

CHAPTER 391

EDUCATION - UNIVERSITIES AND COLLEGES

SENATE BILL 10-003

BY SENATOR(S) Morse and Penry, Heath, Boyd, Newell;
also REPRESENTATIVE(S) Middleton and May, Court, Gerou, Hullinghorst, Labuda, Massey, Nikkel, Priola, Roberts, Summers.

AN ACT

CONCERNING HIGHER EDUCATION FLEXIBILITY TO IMPROVE THE FINANCIAL POSITION OF STATE INSTITUTIONS OF HIGHER EDUCATION.

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

SECTION 1. Legislative declaration. (1) The general assembly hereby finds that:

(a) The on-going economic challenges facing the state continue to force drastic cuts in all areas of the state budget, especially in funding for higher education;

(b) A vibrant, effective, high-quality state higher education system that is both accessible and affordable is crucial to maintaining economic development within the state and to ensuring that the citizens of the state have the educational opportunities they need to succeed in a highly competitive global economy;

(c) The Colorado commission on higher education last completed a master plan for the state system of higher education in 2002-03. Since that time, in addition to drastic economic changes in the state and resulting budget cuts, there have been significant changes in state education policy, including:

(I) Direction from the general assembly in the "Preschool to Postsecondary Education Alignment Act", part 10 of article 7 of title 22, Colorado Revised Statutes, to fully align public education from elementary and secondary education through undergraduate and graduate higher education; and

(II) Enactment of Senate Bill 04-189, which created the "College Opportunity Fund Act", article 18 of title 23, Colorado Revised Statutes, and fee-for-service contracts, the combination of which shifts higher education funding from a

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

formula-based funding system to funding based on student enrollment and the purchase of higher education services provided by state institutions of higher education;

(d) In recognition of the significant policy and fiscal changes that have seriously impacted the state higher education system, the Colorado commission on higher education must work with the governing boards and chief executive officers of each of the state institutions of higher education to rewrite the master plan for the state system of higher education;

(e) In rewriting the master plan, the Colorado commission on higher education should also take into account the final report of the higher education strategic planning steering committee appointed by the governor to address state higher education needs, governance, and funding and improving student access and success. The steering committee anticipates completing the final report by November 4, 2010.

(f) The master plan must address:

(I) The state's workforce and economic development needs and how those needs may be met by the system of higher education;

(II) The challenges facing the state system, including but not limited to improving accessibility and affordability for all students graduating from high school, decreasing the geographic disparity of higher education attainment in the state, and closing the educational achievement gap;

(III) The current state funding crisis and its impact on the state higher education system with regard to funding for capital construction, the level of systemic funding, and the level of institutional funding; and

(IV) Alignment of the state higher education system with the system of elementary and secondary education in the state;

(g) The master plan must also include accountability measures that will demonstrate that students receive high-value and high-quality educational services that are provided with the efficiency necessary to reduce attrition and increase retention and enable students to attain their degrees in a reasonable period of time, and to help ensure students achieve post-graduation success.

(2) The general assembly finds, therefore, that, due to the immediate and daunting economic challenges facing the state institutions of higher education, it is in the best interests of the state to immediately grant to the institutions greater flexibility in setting tuition rates and with regard to institutional operations. Further, the implementation of a new master plan for the statewide system of higher education will preserve the vitality and quality of the public higher education system in Colorado into the future to ensure that Colorado's citizens, through their access to a world-class higher education system, can develop the knowledge and skills necessary to ensure their personal success and the success of the state as a whole.

SECTION 2. 23-1-108, Colorado Revised Statutes, is amended BY THE

ADDITION OF A NEW SUBSECTION to read:

23-1-108. Duties and powers of the commission with regard to systemwide planning. (1.5) (a) ON OR BEFORE DECEMBER 15, 2010, THE COMMISSION SHALL DEVELOP AND SUBMIT TO THE GOVERNOR AND THE GENERAL ASSEMBLY A NEW MASTER PLAN FOR COLORADO POSTSECONDARY EDUCATION. THE COMMISSION SHALL COLLABORATE WITH THE GOVERNING BOARDS AND CHIEF EXECUTIVE OFFICERS OF THE STATE INSTITUTIONS OF HIGHER EDUCATION IN DEVELOPING THE MASTER PLAN. IN ADDITION, THE COMMISSION SHALL TAKE INTO ACCOUNT THE FINAL REPORT OF THE HIGHER EDUCATION STRATEGIC PLANNING STEERING COMMITTEE APPOINTED BY THE GOVERNOR. AT A MINIMUM, THE COMMISSION SHALL ADDRESS THE FOLLOWING ISSUES IN DEVELOPING THE MASTER PLAN:

(I) THE NEEDS OF THE STATE WITH REGARD TO THE SYSTEM OF HIGHER EDUCATION AND THE TOP PRIORITIES FOR THE STATE SYSTEM OF HIGHER EDUCATION IN MEETING THOSE NEEDS;

(II) ALIGNMENT OF THE STATE SYSTEM OF HIGHER EDUCATION WITH THE SYSTEM OF ELEMENTARY AND SECONDARY EDUCATION AND INCREASING THE RATE AT WHICH STUDENTS WHO GRADUATE FROM COLORADO HIGH SCHOOLS ENROLL IN AND COMPLETE POSTSECONDARY AND CAREER AND TECHNICAL EDUCATION;

(III) ACCESSIBILITY AND AFFORDABILITY OF THE STATE SYSTEM OF HIGHER EDUCATION, INCLUDING CONSIDERATION OF METHODS TO REDUCE THE STUDENT DEBT LOAD AND INCREASE NEED-BASED FINANCIAL AID FUNDING;

(IV) FUNDING FOR THE STATE SYSTEM OF HIGHER EDUCATION AND STRATEGIES FOR STABILIZING AND SUSTAINING AN ADEQUATE FUNDING LEVEL;

(V) THE ROLE AND MISSION OF THE STATE INSTITUTIONS OF HIGHER EDUCATION AND THE GOVERNANCE STRUCTURE OF THE STATE SYSTEM OF HIGHER EDUCATION; AND

(VI) THE ROLE OF TWO-YEAR AND FOUR-YEAR JUNIOR COLLEGES AND AREA VOCATIONAL SCHOOLS IN HELPING TO ADDRESS THE WORKFORCE AND ECONOMIC DEVELOPMENT NEEDS OF THE STATE WITHIN THE SYSTEM OF HIGHER EDUCATION.

(b) THE COMMISSION SHALL DESIGN THE MASTER PLAN TO ACHIEVE, AT A MINIMUM, THE FOLLOWING GOALS:

(I) IMPLEMENTING SYSTEMIC APPROACHES THAT STRENGTHEN THE CONTINUITY OF PUBLIC EDUCATION FROM ELEMENTARY AND SECONDARY THROUGH POSTSECONDARY EDUCATION FOR TRADITIONAL AND NONTRADITIONAL STUDENTS;

(II) ENSURING THE LONG TERM FISCAL STABILITY AND AFFORDABILITY OF THE STATE SYSTEM OF HIGHER EDUCATION AND ENSURING THE EFFICIENT ALLOCATION OF AVAILABLE STATE RESOURCES TO SUPPORT INSTITUTIONS OF HIGHER EDUCATION WHILE PROTECTING THE UNIQUE MISSION OF EACH INSTITUTION. THE ALLOCATION SHALL TAKE INTO CONSIDERATION, BUT NEED NOT BE LIMITED TO, TUITION CAPACITY, TUITION RATES RELATIVE TO COMPETITIVE INSTITUTIONS, THE STATE RESOURCES AVAILABLE TO INSTITUTIONS, FUNDING FOR HIGH-COST PROGRAMS, THE

STUDENT AND FAMILY INCOMES OF STUDENTS ENROLLED AT INSTITUTIONS, ENROLLMENT LEVELS, GEOGRAPHIC ACCESS TO EDUCATIONAL OPPORTUNITIES THROUGHOUT THE STATE, AND OTHER ISSUES DEEMED RELEVANT BY THE COMMISSION.

(III) REDUCING THE EDUCATIONAL ATTAINMENT GAP BETWEEN MAJORITY AND UNDERREPRESENTED POPULATIONS THROUGHOUT THE STATE;

(IV) REDUCING THE GEOGRAPHIC DISPARITIES IN ACCESS TO AND OPPORTUNITY TO COMPLETE A BROAD ARRAY OF QUALITY HIGHER EDUCATION AND CAREER AND TECHNICAL EDUCATION PROGRAMS;

(V) IMPLEMENTING STRATEGIES THAT STRENGTHEN THE LINK BETWEEN HIGHER EDUCATION AND ECONOMIC DEVELOPMENT AND INNOVATION IN THE STATE; AND

(VI) IMPROVING AND SUSTAINING EXCELLENCE IN CAREER AND TECHNICAL EDUCATION AND UNDERGRADUATE AND GRADUATE DEGREE PROGRAMS.

(c) (I) THE COMMISSION SHALL ENSURE THAT THE MASTER PLAN PREPARED PURSUANT TO THIS SUBSECTION (1.5) SPECIFICALLY ADDRESSES PROVIDING PROGRAMS THAT SUPPORT AND HELP ENSURE THE SUCCESS OF STUDENTS WHO GRADUATE FROM COLORADO HIGH SCHOOLS AND ARE ENROLLING AS FIRST-TIME FRESHMEN STUDENTS AND MEET ONE OR MORE OF THE FOLLOWING CRITERIA:

(A) THE STUDENT'S FAMILY IS LOW-INCOME AND THE STUDENT IS LIKELY TO INCUR SIGNIFICANT STUDENT DEBT IN ATTENDING AN INSTITUTION OF HIGHER EDUCATION;

(B) THE STUDENT'S PARENTS DID NOT ATTEND POSTSECONDARY EDUCATION AND MAY NOT HAVE GRADUATED FROM HIGH SCHOOL;

(C) THE STUDENT IS A MEMBER OF AN UNDERREPRESENTED POPULATION; OR

(D) THE STUDENT HAS LIMITED ACCESS TO TECHNOLOGIES TO SUPPORT LEARNING.

(II) PROGRAMS THAT MAY BE ADDRESSED IN THE MASTER PLAN INCLUDE BUT NEED NOT BE LIMITED TO:

(A) PROVIDING STUDENT SUPPORT SERVICES INCLUDING COUNSELING OR TUTORING;

(B) IMPLEMENTING MEASURES TO REDUCE STUDENT DEBT BY MAKING EFFECTIVE USE OF FINANCIAL ASSISTANCE AND ASSISTING IN FEE PAYMENTS AND TEXTBOOK COSTS; AND

(C) PROVIDING ASSISTANCE IN OBTAINING ACCESS TO TECHNOLOGY.

(d) PRIOR TO SUBMITTING THE MASTER PLAN TO THE GOVERNOR AND THE GENERAL ASSEMBLY, THE COMMISSION SHALL DISTRIBUTE A DRAFT OF THE PLAN TO THE GOVERNING BOARDS FOR COMMENT. EACH GOVERNING BOARD SHALL SUBMIT TO THE COMMISSION ITS COMMENTS AND ANY SUGGESTED REVISIONS WITHIN

FOURTEEN DAYS AFTER RECEIVING THE DRAFT PLAN.

(e) BEGINNING IN THE 2011-12 ACADEMIC YEAR, THE COMMISSION SHALL ENSURE THAT THE MASTER PLAN IS IMPLEMENTED THROUGH THE PERFORMANCE CONTRACTS AUTHORIZED PURSUANT TO SECTION 23-5-129.

SECTION 3. Article 5 of title 23, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

23-5-130.5. Governing boards - tuition-setting - repeal. (1) BEGINNING WITH THE 2011-12 FISCAL YEAR AND FOR FISCAL YEARS THEREAFTER THROUGH THE 2015-16 FISCAL YEAR, EACH GOVERNING BOARD, FOR THE INSTITUTIONS IT CONTROLS, SHALL ANNUALLY SET THE AMOUNT OF TUITION TO BE PAID BY STUDENTS WITH IN-STATE CLASSIFICATION AND BY NONRESIDENT STUDENTS WHO ENROLL IN AND ATTEND THE INSTITUTIONS. THE TUITION AMOUNT MAY VARY BASED ON THE DEGREE PROGRAM IN WHICH A STUDENT ENROLLS.

(2) (a) IN SETTING THE AMOUNT OF TUITION PURSUANT TO THIS SECTION, A GOVERNING BOARD SHALL NOT INCREASE THE TUITION RATE FOR UNDERGRADUATE STUDENTS WITH IN-STATE CLASSIFICATION BY MORE THAN NINE PERCENT PER STUDENT OR NINE PERCENT PER CREDIT HOUR OVER THE TUITION RATE FOR THE PRECEDING FISCAL YEAR; EXCEPT THAT A GOVERNING BOARD MAY INCREASE SAID TUITION RATE BY MORE THAN NINE PERCENT PER STUDENT OR NINE PERCENT PER CREDIT HOUR OVER THE TUITION RATE FOR THE PRECEDING FISCAL YEAR IF THE GOVERNING BOARD COMPLIES WITH THE REQUIREMENTS SPECIFIED IN SUBSECTION (3) OF THIS SECTION AND THE COLORADO COMMISSION ON HIGHER EDUCATION, REFERRED TO IN THIS SECTION AS THE "COMMISSION", APPROVES THE INCREASE.

(b) NOTWITHSTANDING ANY PROVISION OF PARAGRAPH (a) OF THIS SUBSECTION (2) TO THE CONTRARY, THE BOARD OF TRUSTEES OF THE COLORADO SCHOOL OF MINES SHALL NOT INCREASE THE TUITION RATE FOR UNDERGRADUATE STUDENTS WITH IN-STATE CLASSIFICATION BY MORE THAN NINE PERCENT PER STUDENT OR NINE PERCENT PER CREDIT HOUR OVER THE TUITION RATE FOR THE PRECEDING FISCAL YEAR OR BY MORE THAN A PERCENTAGE EQUAL TO TWO TIMES THE RATE OF THE PERCENTAGE CHANGE IN THE CONSUMER PRICE INDEX FOR THE DENVER METROPOLITAN AREA, WHICHEVER IS GREATER; EXCEPT THAT THE BOARD OF TRUSTEES MAY INCREASE SAID TUITION RATE BY MORE THAN EITHER OF SAID PERCENTAGES IF THE BOARD OF TRUSTEES COMPLIES WITH THE REQUIREMENTS SPECIFIED IN SUBSECTION (3) OF THIS SECTION AND THE COMMISSION APPROVES THE INCREASE.

(3) A GOVERNING BOARD THAT SEEKS TO INCREASE UNDERGRADUATE, RESIDENT TUITION BY MORE THAN THE PERCENTAGES ALLOWED IN SUBSECTION (2) OF THIS SECTION SHALL SUBMIT TO THE COMMISSION A FIVE-YEAR FINANCIAL AND ACCOUNTABILITY PLAN IN ACCORDANCE WITH TIMELINES ADOPTED BY THE COMMISSION. THE FINANCIAL AND ACCOUNTABILITY PLAN SHALL SPECIFY FOR EACH OF THE FIVE FISCAL YEARS IMMEDIATELY FOLLOWING THE FISCAL YEAR IN WHICH THE GOVERNING BOARD SUBMITS THE PLAN:

(a) THE AMOUNT OF THE INCREASE IN UNDERGRADUATE, RESIDENT TUITION THAT THE GOVERNING BOARD IS REQUESTING;

(b) THE MANNER IN WHICH THE GOVERNING BOARD SHALL ENSURE THAT ENROLLMENT IN THE INSTITUTION CONTINUES TO BE ACCESSIBLE AND AFFORDABLE FOR LOW- AND MIDDLE-INCOME STUDENTS IN THE NEXT FOLLOWING FIVE ACADEMIC YEARS, TAKING INTO ACCOUNT THE AVAILABILITY OF FEDERAL, STATE, INSTITUTIONAL, AND PRIVATE MONEYS FOR FINANCIAL ASSISTANCE, AND MEASURES THE GOVERNING BOARD SHALL IMPLEMENT TO HELP REDUCE STUDENT DEBT LOAD, INCLUDING BUT NOT LIMITED TO THE AMOUNT OF INSTITUTIONAL FUNDS THE GOVERNING BOARD WILL ALLOCATE TO NEED-BASED FINANCIAL ASSISTANCE;

(c) THE MANNER IN WHICH THE GOVERNING BOARD SHALL SPECIFICALLY ADDRESS THE NEEDS OF STUDENTS WHO GRADUATE FROM COLORADO HIGH SCHOOLS AND ARE ENROLLING AS FIRST-TIME FRESHMEN STUDENTS AND MEET ONE OR MORE OF THE FOLLOWING CRITERIA:

(I) THE STUDENT'S FAMILY IS LOW-INCOME AND THE STUDENT IS LIKELY TO INCUR SIGNIFICANT STUDENT DEBT IN ATTENDING AN INSTITUTION OF HIGHER EDUCATION;

(II) THE STUDENT'S PARENTS DID NOT ATTEND POSTSECONDARY EDUCATION AND MAY NOT HAVE GRADUATED FROM HIGH SCHOOL;

(III) THE STUDENT IS A MEMBER OF AN UNDERREPRESENTED POPULATION; OR

(IV) THE STUDENT HAS LIMITED ACCESS TO TECHNOLOGIES TO SUPPORT LEARNING.

(d) THE MANNER IN WHICH THE GOVERNING BOARD IS IMPLEMENTING THE FLEXIBILITY PROVIDED WITH REGARD TO PURCHASING, CENTRAL SERVICES, AND OTHER OPERATIONS TO ENSURE GREATER INSTITUTIONAL EFFICIENCIES;

(e) MEASURES THE GOVERNING BOARD SHALL IMPLEMENT TO ENSURE THAT ANY OPERATIONAL CHANGES DESCRIBED IN PARAGRAPH (d) OF THIS SUBSECTION (3) DO NOT REDUCE THE LEVEL OF SERVICE AND THE QUALITY OF ACADEMIC PROGRAMS PROVIDED TO STUDENTS ENROLLED IN THE STATE INSTITUTION OF HIGHER EDUCATION; AND

(f) ANY ADDITIONAL INFORMATION REQUESTED BY THE COMMISSION.

(4) (a) THE COMMISSION SHALL REVIEW EACH FINANCIAL AND ACCOUNTABILITY PLAN RECEIVED PURSUANT TO SUBSECTION (3) OF THIS SECTION AND, WITHIN NINETY DAYS AFTER RECEIVING THE PLAN, EITHER APPROVE OR DISAPPROVE THE GOVERNING BOARD'S REQUEST FOR AN INCREASE IN UNDERGRADUATE, RESIDENT TUITION IN EXCESS OF THE PERCENTAGES ALLOWED IN SUBSECTION (2) OF THIS SECTION. IN APPROVING A TUITION INCREASE, THE COMMISSION MAY APPROVE THE REQUEST FOR TWO YEARS AND MAKE APPROVAL FOR THE SUBSEQUENT THREE YEARS CONDITIONAL UPON THE GOVERNING BOARD'S SUCCESS IN IMPLEMENTING THE MEASURES SPECIFIED IN THE FINANCIAL AND ACCOUNTABILITY PLAN. IF THE REQUEST IS DENIED, THE GOVERNING BOARD MAY SUBMIT AN ALTERNATIVE FINANCIAL AND ACCOUNTABILITY PLAN TO THE COMMISSION IN ACCORDANCE WITH TIMELINES ADOPTED BY THE COMMISSION.

(b) IF THE COMMISSION DENIES THE REQUEST, THE GOVERNING BOARD SHALL NOT

IMPLEMENT THE PROPOSED TUITION INCREASE BUT MAY INCREASE UNDERGRADUATE, RESIDENT TUITION IN ACCORDANCE WITH THE PERCENTAGES ALLOWED IN SUBSECTION (2) OF THIS SECTION FOR THE FOLLOWING FISCAL YEAR. A GOVERNING BOARD MAY RESUBMIT ITS REQUEST FOR AN INCREASE IN UNDERGRADUATE, RESIDENT TUITION IN EXCESS OF THE PERCENTAGES ALLOWED IN SUBSECTION (2) OF THIS SECTION, WITH THE FINANCIAL AND ACCOUNTABILITY PLAN, IN ANY SUBSEQUENT FISCAL YEAR FOLLOWING A DENIAL.

(5) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2016.

SECTION 4. 23-1-104, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

23-1-104. Financing the system of postsecondary education - report - repeal.

(1) (a) (I) FOR FISCAL YEARS 2011-12 THROUGH 2015-16, THE GENERAL ASSEMBLY SHALL MAKE ANNUAL APPROPRIATIONS OF MONEYS THAT ARE ESTIMATED TO BE RECEIVED BY AN INSTITUTION, UNDER THE DIRECTION AND CONTROL OF THE GOVERNING BOARD, AS STIPENDS, AS DEFINED IN SECTION 23-18-102, AND THROUGH FEE-FOR-SERVICE CONTRACTS, AS AUTHORIZED IN SECTIONS 23-1-109.7 AND 23-5-130, AS A SINGLE LINE ITEM TO EACH GOVERNING BOARD FOR THE OPERATION OF ITS CAMPUSES; EXCEPT THAT, IF THE GENERAL ASSEMBLY APPROPRIATES MONEYS, AS DESCRIBED IN PARAGRAPH (c) OF THIS SUBSECTION (1), TO THE COLORADO STATE FOREST SERVICE, THE AGRICULTURAL EXPERIMENT STATION DEPARTMENT OF THE COLORADO STATE UNIVERSITY, OR THE COLORADO STATE UNIVERSITY COOPERATIVE EXTENSION SERVICE, SUCH MONEYS SHALL NOT BE INCLUDED WITHIN THE SINGLE LINE ITEM APPROPRIATIONS DESCRIBED IN THIS PARAGRAPH (a).

(II) THIS PARAGRAPH (a) IS REPEALED, EFFECTIVE JULY 1, 2016.

(b) (I) FOR THE 2010-11 FISCAL YEAR AND FOR FISCAL YEARS BEGINNING ON OR AFTER JULY 1, 2016, THE GENERAL ASSEMBLY SHALL MAKE ANNUAL APPROPRIATIONS OF GENERAL FUND MONEYS, OF CASH FUNDS RECEIVED FROM TUITION INCOME, AND OF MONEYS THAT ARE ESTIMATED TO BE RECEIVED BY AN INSTITUTION, UNDER THE DIRECTION AND CONTROL OF THE GOVERNING BOARD, AS STIPENDS, AS DEFINED IN SECTION 23-18-102, AND THROUGH FEE-FOR-SERVICE CONTRACTS, AS AUTHORIZED IN SECTIONS 23-1-109.7 AND 23-5-130, AS A SINGLE LINE ITEM TO EACH GOVERNING BOARD FOR THE OPERATION OF ITS CAMPUSES; EXCEPT THAT, IF THE GENERAL ASSEMBLY APPROPRIATES MONEYS, AS DESCRIBED IN PARAGRAPH (c) OF THIS SUBSECTION (1), TO THE COLORADO STATE FOREST SERVICE, THE AGRICULTURAL EXPERIMENT STATION DEPARTMENT OF THE COLORADO STATE UNIVERSITY, OR THE COLORADO STATE UNIVERSITY COOPERATIVE EXTENSION SERVICE, SUCH MONEYS SHALL NOT BE INCLUDED WITHIN THE SINGLE LINE ITEM APPROPRIATIONS DESCRIBED IN THIS PARAGRAPH (b).

(II) FOR THE 2010-11 FISCAL YEAR AND FOR FISCAL YEARS BEGINNING ON OR AFTER JULY 1, 2016, THE GENERAL ASSEMBLY SHALL ALSO MAKE ANNUAL APPROPRIATIONS OF CASH FUNDS, OTHER THAN CASH FUNDS RECEIVED AS TUITION INCOME, AS A SINGLE LINE ITEM TO EACH GOVERNING BOARD FOR THE OPERATION OF ITS CAMPUSES. EACH GOVERNING BOARD SHALL ALLOCATE SAID CASH FUND APPROPRIATIONS TO THE INSTITUTIONS UNDER ITS CONTROL IN THE MANNER DEEMED MOST APPROPRIATE BY THE GOVERNING BOARD.

(c) IN ADDITION TO ANY APPROPRIATIONS MADE PURSUANT TO PARAGRAPH (a) OR (b) OF THIS SUBSECTION (1), THE GENERAL ASSEMBLY MAY MAKE ANNUAL APPROPRIATIONS OF GENERAL FUND MONEYS AND OF MONEYS RECEIVED PURSUANT TO A FEE-FOR-SERVICE CONTRACT NEGOTIATED BY THE BOARD OF GOVERNORS OF THE COLORADO STATE UNIVERSITY SYSTEM AND THE DEPARTMENT OF HIGHER EDUCATION, AS DESCRIBED IN SECTION 23-5-130, AS SEPARATE LINE ITEMS TO:

(I) THE COLORADO STATE FOREST SERVICE DESCRIBED IN PART 3 OF ARTICLE 31 OF THIS TITLE;

(II) THE AGRICULTURAL EXPERIMENT STATION DEPARTMENT OF THE COLORADO STATE UNIVERSITY DESCRIBED IN PART 6 OF ARTICLE 31 OF THIS TITLE; AND

(III) THE COLORADO STATE UNIVERSITY COOPERATIVE EXTENSION SERVICE DESCRIBED IN PART 7 OF ARTICLE 31 OF THIS TITLE.

(d) IN ACCORDANCE WITH THE PROVISIONS OF SECTION 5 OF ARTICLE VIII OF THE STATE CONSTITUTION, THE GOVERNING BOARDS OF THE STATE INSTITUTIONS OF HIGHER EDUCATION SHALL HAVE CONTROL AND DIRECTION OF ANY MONEYS RECEIVED BY THEIR RESPECTIVE INSTITUTIONS IN ADDITION TO THE MONEYS APPROPRIATED PURSUANT TO THIS SUBSECTION (1), UNLESS OTHERWISE PROVIDED BY STATUTE.

(2) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, BEGINNING IN THE 2011-12 FISCAL YEAR AND FOR EACH FISCAL YEAR THEREAFTER THROUGH THE 2020-21 FISCAL YEAR, THE GENERAL ASSEMBLY SHALL APPROPRIATE MONEYS TO THE GOVERNING BOARD OF THE COLORADO SCHOOL OF MINES IN ACCORDANCE WITH SECTION 23-41-104.7, AND AS STIPENDS, AS DEFINED IN SECTION 23-18-102, AS A SINGLE LINE ITEM TO SAID GOVERNING BOARD. THE AMOUNT APPROPRIATED PURSUANT TO SECTION 23-41-104.7 SHALL BE IN LIEU OF ANY AMOUNT AUTHORIZED THROUGH FEE-FOR-SERVICE CONTRACTS NEGOTIATED PURSUANT TO SECTION 23-1-109.7 AND 23-5-130.

(3) (a) NOTWITHSTANDING THE PROVISIONS OF SECTION 24-75-102, C.R.S., THE GOVERNING BOARDS ARE AUTHORIZED TO RETAIN ALL MONEYS APPROPRIATED PURSUANT TO THIS SECTION AND SECTION 23-1-118, OR OTHERWISE GENERATED, FROM FISCAL YEAR TO FISCAL YEAR.

(b) ALL MONEYS RAISED BY A GOVERNING BOARD SHALL BE AVAILABLE FOR EXPENDITURE BY SUCH GOVERNING BOARD AND SHALL NOT BE TRANSFERRED OR OTHERWISE MADE AVAILABLE FOR EXPENDITURE BY ANY OTHER GOVERNING BOARD OR BY A STATE ENTITY OR STATE AGENCY; EXCEPT THAT SAID MONEYS MAY BE TRANSFERRED TO THE DEPARTMENT OF HIGHER EDUCATION OR THE COLORADO COMMISSION ON HIGHER EDUCATION TO THE EXTENT REQUIRED TO PAY INDIRECT COST ASSESSMENTS, AS DEFINED IN SECTION 24-75-112 (1) (f), C.R.S.

(4) (a) ON OR BEFORE NOVEMBER 10, 2010, EACH GOVERNING BOARD SHALL SUBMIT TO THE COMMISSION AND TO THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY A REPORT DESCRIBING, WITH REGARD TO EACH INSTITUTION UNDER ITS GOVERNANCE, THE GOVERNING BOARD'S PLANS TO FUND THE INSTITUTION IN THE FOLLOWING FISCAL YEAR IF THE GENERAL ASSEMBLY REDUCES OVERALL

STATE FUNDING FOR HIGHER EDUCATION BY FIFTY PERCENT.

(b) EACH GOVERNING BOARD'S REPORT PREPARED PURSUANT TO THIS SUBSECTION (4) SHALL SPECIFICALLY ADDRESS THE MANNER IN WHICH THE INSTITUTIONS GOVERNED BY THE GOVERNING BOARD SHALL SERVE STUDENTS WHO GRADUATE FROM COLORADO HIGH SCHOOLS AND ARE ENROLLING AS FIRST-TIME FRESHMEN STUDENTS AND MEET ONE OR MORE OF THE FOLLOWING CRITERIA:

(I) THE STUDENT'S FAMILY IS LOW-INCOME AND THE STUDENT IS LIKELY TO INCUR SIGNIFICANT STUDENT DEBT IN ATTENDING AN INSTITUTION OF HIGHER EDUCATION;

(II) THE STUDENT'S PARENTS DID NOT ATTEND POSTSECONDARY EDUCATION AND MAY NOT HAVE GRADUATED FROM HIGH SCHOOL;

(III) THE STUDENT IS A MEMBER OF AN UNDERREPRESENTED POPULATION; OR

(IV) THE STUDENT HAS LIMITED ACCESS TO TECHNOLOGIES TO SUPPORT LEARNING.

SECTION 5. 23-1-108 (12), Colorado Revised Statutes, is amended to read:

23-1-108. Duties and powers of the commission with regard to systemwide planning. (12) (a) The commission shall establish ~~tuition and~~ fee policies based on institutional role and mission, and the governing boards shall set ~~tuition and~~ fees consistent with such policies. The commission shall follow the requirements of section 23-1-123 in establishing fee policies pursuant to this subsection (12).

(b) FOR FISCAL YEARS BEGINNING ON OR AFTER JULY 1, 2016, THE COMMISSION SHALL ESTABLISH TUITION POLICIES BASED ON INSTITUTIONAL ROLE AND MISSION, AND THE GOVERNING BOARDS SHALL SET TUITION CONSISTENT WITH SAID POLICIES.

SECTION 6. 23-5-129 (6) (c) and (10), Colorado Revised Statutes, are amended to read:

23-5-129. Governing boards - performance contract - authorization - operations. (6) While operating pursuant to a performance contract negotiated pursuant to this section, the governing board of a state institution of higher education:

(c) Shall report to the Colorado commission on higher education its plans for any tuition or other proposed increases for the following fiscal year, using approved forms, for the commission to review and make recommendations to the general assembly during the annual budget process; EXCEPT THAT THE PROVISIONS OF THIS PARAGRAPH (c) SHALL NOT APPLY FOR FISCAL YEARS 2011-12 THROUGH 2015-16.

(10) While a state institution of higher education is operating pursuant to a performance contract negotiated pursuant to this section, the general assembly retains the authority to approve tuition spending authority for the governing board of the institution; EXCEPT THAT THE PROVISIONS OF THIS SUBSECTION (10) SHALL NOT APPLY FOR FISCAL YEARS 2011-12 THROUGH 2015-16.

SECTION 7. 23-18-202 (3) (b) and (3) (c), Colorado Revised Statutes, are amended to read:

23-18-202. College opportunity fund - appropriations - payment of stipends - reimbursement - repeal. (3) (b) (I) The tuition increases from which the general assembly derived the total cash spending authority for each governing board shall be noted in a footnote in the annual general appropriations act.

(II) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (b), FOR FISCAL YEARS 2011-12 THROUGH 2015-16, TUITION INCREASES SHALL NOT BE NOTED IN A FOOTNOTE IN THE ANNUAL GENERAL APPROPRIATION ACT. EACH GOVERNING BOARD SHALL ESTABLISH TUITION IN EACH OF SAID FISCAL YEARS AS PROVIDED IN SECTION 23-5-130.5. THIS SUBPARAGRAPH (II) IS REPEALED, EFFECTIVE JULY 1, 2016.

(c) (I) ~~If an institution of higher education is designated as an enterprise pursuant to section 23-5-101.7, the institution shall annually allocate at least twenty percent of any increase in undergraduate resident tuition revenues above inflation to need-based financial assistance.~~ FOR FISCAL YEARS 2011-12 THROUGH 2015-16, IF A GOVERNING BOARD SUBMITS A PLAN FOR AUTHORIZATION TO INCREASE UNDERGRADUATE, RESIDENT TUITION PURSUANT TO SECTION 23-5-130.5, THE GOVERNING BOARD SHALL SPECIFY THE AMOUNT OF INSTITUTIONAL FUNDS THE GOVERNING BOARD WILL ALLOCATE TO NEED-BASED FINANCIAL ASSISTANCE.

(II) THIS PARAGRAPH (c) IS REPEALED, EFFECTIVE JULY 1, 2016.

SECTION 8. 23-20-112, Colorado Revised Statutes, is amended to read:

23-20-112. General powers of the board - repeal. (1) The board of regents shall enact laws for the government of the university; appoint the requisite number of professors, tutors, and all other officers; and determine the salaries of such officers and the amount to be paid for tuition in accordance with the level of cash fund appropriations set by the general assembly for the university pursuant to section 23-1-104 ~~(1)~~ (1) (b) (I). It shall remove any officer connected with the university when in its judgment the good of the institution requires it.

(2) (a) NOTWITHSTANDING ANY PROVISION OF SUBSECTION (1) OF THIS SECTION TO THE CONTRARY, FOR FISCAL YEARS 2011-12 THROUGH 2015-16, THE BOARD OF REGENTS, IN ACCORDANCE WITH SECTION 23-5-130.5, SHALL ANNUALLY SET THE AMOUNT OF TUITION TO BE PAID BY STUDENTS WITH IN-STATE CLASSIFICATION AND BY NONRESIDENT STUDENTS WHO ENROLL IN AND ATTEND THE UNIVERSITY.

(b) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE JULY 1, 2016.

SECTION 9. 23-30-112, Colorado Revised Statutes, is amended to read:

23-30-112. Tuition - repeal. (1) The board of governors of the Colorado state university system, shall fix tuition in accordance with the level of cash fund appropriations set by the general assembly for the entities it governs pursuant to section 23-1-104 ~~(1)~~ (1) (b) (I). The board may discriminate in regard to tuition between students from this state and students from other states.

(2) (a) NOTWITHSTANDING ANY PROVISION OF SUBSECTION (1) OF THIS SECTION TO THE CONTRARY, FOR FISCAL YEARS 2011-12 THROUGH 2015-16, THE BOARD OF GOVERNORS OF THE COLORADO STATE UNIVERSITY SYSTEM, IN ACCORDANCE WITH SECTION 23-5-130.5, SHALL ANNUALLY SET THE AMOUNT OF TUITION TO BE PAID BY STUDENTS WITH IN-STATE CLASSIFICATION AND BY NONRESIDENT STUDENTS WHO ENROLL IN AND ATTEND THE INSTITUTIONS IT GOVERNS.

(b) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE JULY 1, 2016.

SECTION 10. Article 40 of title 23, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

23-40-104.5. Tuition - repeal. (1) FOR FISCAL YEARS 2011-12 THROUGH 2015-16, THE BOARD OF TRUSTEES FOR THE UNIVERSITY OF NORTHERN COLORADO, IN ACCORDANCE WITH SECTION 23-5-130.5, SHALL ANNUALLY SET THE AMOUNT OF TUITION TO BE PAID BY STUDENTS WITH IN-STATE CLASSIFICATION AND BY NONRESIDENT STUDENTS WHO ENROLL IN AND ATTEND THE UNIVERSITY OF NORTHERN COLORADO.

(2) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2016.

SECTION 11. 23-41-104.6 (5) (c) (I), Colorado Revised Statutes, is amended to read:

23-41-104.6. Performance contract - authorization - operations. (5) While operating pursuant to the performance contract negotiated pursuant to this section, the board of trustees of the Colorado school of mines:

(c) (I) (A) Shall have sole authority to establish resident and nonresident tuition rates for the Colorado school of mines ~~except that the annual percentage increase in resident tuition rates shall not exceed a percentage equal to two times the rate of the percentage change in the consumer price index for the Denver metropolitan area~~ SO LONG AS THE SCHOOL CONTINUES TO MEET THE GOALS SPECIFIED IN THE PERFORMANCE CONTRACT AND TO COMPLY WITH THE PROVISIONS OF SECTION 23-41-104.7.

(B) NOTWITHSTANDING ANY PROVISION OF SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (I) TO THE CONTRARY, FOR FISCAL YEARS 2011-12 THROUGH 2015-16, THE BOARD OF TRUSTEES SHALL HAVE SOLE AUTHORITY TO ESTABLISH RESIDENT AND NONRESIDENT TUITION RATES FOR THE COLORADO SCHOOL OF MINES; EXCEPT THAT THE ANNUAL PERCENTAGE INCREASE IN RESIDENT TUITION RATES SHALL NOT EXCEED A PERCENTAGE EQUAL TO TWO TIMES THE RATE OF THE PERCENTAGE CHANGE IN THE CONSUMER PRICE INDEX FOR THE DENVER METROPOLITAN AREA OR NINE PERCENT, WHICHEVER IS GREATER, UNLESS THE COLORADO COMMISSION ON HIGHER EDUCATION APPROVES A GREATER TUITION INCREASE PURSUANT TO SECTION 23-5-130.5.

SECTION 12. 23-41-107, Colorado Revised Statutes, is amended to read:

23-41-107. Tuition - school open to all. (1) The Colorado school of mines is open for instruction to all bona fide residents of this state, without regard to sex or

color, upon the payment of such reasonable tuition fees as may be prescribed by the board of trustees PURSUANT TO SECTION 23-41-104.6. With the consent of such board, students from other states, territories, or countries may receive education thereat upon such terms and at such rates of tuition as such board may determine. ~~The board, shall fix tuition in accordance with the level of cash fund appropriations set by the general assembly for such institution pursuant to section 23-1-104 (1) (a) (f):~~

SECTION 13. Article 51 of title 23, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

23-51-102.5. Tuition - repeal. (1) FOR FISCAL YEARS 2011-12 THROUGH 2015-16, THE BOARD OF TRUSTEES, IN ACCORDANCE WITH SECTION 23-5-130.5, SHALL ANNUALLY SET THE AMOUNT OF TUITION TO BE PAID BY STUDENTS WITH IN-STATE CLASSIFICATION AND BY NONRESIDENT STUDENTS WHO ENROLL IN AND ATTEND ADAMS STATE COLLEGE.

(2) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2016.

SECTION 14. 23-52-105 (1) (b), Colorado Revised Statutes, is amended to read:

23-52-105. Tuition fees - Indians - repeal. (1) (b) (I) On and after September 1, 2002, the board of trustees, shall fix tuition in accordance with the level of cash fund appropriations set by the general assembly for Fort Lewis college pursuant to section 23-1-104 ~~(f)~~ ~~(a)~~ ~~(f)~~ (1) (b) (I), subject to the restriction that all qualified Indian pupils shall at all times be admitted to such college free of charge for tuition and on terms of equality with other pupils. The general assembly shall appropriate from the state general fund one hundred percent of the moneys required for tuition for such qualified Indian pupils.

(II) NOTWITHSTANDING ANY PROVISION OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) TO THE CONTRARY, FOR FISCAL YEARS 2011-12 THROUGH 2015-16, THE BOARD OF TRUSTEES, IN ACCORDANCE WITH SECTION 23-5-130.5, SHALL ANNUALLY SET THE AMOUNT OF TUITION TO BE PAID BY STUDENTS WITH IN-STATE CLASSIFICATION AND BY NONRESIDENT STUDENTS WHO ENROLL IN AND ATTEND FORT LEWIS COLLEGE, SUBJECT TO THE RESTRICTION FOR ALL QUALIFIED INDIAN PUPILS AS PROVIDED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (b). THIS SUBPARAGRAPH (II) IS REPEALED, EFFECTIVE JULY 1, 2016.

SECTION 15. Article 53 of title 23, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

23-53-102.5. Tuition - repeal. (1) FOR FISCAL YEARS 2011-12 THROUGH 2015-16, THE BOARD OF TRUSTEES, IN ACCORDANCE WITH SECTION 23-5-130.5, SHALL ANNUALLY SET THE AMOUNT OF TUITION TO BE PAID BY STUDENTS WITH IN-STATE CLASSIFICATION AND BY NONRESIDENT STUDENTS WHO ENROLL IN AND ATTEND MESA STATE COLLEGE.

(2) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2016.

SECTION 16. Article 54 of title 23, Colorado Revised Statutes, is amended BY

THE ADDITION OF A NEW SECTION to read:

23-54-102.5. Tuition - repeal. (1) FOR FISCAL YEARS 2011-12 THROUGH 2015-16, THE BOARD OF TRUSTEES, IN ACCORDANCE WITH SECTION 23-5-130.5, SHALL ANNUALLY SET THE AMOUNT OF TUITION TO BE PAID BY STUDENTS WITH IN-STATE CLASSIFICATION AND BY NONRESIDENT STUDENTS WHO ENROLL IN AND ATTEND METROPOLITAN STATE COLLEGE OF DENVER.

(2) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2016.

SECTION 17. Article 56 of title 23, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

23-56-102.5. Tuition - repeal. (1) FOR FISCAL YEARS 2011-12 THROUGH 2015-16, THE BOARD OF TRUSTEES, IN ACCORDANCE WITH SECTION 23-5-130.5, SHALL ANNUALLY SET THE AMOUNT OF TUITION TO BE PAID BY STUDENTS WITH IN-STATE CLASSIFICATION AND BY NONRESIDENT STUDENTS WHO ENROLL IN AND ATTEND WESTERN STATE COLLEGE OF COLORADO.

(2) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2016.

SECTION 18. 23-60-202 (1) (c) (I), Colorado Revised Statutes, is amended to read:

23-60-202. Duties of board with respect to state system - repeal. (1) With respect to the community and technical colleges within the state system, the board has the authority, responsibility, rights, privileges, powers, and duties customarily exercised by the governing boards of institutions of higher education, including the following:

(c) (I) (A) To fix the tuition and fees to be charged in the community and technical colleges. The board shall fix tuition in accordance with the level of cash fund appropriations set by the general assembly for such institutions pursuant to section 23-1-104 ~~(1)(a)(1)~~ (1) (b) (I).

(B) NOTWITHSTANDING ANY PROVISION OF SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (I) TO THE CONTRARY, FOR FISCAL YEARS 2011-12 THROUGH 2015-16, THE BOARD, IN ACCORDANCE WITH SECTION 23-5-130.5, SHALL ANNUALLY SET THE AMOUNT OF TUITION TO BE PAID BY STUDENTS WITH IN-STATE CLASSIFICATION AND BY NONRESIDENT STUDENTS WHO ENROLL IN AND ATTEND THE COMMUNITY AND TECHNICAL COLLEGES. THIS SUB-SUBPARAGRAPH (B) IS REPEALED, EFFECTIVE JULY 1, 2016.

SECTION 19. 23-3.3-102 (2) and (3), the introductory portion to 23-3.3-102 (3.5), and 23-3.3-102 (4) and (8), Colorado Revised Statutes, are amended to read:

23-3.3-102. Assistance program authorized - procedure - audits. (2) The commission shall determine, by guideline, the institutions eligible for participation in the program AND SHALL ANNUALLY DETERMINE THE AMOUNT ALLOCATED TO EACH INSTITUTION.

(3) ~~The commission~~ EACH STATE INSTITUTION shall administer ~~the~~ A FINANCIAL ASSISTANCE program ~~with the assistance of institutions~~ according to policies and procedures established by the ~~commission~~ GOVERNING BOARD OF THE INSTITUTION. EACH PRIVATE INSTITUTION OF HIGHER EDUCATION, AS DEFINED IN SECTION 23-18-102 (9), THAT PARTICIPATES IN THE PROGRAM OF FINANCIAL ASSISTANCE ESTABLISHED PURSUANT TO THIS SECTION SHALL ADMINISTER A FINANCIAL ASSISTANCE PROGRAM ACCORDING TO POLICIES AND PROCEDURES ESTABLISHED BY THE GOVERNING BOARD OF THE INSTITUTION. EACH PARTICIPATING NONPUBLIC INSTITUTION THAT IS NOT A PRIVATE INSTITUTION OF HIGHER EDUCATION SHALL ADMINISTER A FINANCIAL ASSISTANCE PROGRAM ACCORDING TO POLICIES AND PROCEDURES ESTABLISHED BY THE COMMISSION. EACH INSTITUTION SHALL FUND ITS ASSISTANCE PROGRAM USING STATE MONEYS ALLOCATED TO THE INSTITUTION AND INSTITUTIONAL MONEYS.

(3.5) Notwithstanding any provision of this article to the contrary, ~~the commission~~ EACH PARTICIPATING INSTITUTION shall adopt policies and procedures to allow a person who meets the following criteria to qualify for financial assistance through the financial assistance programs established pursuant to this article:

(4) Program disbursements shall be handled by the institution subject to audit and review. ~~except that each nonpublic institution of higher education which receives additional financial assistance pursuant to this section, due to the change in the determination of need pursuant to subsection (6) of this section, shall allocate such financial assistance on the basis of need. The change in the determination of need pursuant to said subsection (6) shall in no way reduce the allocation by the Colorado commission on higher education of moneys for merit-based programs to nonpublic institutions of higher education.~~

(8) The state auditor or his OR HER designee shall audit, in accordance with STATE STATUTE AND federal ~~and commission~~ guidelines, the program at any participating institution every other year to review residency determinations, needs analyses, awards, payment procedures, and such other practices as may be necessary to ensure that the program is being properly administered, but ~~such~~ THE audit shall be limited to the administration of the program at ~~such~~ THE participating institution. The state auditor may accept an audit of the program from an institution that is not a state institution from such institution's independent auditor. The cost of conducting audits of the program at an institution that is not a state institution shall be borne by such institution.

SECTION 20. 23-1-113.5, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

23-1-113.5. Commission directive - resident admissions. (4) (a) THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION REGARDING THE PERCENTAGE AND FRACTION OF STUDENTS WHO ARE IN-STATE STUDENTS, AS DEFINED IN SECTION 23-7-102 (5), SHALL NOT APPLY TO THE UNIVERSITY OF COLORADO SYSTEM OR TO COLORADO STATE UNIVERSITY IF THE FOLLOWING REQUIREMENTS ARE MET:

(I) THE PERCENTAGE OF INCOMING FRESHMAN ADMITTED TO THE INSTITUTION WHO ARE IN-STATE STUDENTS CALCULATED ON A THREE-YEAR ROLLING AVERAGE AND EXCLUDING FOREIGN STUDENTS, IS NOT LESS THAN FIFTY-FIVE PERCENT;

(II) THE FRACTION OF STUDENTS ENROLLED AT EACH CAMPUS OF THE UNIVERSITY OF COLORADO SYSTEM OR AT COLORADO STATE UNIVERSITY WHO ARE IN-STATE STUDENTS IS NOT LESS THAN TWO-THIRDS OF THE TOTAL STUDENT ENROLLMENT AT THE CAMPUS OR AT COLORADO STATE UNIVERSITY, RESPECTIVELY, INCLUDING UNDERGRADUATE AND GRADUATE STUDENTS, CALCULATED ON A THREE-YEAR ROLLING AVERAGE AND EXCLUDING FOREIGN STUDENTS;

(III) THE INSTITUTION CONTINUES TO ADMIT ONE HUNDRED PERCENT OF ALL COLORADO FIRST-TIME FRESHMAN APPLICANTS WHO MEET THE GUARANTEED ADMISSIONS CRITERIA;

(IV) THE PERCENTAGE OF IN-STATE STUDENTS ADMITTED TO EACH CAMPUS OF THE UNIVERSITY OF COLORADO SYSTEM OR TO COLORADO STATE UNIVERSITY BASED ON CRITERIA OTHER THAN STANDARDIZED TEST SCORES, HIGH SCHOOL CLASS RANK, AND HIGH SCHOOL GRADE POINT AVERAGE PURSUANT TO SECTION 23-1-113 (1) (b) DOES NOT FALL BELOW THE AVERAGE OF THE PERCENTAGE ADMITTED TO THE CAMPUS OR TO COLORADO STATE UNIVERSITY, RESPECTIVELY, FOR THE THREE PRECEDING ACADEMIC YEARS; AND

(V) THE TOTAL NUMBER OF FOREIGN STUDENTS ENROLLED AT EACH SPECIFIC CAMPUS OF THE UNIVERSITY OF COLORADO SYSTEM OR AT COLORADO STATE UNIVERSITY DOES NOT EXCEED TWELVE PERCENT OF THE TOTAL STUDENT ENROLLMENT, INCLUDING UNDERGRADUATE AND GRADUATE STUDENTS, ENROLLED AT THE CAMPUS OR AT COLORADO STATE UNIVERSITY, RESPECTIVELY.

(b) THE UNIVERSITY OF COLORADO AND COLORADO STATE UNIVERSITY SHALL ANNUALLY REPORT TO THE COMMISSION INFORMATION DEMONSTRATING THAT QUALIFIED IN-STATE STUDENTS ARE NOT DISPLACED OR DENIED ADMISSIONS AS A RESULT OF THE PROVISIONS OF THIS SUBSECTION (4) AND THAT ANY INCREASE IN THE ENROLLMENT OF FOREIGN STUDENTS AT A SPECIFIC CAMPUS OF THE UNIVERSITY OF COLORADO SYSTEM OR AT COLORADO STATE UNIVERSITY IS A RESULT OF INCREASED CAPACITY AT THE CAMPUS OR AT COLORADO STATE UNIVERSITY, RESPECTIVELY.

(c) FOR PURPOSES OF THIS SUBSECTION (4), "FOREIGN STUDENT" MEANS A STUDENT WHO IS COUNTED AS FOREIGN AND PRESENT IN THE UNITED STATES ON A NONIMMIGRANT VISA.

SECTION 21. Repeal. 23-5-129 (4), Colorado Revised Statutes, is repealed as follows:

23-5-129. Governing boards - performance contract - authorization - operations. (4) ~~Notwithstanding any requirements of article 101 of title 24, C.R.S., and part 11 of article 30 of title 24, C.R.S., to the contrary, a governing board of a state institution of higher education that operates pursuant to a performance contract negotiated pursuant to this section may negotiate with the department of higher education, after approval from the Colorado commission on higher education, a provision in the performance contract to allow an exemption from the procurement code, article 101 of title 24, C.R.S., and the central state motor vehicle fleet system, part 11 of article 30 of title 24, C.R.S. The executive director of the department of higher education shall communicate in writing with the executive director of the department of personnel regarding any exemptions granted pursuant to this~~

~~subsection (4):~~

SECTION 22. 23-1-106.3 (3) (c), Colorado Revised Statutes, is amended to read:

23-1-106.3. Duties and powers of the commission - capital construction projects - federal mineral lease revenues fund - higher education institutions lease-purchase cash fund. (3) (c) The provisions of section 24-30-202 (5) (b), C.R.S., shall not apply to a lease-purchase agreement authorized pursuant to paragraph (a) of this subsection (3) or any ancillary agreement or instrument entered into pursuant to paragraph (b) of this subsection (3). THE STATE CONTROLLER OR HIS OR HER DESIGNEE SHALL WAIVE any provision of the fiscal rules promulgated pursuant to section 24-30-202 (1) and (13), C.R.S., that the state controller deems to be incompatible or inapplicable with respect to said lease-purchase agreements or any such ancillary agreement or instrument. ~~may be waived by the controller or his or her designee.~~

SECTION 23. 23-20-111, Colorado Revised Statutes, is amended to read:

23-20-111. Supervisory powers of board. The board of regents has general supervision of the university and control and direction of all funds of and appropriations to the university. ~~except that the controller shall have the authority to promulgate fiscal rules pursuant to section 24-30-202, C.R.S., which shall be applicable to the university and its officers and employees.~~

SECTION 24. 24-30-201 (1) (e), Colorado Revised Statutes, is amended to read:

24-30-201. Division of accounts and control - controller. (1) The powers, duties, and functions concerning accounts and control as set forth in this part 2 shall be the responsibility of the state controller. The controller shall be appointed by the executive director of the department of personnel, subject to the provisions of section 13 of article XII of the state constitution. The controller shall be bonded in such amount as the executive director shall fix. The powers and duties of the controller shall be:

(e) To manage the finances and financial affairs of the state, EXCEPT AS OTHERWISE PROVIDED IN SECTION 5 (2) OF ARTICLE VIII OF THE STATE CONSTITUTION AND BY LAW FOR INSTITUTIONS OF HIGHER EDUCATION AND FOR THE AURARIA HIGHER EDUCATION CENTER;

SECTION 25. 24-30-202 (13) and (22), Colorado Revised Statutes, are amended to read:

24-30-202. Procedures - vouchers and warrants - rules - penalties. (13) (a) The controller shall promulgate fiscal rules to carry out the functions assigned and the procedures prescribed by this section. Such rules relating to the forms, records, and procedures involved in financial administration shall be binding upon the several departments, institutions, including institutions of higher education EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (13), and other agencies of the state and upon their several officers and employees.

(b) It is the intent of the general assembly that fiscal rules promulgated by the controller shall be applicable to any institution of higher education; ~~notwithstanding any specific grant of authority to the governing board of such institution of higher education~~ EXCEPT THAT THE GOVERNING BOARD OF AN INSTITUTION OF HIGHER EDUCATION THAT HAS ADOPTED FISCAL PROCEDURES AND HAS DETERMINED THAT THE FISCAL PROCEDURES PROVIDE ADEQUATE SAFEGUARDS FOR THE PROPER EXPENDITURE OF THE MONEYS OF THE INSTITUTION MAY ELECT TO EXEMPT THE INSTITUTION FROM THE FISCAL RULES PROMULGATED BY THE CONTROLLER PURSUANT TO THIS SUBSECTION (13), INCLUDING ANY PROCEDURES OR FORMS REQUIRED BY LAW TO BE PROMULGATED BY THE CONTROLLER AND ANY REVIEW OR APPROVAL REQUIRED TO BE PERFORMED BY THE CONTROLLER, AND SHALL NOT BE REQUIRED TO COMPLY WITH RULES PROMULGATED PURSUANT TO THIS SUBSECTION (13) OR WITH THE PROVISIONS OF SUBSECTION (1), (5) (b), (20.1), (22), OR (26) OF THIS SECTION. THE PROVISIONS OF THIS PARAGRAPH (b) SHALL ALSO APPLY TO THE BOARD OF DIRECTORS OF THE AURARIA HIGHER EDUCATION CENTER WITH REGARD TO THE EXPENDITURE OF MONEYS OF THE AURARIA HIGHER EDUCATION CENTER.

(c) Repealed.

(d) AN INSTITUTION OF HIGHER EDUCATION, INCLUDING THE AURARIA HIGHER EDUCATION CENTER, THAT IS EXEMPT FROM THE STATE FISCAL RULES PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (13) SHALL CONTINUE TO PROVIDE TO THE CONTROLLER SUCH INFORMATION AS IS NECESSARY TO ENABLE THE CONTROLLER TO MEET THE OBLIGATIONS SET FORTH IN SUBSECTION (11) OF THIS SECTION AND SECTIONS 24-17-102 AND 24-30-204; EXCEPT THAT AN INSTITUTION OF HIGHER EDUCATION SHALL BE REQUIRED TO PROVIDE ONLY SUCH DATA AND REPORTS AS ARE READILY ACCESSIBLE TO THE INSTITUTION OR PRESENTLY GENERATED BY THE INSTITUTION.

(22) The controller shall make uniform and equitable fiscal rules controlling the types of perquisites which may be allowed state employees in the executive branch of government ~~including employees in the institutions of higher education~~; in addition to their regular salaries. Such rules shall include the eligibility of employees to receive such perquisites, the charges to be made for such perquisites, and the method of payment of such charges to the state. Before such rules become effective, they shall be approved by the governor. No employee shall have authority to grant to himself OR HERSELF or to any other employee under his OR HER supervision any perquisite, nor shall any employee receive any perquisite without full payment therefor, except as provided for by statute or by the rules of the controller as authorized in this section. Charges prescribed by such rules shall be reviewed annually by the controller.

SECTION 26. 24-30-202 (9), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-30-202. Procedures - vouchers and warrants - rules - penalties.
(9) (d) NOTWITHSTANDING ANY PROVISION OF THIS SUBSECTION (9) TO THE CONTRARY, THE PROVISIONS OF THIS SUBSECTION (9) SHALL NOT APPLY TO ANY WARRANT DRAWN BY AN INSTITUTION OF HIGHER EDUCATION OR BY THE AURARIA HIGHER EDUCATION CENTER THAT IS EXEMPT FROM THE STATE FISCAL RULES PURSUANT TO PARAGRAPH (b) OF SUBSECTION (13) OF THIS SECTION.

SECTION 27. 23-5-113, Colorado Revised Statutes, is amended to read:

23-5-113. Collection of loans and outstanding obligations - state educational institutions. (1) Notwithstanding the provisions of section 24-30-202.4, C.R.S., the governing board of any state educational institution ~~with the approval of the state controller,~~ may promulgate rules and regulations relating to procedures for collecting any loans or other outstanding obligations owed to such institution. The institution may employ private counsel or a collection agency to handle the collection of any such loan or obligation. Employment of private counsel or a collection agency shall be in accordance with the rules and regulations, but in no event shall the fees paid to the private counsel or collection agency exceed forty percent of the amount recovered.

(2) The institution ~~with the consent of the controller and the state treasurer,~~ is authorized to write off, release, or compromise any debt or obligation due the institution, but only in accordance with the rules and regulations applicable thereto.

SECTION 28. 24-30-202.4 (2) and (3) (a) (II), Colorado Revised Statutes, are amended to read:

24-30-202.4. Collection of debts due the state - controller's duties - creation of debt collection fund - definitions. (2) EXCEPT AS OTHERWISE PROVIDED FOR INSTITUTIONS OF HIGHER EDUCATION PURSUANT TO SECTION 23-5-113, C.R.S., AND except for those debts under the jurisdiction of the department of revenue referred to in section 24-35-108 (1) (a), under the jurisdiction of the judicial department referred to in section 16-11-101.6, C.R.S., and under the jurisdiction of the department of labor and employment related to overpayment of unemployment insurance benefits and delinquent taxes referred to in section 8-79-102, C.R.S., all state agencies shall refer to the state controller debts due the state that the agency has been unable to collect within thirty days after such debts have become past due, together with the data and information necessary for the controller to institute collection procedures. Debts are not subject to referral pursuant to this subsection (2) if payment arrangements have been made and payments due in accordance with the terms of the arrangements are not delinquent. The controller may grant a waiver to the requirement that a state agency refer debts within such thirty-day period based upon a documented request and justification provided by a state agency, pursuant to rules promulgated by the department of personnel under article 4 of this title. A waiver may include but shall not be limited to extended periods to collect delinquent debts. For accounts where no waiver to assignment has been granted, the controller shall use all state collection capabilities to collect that debt, including, but not limited to, the certification of that debt to the department of revenue for offset of that debt against any tax refund due the debtor under the provisions of subparagraph (II) of paragraph (a) of subsection (3) of this section. No later than one hundred twenty days after receipt by the controller, the controller or the controller's designee shall legally assign all debts that are not claims in process of collection to private counsel or private collection agencies that appear on the list of private counsel or private collection agencies. For the purposes of this section, "claims in process of collection" means any debts on which payments are being made, on which payments have been promised, on which suit has been brought, or any other debts as defined in rules promulgated by the department of personnel pursuant to article 4 of this title. The private counsel or private collection agencies included in the list of

private counsel or private collection agencies shall be selected through competition pursuant to the provisions of the "Procurement Code", articles 101 to 112 of this title. Criteria for selection of the private counsel or private collection agencies shall be developed by the executive director of the department of personnel in consultation with the controller, affected state agencies, and the private collection community. ~~In addition, a state-supported institution of higher education may utilize the provisions of section 23-5-113, C.R.S., for the collection of any loan or other outstanding obligation owed to such institution.~~

(3) (a) (II) Upon verification by the appropriate state agency of the amount of the debt due the state, the controller may certify to the department of revenue any unpaid debt due the state to be offset against a tax refund due the debtor, pursuant to section 39-21-108 (3), C.R.S. Before any unpaid debt is certified to the department of revenue, the controller shall give written notice to the debtor that the debt shall be offset against a tax refund due the debtor and shall notify the debtor that the debtor may, within thirty days of the postmark of the written notice from the controller, request a hearing to dispute the tax refund offset. Such hearing shall be held within thirty calendar days from receipt of the request from the debtor. If the agency that referred the debt to the controller certifies that the debt was the subject of a final agency determination or judicial decision or that the debt has been reduced to judgment, the debtor may not dispute the validity of the debt at the hearing. No money shall be refunded or offset against a tax refund due the debtor if such a hearing is requested until such time as the hearing is completed and a decision is rendered. If at the hearing the dispute is resolved in favor of the debtor, the debtor shall be entitled to a refund of any moneys due plus interest, pursuant to section 39-21-110.5, C.R.S. Provisions for adequate notice and opportunity for hearing shall be made by rules and regulations promulgated by the executive director of the department of personnel. Any debts may be written off, released, or compromised pursuant to paragraph (c) of this subsection (3). ~~As used in this section, unless the context otherwise requires, "agency" includes state-supported institutions of higher education.~~

SECTION 29. 24-30-1102 (5) and (6) (a) (I), Colorado Revised Statutes, are amended to read:

24-30-1102. Definitions. As used in this part 11, unless the context otherwise requires:

(5) "State agency" means this state or any department, board, bureau, commission, institution, or other agency of the state; ~~including institutions of higher education but~~ EXCEPT THAT "STATE AGENCY" shall not include A STATE INSTITUTION OF HIGHER EDUCATION, THE AURARIA HIGHER EDUCATION CENTER, OR the state board of stock INSPECTION commissioners, created pursuant to section 35-41-101, C.R.S.

(6) (a) "State-owned motor vehicle" means all motor vehicles owned by the state or any agency of the state that shall include all two- and four-wheel drive trucks, all passenger vehicles including cars, vans, station wagons and other similar passenger vehicles, and any other vehicle not described herein that may be designated as a state-owned motor vehicle if a state agency requests such designation; except that "state-owned motor vehicle" shall not include any vehicle rated at one ton or more

that is:

~~(I) Owned, operated, or controlled by an institution of higher education and was not purchased, maintained, or otherwise acquired using state moneys; or~~

SECTION 30. 24-19-103 (2) (a), Colorado Revised Statutes, is amended to read:

24-19-103. Prohibition against postemployment compensation - exception.

(2) (a) At the option of the appointing authority for any government-supported official or employee, such official or employee may be provided postemployment compensation that consists of the payment of up to a maximum of three months of salary for such official or employee and the provision of up to a maximum of three months of employee benefits for such official or employee. No postemployment compensation shall be provided other than cash payments and the provision of employee benefits. Postemployment compensation may be approved and provided only if the government-supported official or employee who is to receive such compensation was employed by the governmental unit or government-financed entity for less than five years; EXCEPT THAT POSTEMPLOYMENT COMPENSATION MAY BE APPROVED AND PROVIDED FOR AN OFFICIAL OR EMPLOYEE OF A STATE INSTITUTION OF HIGHER EDUCATION OR OF THE AURARIA HIGHER EDUCATION CENTER, REGARDLESS OF THE LENGTH OF EMPLOYMENT.

SECTION 31. 24-102-205 (1) (b), (1) (c), and (2), Colorado Revised Statutes, are amended to read:

24-102-205. Centralized contract management system - personal services contracts - legislative declaration - definitions.

(1) (b) For purposes of this section, "governmental body" shall have the same meaning as set forth in section 24-101-301 (10); except that, for purposes of this section, "governmental body" shall also include elected officials. ~~the governing board of each institution of higher education, and the Colorado commission on higher education.~~

~~(c) Insofar as a conflict exists between the definition given a particular term affecting a personal services contract by the department acting pursuant to this code or any rules promulgated thereunder and the definition given a term by an institution of higher education, the meaning given the term by the department shall control.~~

(2) This section shall apply to any personal services contract to which the state is a party the value of which exceeds one hundred thousand dollars with the exception of any contract to which the state is a party under medicare, the "Colorado Medical Assistance Act", articles 4 to 6 of title 25.5, C.R.S., the "Children's Basic Health Plan Act", article 8 of title 25.5, C.R.S., OR the "Colorado Indigent Care Program", part 1 of article 3 of title 25.5, C.R.S. ~~or to any grant, award, or contract funded by any federal or private entity for any research or sponsored project activity of an institution of higher education or an affiliate of an institution of higher education that is funded from moneys that are restricted by the entity under the grant, award, or contract. For purposes of this section, "sponsored project" means an agreement between an institution of higher education and another party that provides restricted funding and requires oversight responsibilities for research and development or other specified programmatic activities that are sponsored by federal or private agencies and organizations.~~

SECTION 32. 24-103.5-101 (1) and (7) (a), Colorado Revised Statutes, are amended to read:

24-103.5-101. Monitoring of vendor performance - definitions. (1) (a) For purposes of this section, "governmental body" shall have the same meaning as set forth in section 24-101-301 (10); except that, for purposes of this section, "governmental body" shall also include elected officials. ~~the governing board of each institution of higher education, and the Colorado commission on higher education.~~

(b) ~~Insofar as a conflict exists between the definition given a particular term affecting a personal services contract by the department acting pursuant to this code or any rules promulgated thereunder and the definition given a term by an institution of higher education, the meaning given the term by the department shall control.~~

(7) Notwithstanding any other provision of this section:

(a) Nothing in this section shall be construed to apply to any contract to which the state is a party under medicare, the "Colorado Medical Assistance Act", articles 4 to 6 of title 25.5, C.R.S., the "Children's Basic Health Plan Act", article 8 of title 25.5, C.R.S., OR the "Colorado Indigent Care Program", part 1 of article 3 of title 25.5, C.R.S. or to any grant, award, or contract funded by any federal or private entity for any research or sponsored project activity of an institution of higher education or an affiliate of an institution of higher education that is funded from moneys that are restricted by the entity under the grant, award, or contract. For purposes of this article, "sponsored project" means an agreement between an institution of higher education and another party that provides restricted funding and requires oversight responsibilities for research and development or other specified programmatic activities that are sponsored by federal or private agencies and organizations.

SECTION 33. 24-105-102 (1) (a) (I) and (1) (b), Colorado Revised Statutes, are amended to read:

24-105-102. Performance evaluation reports - definitions. (1) (a) As used in this section, unless the context otherwise requires:

(I) "Governmental body" shall have the same meaning as set forth in section 24-101-301 (10); except that, for purposes of this section, "governmental body" shall also include elected officials. ~~the governing board of each institution of higher education, and the Colorado commission on higher education.~~

(b) ~~Insofar as a conflict exists between the definition given a particular term affecting a personal services contract by the department acting pursuant to this code or any rules promulgated thereunder and the definition given a term by an institution of higher education, the meaning given the term by the department shall control.~~

SECTION 34. Repeal. 23-1-106 (8), Colorado Revised Statutes, is repealed as follows:

23-1-106. Duties and powers of the commission with respect to capital

construction and long-range planning. (8) ~~Any acquisition of real property by a state-supported institution of higher education that is conditional upon or requires expenditures of state-controlled funds or federal funds shall be subject to the approval of the commission, whether acquisition is by lease-purchase, purchase, gift, or otherwise.~~

SECTION 35. 23-1-106 (3), (5) (a), (6), (7) (a), (7) (c) (I), (9), (10), (10.5) (a), and (11) (a) (IV), Colorado Revised Statutes, are amended to read:

23-1-106. Duties and powers of the commission with respect to capital construction and long-range planning. (3) The commission shall review and approve facility master plans for all state institutions of higher education on land owned or controlled by the state or an institution and capital construction program plans for projects other than those projects ~~constructed pursuant to~~ DESCRIBED IN subsection (9) or (10) of this section. Except for those projects ~~constructed pursuant to~~ DESCRIBED IN subsection (9) or (10) of this section, no capital construction shall commence except in accordance with an approved facility master plan and program plan.

(5) (a) The commission shall approve plans for any capital construction project at any institution, including a community college, regardless of the source of funds; except that the commission need not approve plans for any capital construction project at a local district college or area vocational school or for any capital construction OR ACQUISITION project described in subsection (9) or (10) of this section.

(6) (a) The commission shall request annually from each governing board of each state institution of higher education a five-year projection of capital development projects to be constructed but not including those projects ~~constructed pursuant to~~ DESCRIBED IN subsection (9) or (10) of this section. The projection shall include the estimated cost, the method of funding, a schedule for project completion, and the governing board-approved priority for each project. The commission shall determine whether a proposed project is consistent with the role and mission and master planning of the institution and conforms to standards recommended by the commission.

(b) The commission shall request annually from the governing board of each state institution of higher education a two-year projection of capital construction OR ACQUISITION projects to be ~~constructed~~ UNDERTAKEN pursuant to subsection (9) or (10) of this section and estimated to require total project expenditures exceeding two million dollars. The projection shall include the estimated cost, the method of funding, and a schedule for project completion for each project. An institution shall amend the projection prior to commencing a project that is not included in the institution's most recent projection.

(7) (a) The commission annually shall prepare a unified, five-year capital improvements report of projects to be constructed, but not including those projects constructed OR ACQUIRED pursuant to subsection (9) or (10) of this section, coordinated with education plans. The commission shall transmit the report to the office of state planning and budgeting, the governor, and the general assembly, consistent with the executive budget timetable, together with a recommended

priority of funding of capital construction projects for the system of public higher education. The commission shall annually transmit the recommended priority of funding of capital construction projects to the capital development committee no later than November 1 of each year.

(c) (I) The commission annually shall prepare a unified, two-year capital improvements report for projects to be constructed OR ACQUIRED pursuant to subsection (9) or (10) of this section and estimated to require total project expenditures exceeding two million dollars, coordinated with education plans. The commission shall transmit the report to the office of state planning and budgeting, the governor, and the general assembly, consistent with the executive budget timetable.

(9) (a) Except as provided in paragraph (d) of this subsection (9), a capital construction OR ACQUISITION project initiated by the governing board of a state-supported institution of higher education that is contained in the most recent unified, two-year capital improvements project projection approved pursuant to subparagraph (II) of paragraph (c) of subsection (7) of this section, as the projection may be amended from time to time, and that is to be ACQUIRED OR constructed AND operated and maintained solely from cash funds held by the institution shall not be subject to additional review or approval by the commission, the office of state planning and budgeting, the capital development committee, or the joint budget committee.

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

(c) Each governing board shall ensure, consistent with its responsibilities as set forth in section 5 (2) of article VIII of the state constitution, that a capital construction OR ACQUISITION project initiated pursuant to this subsection (9) shall be in accordance with its institution's mission, be of a size and scope to provide for the defined program needs, and be designed in accordance with all applicable building codes and accessibility standards.

(d) (I) The provisions of this subsection (9) shall not apply to a project that is to be ACQUIRED OR constructed in whole or in part using moneys subject to the higher education revenue bond intercept program established pursuant to section 23-5-139.

(II) Any plan for any such capital construction OR ACQUISITION project that is estimated to require total expenditures of two million dollars or less shall not be

subject to review or approval by the commission.

(10) (a) (I) The commission shall review and approve any plan for a capital construction OR ACQUISITION project that is estimated to require total expenditures exceeding two million dollars and that is to be ACQUIRED OR constructed AND operated and maintained solely from cash funds held by the institution that, in whole or in part, are subject to the higher education revenue bond intercept program established pursuant to section 23-5-139.

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

(III) Any plan for any such capital construction OR ACQUISITION project that is estimated to require total expenditures of two million dollars or less shall not be subject to review or approval by the commission.

(b) Upon approval of a plan for a capital construction OR ACQUISITION project pursuant to paragraph (a) of this subsection (10), the commission shall submit the plan to the capital development committee. The capital development committee shall make a recommendation regarding the project to the joint budget committee. Following the receipt of the recommendation, the joint budget committee shall refer its recommendations regarding the project, with written comments, to the commission.

(10.5) (a) For any project commenced pursuant to subsection (9) or (10) of this section, if, after commencement of ACQUISITION OR construction, the governing board of the institution receives an additional gift, grant, or donation for the project, the governing board may amend the project without the approval of the commission, the office of state planning and budgeting, the capital development committee, or the joint budget committee so long as the governing board notifies the commission, the office of state planning and budgeting, the capital development committee, and the joint budget committee in writing, explaining how the project has been amended and verifying the receipt of the additional gift, grant, or donation.

(11) (a) Each state institution of higher education shall submit to the commission on or before September 1 of each year a list and description of each project for which an expenditure was made during the immediately preceding fiscal year that:

(IV) Was amended or enhanced after commencement of ACQUISITION OR construction pursuant to subsection (10.5) of this section.

SECTION 36. 24-51-1101 (1.8) (e), Colorado Revised Statutes, as enacted by Senate Bill 10-001, is amended to read:

24-51-1101. Employment after service retirement. (1.8) (e) (I) For purposes of this subsection (1.8), "state college or university" means ~~any~~ A postsecondary educational institution ~~including community and junior colleges,~~ established and existing pursuant to SECTION 5 OF ARTICLE VIII OF THE STATE CONSTITUTION and title 23, C.R.S., ~~as an agency of the state of Colorado and supported wholly or in part by tax revenues~~ AND, FOR A POSTSECONDARY EDUCATIONAL INSTITUTION WITH MORE THAN ONE PRINCIPAL CAMPUS AS SPECIFIED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (e), THE SYSTEM ADMINISTRATION OF THE POSTSECONDARY EDUCATIONAL INSTITUTION AND EACH PRINCIPAL CAMPUS OF THE POSTSECONDARY EDUCATIONAL INSTITUTION.

(II) AS USED IN THIS PARAGRAPH (e), "PRINCIPAL CAMPUS" MEANS:

(A) EACH CAMPUS OF THE UNIVERSITY OF COLORADO AS DESCRIBED IN SECTION 23-20-101, C.R.S.;

(B) EACH INSTITUTION OF THE COLORADO STATE UNIVERSITY SYSTEM ESTABLISHED IN SECTIONS 23-31-101 AND 23-31.5-101, C.R.S., BUT NOT INCLUDING THE ONLINE UNIVERSITY ESTABLISHED IN SECTION 23-30-124, C.R.S.; AND

(C) EACH COLLEGE INCLUDED IN THE STATE SYSTEM OF COMMUNITY AND TECHNICAL COLLEGES AS LISTED IN SECTION 23-60-205, C.R.S.

SECTION 37. The introductory portion to 23-41-104.6 (3) and 23-41-104.6 (4), Colorado Revised Statutes, are amended to read:

23-41-104.6. Performance contract - authorization - operations.

(3) Beginning July 1, 2001, FOR THE CONTRACT IN EFFECT THROUGH JUNE 30, 2011, AND BEGINNING JULY 1, 2010, FOR THE CONTRACT IN EFFECT THROUGH JUNE 30, 2021, the board of trustees of the Colorado school of mines shall negotiate a performance contract with the Colorado commission on higher education that shall specify the performance goals that the institution shall achieve during the period that it operates under the performance contract. Compliance with the goals specified in the performance contract shall be in lieu of compliance with the requirements of the "Higher Education Quality Assurance Act", article 13 of this title, and the Colorado school of mines shall therefore be exempt from the requirements of said act while operating pursuant to the performance contract. The specified goals shall be measurable and specific to the Colorado school of mines' role and mission and shall include, at a minimum, the following issues:

(4) (a) The performance ~~contract~~ CONTRACTS negotiated pursuant to this section shall not take effect until approved by a joint resolution adopted by the general assembly. The grounds for rejection of the performance ~~contract~~ CONTRACTS shall include the effect of the provisions of the ~~contract~~ CONTRACTS on the funding for the Colorado school of mines and funding for the statewide system of higher education.

(b) As early as possible during the 2002 regular session AND AS EARLY AS POSSIBLE DURING THE 2011 REGULAR SESSION, the Colorado commission on higher education shall present the finalized performance contract FOR THE APPLICABLE CONTRACT PERIOD at a joint session of the education committees of the senate and

the house of representatives, OR ANY SUCCESSOR COMMITTEES, and the joint budget committee of the general assembly. The members of the education committees and the members of the joint budget committee shall review the financial effect of the provisions of the contract with regard to funding for the Colorado school of mines or funding for the statewide system of higher education and may recommend changes to the terms of the performance contract or renegotiation of the performance contract. If a majority of the members of the education committees and the members of the joint budget committee approve the terms of the performance contract, the chairmen of the education committees, in cooperation with the joint budget committee, shall sponsor a joint resolution to recognize and approve the performance contract. The performance contract shall be deemed approved upon final passage of said joint resolution.

(c) The school of mines shall operate pursuant to the performance contract THAT IS APPROVED BY JOINT RESOLUTION PASSED DURING THE 2002 REGULAR SESSION beginning on the date the performance contract is approved and continuing through June 30, 2011. THE SCHOOL OF MINES SHALL OPERATE PURSUANT TO THE PERFORMANCE CONTRACT THAT IS APPROVED BY JOINT RESOLUTION PASSED DURING THE 2011 REGULAR SESSION BEGINNING ON THE DATE THE PERFORMANCE CONTRACT IS APPROVED AND CONTINUING THROUGH JUNE 30, 2021.

SECTION 38. Article 41 of title 23, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

23-41-104.7. Funding. (1) BEGINNING IN THE 2011-12 FISCAL YEAR AND FOR EACH FISCAL YEAR THEREAFTER THROUGH THE 2020-21 FISCAL YEAR, THE GENERAL ASSEMBLY SHALL ANNUALLY APPROPRIATE TO THE COLORADO SCHOOL OF MINES AN AMOUNT OF FUNDING IN LIEU OF ANY FUNDING THE INSTITUTION MAY HAVE OTHERWISE RECEIVED THROUGH FEE-FOR-SERVICE CONTRACTS NEGOTIATED BY THE INSTITUTION WITH THE COLORADO COMMISSION ON HIGHER EDUCATION PURSUANT TO SECTION 23-5-130. THE AMOUNT OF THE APPROPRIATION SHALL BE DETERMINED ANNUALLY THROUGH THE BUDGET PROCESS.

(2) (a) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (2), THE COLORADO SCHOOL OF MINES SHALL USE A PORTION OF THE MONEYS APPROPRIATED PURSUANT TO THIS SECTION TO PROVIDE MERIT-BASED SCHOLARSHIPS, NEED-BASED FINANCIAL AID, AND GRADUATE FELLOWSHIPS TO ASSIST STUDENTS WITH IN-STATE CLASSIFICATION TO ATTEND THE INSTITUTION AND SHALL INCREASE SAID PORTION TO ENSURE THAT, NO LATER THAN THE 2020-21 FISCAL YEAR AND FOR EACH FISCAL YEAR THEREAFTER, THE MONEYS APPROPRIATED PURSUANT TO THIS SECTION ARE USED SOLELY FOR SAID PURPOSES.

(b) IN ANY FISCAL YEAR IN WHICH THE AVERAGE DISCOUNTED TUITION RATE FOR A STUDENT WITH IN-STATE CLASSIFICATION WHO IS ENROLLED AT THE COLORADO SCHOOL OF MINES IS GREATER THAN THIRTY PERCENT, THE INSTITUTION MAY USE ANY AMOUNT OF THE APPROPRIATION THAT IS NOT USED TO MAINTAIN THE AVERAGE DISCOUNTED TUITION RATE AT THIRTY PERCENT FOR OTHER OPERATIONAL PURPOSES. AS USED IN THIS PARAGRAPH (b), "AVERAGE DISCOUNTED TUITION RATE" MEANS THE TOTAL OF THE AMOUNT OF SCHOLARSHIPS, FINANCIAL AID, AND GRADUATE FELLOWSHIPS AWARDED TO STUDENTS ENROLLED IN THE INSTITUTION DIVIDED BY THE TOTAL TUITION REVENUE.

(3) IN ANY FISCAL YEAR IN WHICH THE COLORADO SCHOOL OF MINES RECEIVES AN APPROPRIATION PURSUANT TO THIS SECTION, THE INSTITUTION SHALL NOT BE ELIGIBLE TO RECEIVE FUNDING PURSUANT TO A FEE-FOR-SERVICE CONTRACT NEGOTIATED PURSUANT TO SECTION 23-5-130.

SECTION 39. 23-41-102, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

23-41-102. Board of trustees - term. (3) IN APPOINTING PERSONS TO THE COLORADO SCHOOL OF MINES BOARD OF TRUSTEES ON OR AFTER JULY 1, 2010, THE GOVERNOR SHALL ENSURE THAT NO MORE THAN TWO OF THE MEMBERS SERVING ON THE BOARD OF TRUSTEES AT ANY ONE TIME RESIDE OUTSIDE THE STATE OF COLORADO. IN ADDITION, THE GOVERNOR SHALL BASE HIS OR HER APPOINTMENTS ON CONSIDERATIONS OF:

(a) AN APPOINTEE'S PROFESSIONAL BACKGROUND RELATED TO THE INDUSTRIES AND FIELDS FOR WHICH THE COLORADO SCHOOL OF MINES PREPARES STUDENTS FOR EMPLOYMENT AND IN WHICH THE FACULTY OF THE INSTITUTION CONDUCT RESEARCH;

(b) OTHER AREAS OF PROFESSIONAL EXPERTISE THAT AN APPOINTEE MAY BRING TO HIS OR HER SERVICE ON THE BOARD OF TRUSTEES; AND

(c) THE APPOINTEE'S COMMITMENT TO USING HIS OR HER PERSONAL TIME AND EFFORTS TO SERVE AND SUPPORT THE COLORADO SCHOOL OF MINES.

SECTION 40. 24-6-402 (3), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-6-402. Meetings - open to public - definitions. (3) (d) NOTWITHSTANDING ANY PROVISION OF PARAGRAPH (a) OR (b) OF THIS SUBSECTION (3) TO THE CONTRARY, UPON THE AFFIRMATIVE VOTE OF TWO-THIRDS OF THE MEMBERS OF THE GOVERNING BOARD OF AN INSTITUTION OF HIGHER EDUCATION WHO ARE AUTHORIZED TO VOTE, THE GOVERNING BOARD MAY HOLD AN EXECUTIVE SESSION IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBSECTION (3).

SECTION 41. 23-5-101.5 (2) (a), Colorado Revised Statutes, is amended to read:

23-5-101.5. Enterprise status of auxiliary facilities - definitions. (2) As used in this section and sections 23-5-101.7 to 23-5-105.5:

(a) "Auxiliary facility" means any student or faculty housing facility; student or faculty dining facility; recreational facility; student activities facility; child care facility; continuing education facility or activity; intercollegiate athletic facility or activity; health facility; ALTERNATIVE OR RENEWABLE ENERGY PRODUCING FACILITY, INCLUDING BUT NOT LIMITED TO, A SOLAR, WIND, BIOMASS, GEOTHERMAL, OR HYDROELECTRIC FACILITY; college store; or student or faculty parking facility; or any similar facility or activity ~~which~~ THAT has been historically managed, and was accounted for in institutional financial statements prepared for fiscal year 1991-92, as a self-supporting facility or activity, including any additions to and any

extensions or replacements of any such facility on any campus under the control of the governing board managing such facility. "Auxiliary facility" shall also mean any activity undertaken by the governing board of any state-supported institution of higher education as an eligible lender participant pursuant to parts 1 and 2 of article 3.1 of this title.

SECTION 42. 23-5-102 (2), Colorado Revised Statutes, is amended to read:

23-5-102. Funding for auxiliary facilities - institutions of higher education - loans - bonds. (2) The governing board of any institution of higher education by resolution may issue revenue bonds on behalf of any auxiliary facility or group of auxiliary facilities or on behalf of any institution or group of institutions managed by such governing board for the purpose of obtaining funds for constructing, otherwise acquiring, equipping, or operating such auxiliary facility or group of auxiliary facilities or for facilities for such institution or group of institutions. Any bonds issued on behalf of any auxiliary facility or group of auxiliary facilities, other than housing facilities, dining facilities, recreational facilities, health facilities, parking facilities, ALTERNATIVE OR RENEWABLE ENERGY PRODUCING FACILITIES INCLUDING BUT NOT LIMITED TO, SOLAR, WIND, BIOMASS, GEOTHERMAL, OR HYDROELECTRIC FACILITIES, research facilities that are funded from a revolving fund, or designated enterprise auxiliary facilities listed in section 23-5-101.5 (4) may be issued only after approval by both houses of the general assembly either by bill or by joint resolution and after approval by the governor in accordance with section 39 of article V of the state constitution. The governing board of an institution or group of institutions that issues bonds on behalf of the institution or group of institutions, which is designated as an enterprise pursuant to section 23-5-101.7, shall file notice of such issuance with the Colorado commission on higher education. Bonds issued pursuant to this subsection (2) shall be payable only from revenues generated by the auxiliary facility or group of auxiliary facilities or by the institution or group of institutions on behalf of which such bonds are issued; except that, subject to section 23-1-123 (5) (a) (III) and (5) (b) (II), revenues generated by a designated enterprise that is associated with the university of Colorado may be pledged for the repayment of bonds issued by another designated enterprise auxiliary facility that is not part of the same enterprise. Such bonds shall be issued in accordance with the provisions of section 23-5-103 (2). The termination, rescission, or expiration of the enterprise designation of any auxiliary facility or group of auxiliary facilities pursuant to section 23-5-101.5 (3) or of any institution or group of institutions shall not adversely affect the validity of or security for any revenue bonds issued on behalf of any auxiliary facility or group of auxiliary facilities or on behalf of any institution or group of institutions.

SECTION 43. 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: June 9, 2010