approved and funded based on the merit of the project and funds available. This reporting provision is a clear intrusion into the powers of the executive and is tantamount to holding capital projects hostage to enforce the requirements in Sections 2 and 3. Further, the Capital Development Committee, with a very small staff and narrow focus, authority, and purpose, does not have the expertise to evaluate higher education performance in these areas.

Finally, Article V, Section 32, of the Constitution requires that appropriations, other than the general appropriations bill, be made in separate bills, each embracing but one subject. Sections 2 and 3 each are two separate subjects; in fact, they were two separate bills prior to the last day of the session. Containing these two separate subjects in a supplemental appropriations bill violates Article V, Section 32, and would be unconstitutional even if I did not exercise my line item veto authority.

For these reasons, I am disapproving in part, HB 95-1364.

Sincerely,

Roy Romer
Governor