

CHAPTER 232

EDUCATION - POSTSECONDARY

SENATE BILL 11-052

BY SENATOR(S) Heath, Bacon, King K., Nicholson, Williams S. ;
 also REPRESENTATIVE(S) Massey and Ferrandino, Casso, Court, Duran, Fields, Hamner, Kefalas, Kerr A., Labuda, Lee,
 McCann, Miklosi, Pace, Peniston, Riesberg, Schafer S., Stephens, Summers, Todd, Tyler, Vigil, Williams A.

AN ACT

**CONCERNING EXPECTATIONS FOR HIGHER EDUCATION INSTITUTIONS IN COLORADO, AND MAKING
 AN APPROPRIATION IN CONNECTION THEREWITH.**

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

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

(a) The statewide system of higher education must focus on:

(I) Interpreting the changes in state demographics and workforce needs and responding to those changing needs by efficiently providing to the state a well-educated and highly skilled workforce that aligns with and is prepared to meet the employment needs of the businesses and industries that drive the state's economy;

(II) Ensuring that all adult citizens of the state, regardless of race, ethnicity, income, age, or geographic location, have access to and are successful in completing the postsecondary education opportunities and services they need to enable them to meet their personal academic and career goals and maximize their contribution to the state's economy and society; and

(III) Supporting the state's economic strength and diversity by providing teaching and research in areas of highest priority to the state and educating a workforce that aligns with the needs of employers for highly skilled workers;

(b) Each public institution of higher education should demonstrate its successes in serving the people of the state in these focus areas, demonstrate the level of efficiency and productivity with which it provides these services, and publicly

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

communicate these successes; and

(c) Each public institution should be rewarded for its successes in these focus areas with state funding that will assist the institution in building on its successes and continuing to raise its level of service to the state and its citizens.

(2) Therefore, it is the intent of the general assembly that:

(a) The Colorado commission on higher education, in cooperation with the department of higher education, shall collect and review data collected from research and analysis of measures and programs implemented at public institutions of higher education in this state and throughout the country;

(b) The commission shall apply the findings and conclusions derived from the collected data and research to craft the statewide master plan for the state system of higher education and to establish, in collaboration with the governing boards of the institutions of higher education, appropriate and achievable goals for the statewide system of higher education and for individual institutions;

(c) The commission and the governing boards shall negotiate performance contracts for the public institutions of higher education that articulate the expectations and goals of each institution in helping to achieve the overall goals for the state system of higher education;

(d) The commission and the department of higher education shall collect from the public institutions of higher education such data as is necessary to accurately measure each institution's performance in meeting the goals and expectations specified in its performance contract; and

(e) Following creation of the state and institutional goals and identification and collection of the necessary data and restoration of state general fund moneys to the state system of higher education, but in no event sooner than the 2016-17 fiscal year, the state shall implement a system for appropriating state general fund moneys for the state system of higher education that allocates a portion of the state funding for each governing board based on the success in meeting goals and expectations demonstrated by the institutions under the governing board's control.

SECTION 2. The introductory portion to 23-1-108 (1) and 23-1-108 (1.5) and (9), Colorado Revised Statutes, are amended, and the said 23-1-108 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

23-1-108. Duties and powers of the commission with regard to systemwide planning. (1) ~~The commission shall develop and submit to the governor and the general assembly a master plan for Colorado postsecondary education. In developing the master plan, the commission shall examine the statewide expectations and goals specified in section 23-13-104 and recommend that the general assembly amend the statewide expectations and goals if necessary. Following amendment of the statewide expectations and goals, the commission shall design the master plan to assure achievement of the statewide expectations and goals in the most timely, efficient, and effective manner. This plan shall recognize~~

~~the importance of private and proprietary institutions and the role and relationship of elementary and secondary education in the state, though their inclusion in the plan in no way implies control or state authority over their operations.~~ The commission, after consultation with the governing boards of institutions and as a part of the master planning process, shall have the authority to:

(1.5) (a) On or before ~~December 15, 2010~~ SEPTEMBER 1, 2012, 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. IN DRAFTING THE MASTER PLAN, ADDRESSING THE ISSUES SPECIFIED IN PARAGRAPH (b) OF THIS SUBSECTION (1.5), AND ESTABLISHING THE GOALS AS DESCRIBED IN PARAGRAPH (c) OF THIS SUBSECTION (1.5) FOR THE STATE SYSTEM OF HIGHER EDUCATION, THE COMMISSION SHALL ALSO TAKE INTO CONSIDERATION THE DATA COLLECTED PURSUANT TO SUBSECTION (1.7) OF THIS SECTION.

(b) 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; AND

(VII) THE IMPORTANCE OF PRIVATE AND PROPRIETARY INSTITUTIONS WITH REGARD TO HIGHER EDUCATION IN THE STATE, ALTHOUGH CONSIDERATION OF SAID INSTITUTIONS IN THE PLAN IN NO WAY IMPLIES CONTROL OR STATE AUTHORITY OVER THEIR OPERATIONS.

~~(b)~~ (c) The commission shall design the master plan to achieve, at a minimum, the following goals:

(I) INCREASING THE OVERALL NUMBER OF BACCALAUREATE DEGREES, ASSOCIATE DEGREES, AND CAREER AND TECHNICAL EDUCATION CERTIFICATES ISSUED BY THE PUBLIC INSTITUTIONS OF HIGHER EDUCATION IN THE STATE, WHILE MAINTAINING ACCESSIBILITY TO THE INSTITUTIONS, TO PROVIDE SUPPORT FOR ECONOMIC DEVELOPMENT AND A WELL-EDUCATED WORKFORCE FOR THE BUSINESS COMMUNITY IN THE STATE;

~~(II)~~ (II) Implementing systemic approaches, INCLUDING COORDINATED AND PROVEN TRANSITIONAL PROGRAMS, that strengthen the continuity of public education from elementary and secondary through postsecondary education for traditional and nontraditional students;

~~(III)~~ (III) 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.

~~(IV)~~ (IV) Reducing the educational attainment gap between majority and underrepresented populations throughout the state;

~~(V)~~ (V) Reducing the geographic disparities in access to and opportunity to complete a broad array of quality higher education and career and technical education programs;

(VI) ADDRESSING OPPORTUNITIES FOR STUDENTS WITH DISABILITIES, INCLUDING INTELLECTUAL DISABILITIES, TO PARTICIPATE IN POSTSECONDARY EDUCATION;

~~(VII)~~ (VII) Implementing strategies that strengthen the link between higher education and economic development and innovation in the state; and

~~(VIII)~~ (VIII) Improving and sustaining excellence in career and technical education and undergraduate and graduate degree programs.

~~(d)~~ (d) (I) The commission shall ensure that the master plan prepared pursuant to this subsection (1.5) specifically addresses providing COORDINATED AND PROVEN 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)~~ (e) 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~~ THIRTY days after receiving the draft plan. THE COMMISSION SHALL DISCUSS AND CONSIDER ANY REVISIONS SUGGESTED BY THE GOVERNING BOARDS TO THE DRAFT MASTER PLAN.

~~(e)~~ (f) ~~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~~ SECTIONS 23-5-129 AND 23-41-104.6 BY NEGOTIATING WITH THE GOVERNING BOARDS INDIVIDUALIZED GOALS AND EXPECTATIONS FOR THE PUBLIC INSTITUTIONS OF HIGHER EDUCATION, WHICH GOALS AND EXPECTATIONS SUPPORT ACHIEVEMENT OF THE STATEWIDE GOALS IDENTIFIED IN PARAGRAPH (c) OF THIS SUBSECTION (1.5) AND IN THE MASTER PLAN. THE COMMISSION AND THE GOVERNING BOARDS SHALL ENSURE THAT THE INSTITUTIONS' RENEGOTIATED PERFORMANCE CONTRACTS ARE FINALIZED NO LATER THAN DECEMBER 1, 2012.

(1.7) THE COMMISSION, WORKING WITH THE DEPARTMENT, THE GOVERNING BOARDS, AND THE INSTITUTIONS OF HIGHER EDUCATION, SHALL COLLECT DATA, INCLUDING BUT NOT LIMITED TO RESEARCH CONDUCTED BY NATIONAL POLICY ORGANIZATIONS AND AGENCIES OR INSTITUTIONS OF HIGHER EDUCATION IN OTHER STATES, AS NECESSARY TO SUPPORT DEVELOPMENT AND IMPLEMENTATION OF THE MASTER PLAN PURSUANT TO SUBSECTION (1.5) OF THIS SECTION AND TO USE IN NEGOTIATING THE PERFORMANCE CONTRACTS PURSUANT TO SECTIONS 23-5-129 AND 23-41-104.6. THE COMMISSION SHALL TAKE INTO CONSIDERATION THE COSTS TO THE GOVERNING BOARDS OF COLLECTING AND REPORTING ANY DATA THE COMMISSION MAY REQUEST FROM THE GOVERNING BOARDS OR THE INSTITUTIONS OF HIGHER EDUCATION PURSUANT TO THIS SUBSECTION (1.7).

(1.9) (a) (I) ON OR BEFORE DECEMBER 1, 2013, THE COMMISSION SHALL CREATE A PERFORMANCE-BASED FUNDING PLAN TO APPROPRIATE TO EACH GOVERNING BOARD, INCLUDING THE GOVERNING BOARDS FOR THE JUNIOR COLLEGES AND AREA VOCATIONAL SCHOOLS, A PORTION OF THE PERFORMANCE FUNDING AMOUNT FOR THE APPLICABLE STATE FISCAL YEAR BASED ON THE SUCCESS DEMONSTRATED BY THE INSTITUTIONS UNDER EACH GOVERNING BOARD'S CONTROL IN MEETING THE GOALS AND EXPECTATIONS SPECIFIED IN THE INSTITUTIONS' RESPECTIVE PERFORMANCE CONTRACTS.

(II) THE COMMISSION'S PERFORMANCE-BASED FUNDING PLAN SHALL SPECIFICALLY

ADDRESS THE MANNER IN WHICH THE APPROPRIATION OF PERFORMANCE-BASED FUNDING WILL AFFECT THE COLLEGE OPPORTUNITY FUND STIPENDS AUTHORIZED IN SECTION 23-18-202 AND THE FEE-FOR-SERVICE CONTRACTS AUTHORIZED IN SECTIONS 23-1-109.7 AND 23-5-130.

(III) THE COMMISSION SHALL ENSURE THAT THE PERFORMANCE-BASED FUNDING PLAN DISTRIBUTES THE PERFORMANCE FUNDING AMOUNT ON THE BASIS OF AN INSTITUTION'S PERFORMANCE IN MEETING THE NEGOTIATED GOALS AND EXPECTATIONS SPECIFIED IN ITS PERFORMANCE CONTRACT. THE DISTRIBUTION OF THE PERFORMANCE FUNDING AMOUNT SHALL NOT TAKE INTO ACCOUNT ADDITIONAL REVENUES THAT MAY BE AVAILABLE TO THE INSTITUTION, INCLUDING BUT NOT LIMITED TO LOCAL PROPERTY TAX REVENUES RECEIVED BY THE JUNIOR COLLEGES AND AREA VOCATIONAL SCHOOLS.

(IV) THE COMMISSION SHALL RECOMMEND TO THE EDUCATION COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR COMMITTEES, THE STATUTORY CHANGES NECESSARY TO IMPLEMENT THE PERFORMANCE-BASED FUNDING PLAN SPECIFIED IN THE MASTER PLAN.

(b) AFTER THE 2015-16 STATE FISCAL YEAR, IN EACH STATE FISCAL YEAR IN WHICH THE GENERAL ASSEMBLY APPROPRIATES THE RESTORED LEVEL OF GENERAL FUND APPROPRIATIONS FOR THE STATE SYSTEM OF HIGHER EDUCATION, THE COMMISSION, BASED ON THE PERFORMANCE-BASED FUNDING PLAN ADOPTED IN THE MASTER PLAN, SHALL RECOMMEND TO THE JOINT BUDGET COMMITTEE THE PORTION OF THE PERFORMANCE FUNDING AMOUNT TO BE APPROPRIATED TO EACH GOVERNING BOARD, INCLUDING THE GOVERNING BOARDS FOR THE JUNIOR COLLEGES AND THE AREA VOCATIONAL SCHOOLS, BASED ON THE DEMONSTRATED PERFORMANCE OF THE INSTITUTIONS THAT ARE UNDER THE GOVERNING BOARD'S CONTROL IN MEETING THE INSTITUTIONS' GOALS AND EXPECTATIONS SPECIFIED IN THE INSTITUTIONS' RESPECTIVE PERFORMANCE CONTRACTS.

(c) FOR PURPOSES OF THIS SUBSECTION (1.9):

(I) "PERFORMANCE FUNDING AMOUNT" MEANS TWENTY-FIVE PERCENT OF THE AMOUNT BY WHICH THE GENERAL FUND APPROPRIATION FOR THE STATE SYSTEM OF HIGHER EDUCATION, EXCLUDING ANY AMOUNT APPROPRIATED FOR STUDENT FINANCIAL AID, EXCEEDS SIX HUNDRED FIFTY MILLION DOLLARS.

(II) "RESTORED LEVEL OF GENERAL FUND APPROPRIATIONS" MEANS AN AMOUNT OF GENERAL FUND APPROPRIATIONS FOR THE STATE SYSTEM OF HIGHER EDUCATION, EXCLUDING ANY AMOUNT APPROPRIATED FOR STUDENT FINANCIAL AID, THAT EQUALS OR EXCEEDS SEVEN HUNDRED SIX MILLION DOLLARS.

(III) "STUDENT FINANCIAL AID" MEANS THE STATE PROGRAM OF FINANCIAL ASSISTANCE ESTABLISHED BY THE COMMISSION PURSUANT TO SECTION 23-3.3-102.

(9) The state-supported institutions of higher education shall provide the commission with such data as the commission deems necessary upon its formal request, INCLUDING BUT NOT LIMITED TO ANY DATA REQUESTED PURSUANT TO SUBSECTION (1.7) OF THIS SECTION. Data for individual students or personnel shall not be divulged or made known in any way by the director of the commission or by

any commission employee, except in accordance with judicial order or as otherwise provided by law. Any person who violates this subsection (9) commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S. Such person shall, in addition thereto, be subject to removal or dismissal from public service on grounds of malfeasance in office.

SECTION 3. 23-5-129 (1) (b), (2) (a), (2) (f), (5) (a), and (9), Colorado Revised Statutes, are amended, and the said 23-5-129 (5) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

23-5-129. Governing boards - performance contract - authorization - operations. (1) As used in this section, unless the context otherwise requires:

(b) "State institution of higher education" shall have the same meaning as provided in section 23-18-102 (10); EXCEPT THAT "STATE INSTITUTION OF HIGHER EDUCATION" SHALL INCLUDE EACH JUNIOR COLLEGE THAT IS PART OF A JUNIOR COLLEGE DISTRICT ORGANIZED PURSUANT TO ARTICLE 71 OF THIS TITLE AND THE AREA VOCATIONAL SCHOOLS, AS DEFINED IN SECTION 23-60-103.

(2) (a) Beginning July 1, 2004, each governing board of a state institution of higher education shall negotiate a performance contract with the department of higher education that shall specify the performance goals the institution shall achieve during the period that it operates under the performance contract. A state institution of higher education's compliance with the goals specified in the performance contract may be in lieu of the requirements of article 1 of this title ~~and the "Higher Education Quality Assurance Act", article 13 of this title~~, for the period of the performance contract.

(f) Notwithstanding any provision of this subsection (2) to the contrary, the provisions of this subsection (2) shall not apply to the performance contract with the Colorado school of mines, authorized by section 23-41-104.6, that is in place on July 1, 2004, until the department of higher education renegotiates the performance contract with the school of mines, to take effect ~~July 1, 2011~~ NO LATER THAN DECEMBER 1, 2012.

(5) (a) Beginning January 2006, and each January thereafter, the department of higher education shall report to the members of the education committees of the senate and the house of representatives and the members of the joint budget committee of the general assembly the financial effect of the provisions of each performance contract with regard to funding for the affected governing board of a state institution of higher education and overall funding for the statewide system of higher education ~~any exemptions granted pursuant to subsection (4) of this section~~; and a review of each state or private institution's operations under the institution's performance contract. The term of a performance contract may be up to ten years. The department of higher education may renew a performance contract at its discretion, with the agreement of the governing board.

(a.5) NOTWITHSTANDING ANY PROVISION OF PARAGRAPH (a) OF THIS SUBSECTION (5) TO THE CONTRARY, THE PERFORMANCE CONTRACTS IN EFFECT AS OF JULY 1, 2010, SHALL REMAIN IN EFFECT UNTIL RENEGOTIATED AS PROVIDED IN SECTION 23-1-108 (1.5) NO LATER THAN DECEMBER 1, 2012.

(9) ~~The Colorado school of mines, while operating under a performance contract pursuant to section 23-41-104.6, may negotiate with the Colorado commission on higher education for exemptions consistent with the provisions of subsection (4) of this section.~~

SECTION 4. 23-5-129, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

23-5-129. Governing boards - performance contract - authorization - operations. (11) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, THE PROVISIONS OF SUBSECTIONS (6), (7), AND (10) OF THIS SECTION DO NOT APPLY TO THE LOCAL DISTRICT JUNIOR COLLEGES OR THE AREA VOCATIONAL SCHOOLS.

SECTION 5. Repeal. Article 13 of title 23 and 23-1-105 (3.7), Colorado Revised Statutes, are repealed.

SECTION 6. 22-60.5-116.5 (1) (b) and (2), Colorado Revised Statutes, are amended to read:

22-60.5-116.5. Education committees - evaluation of teacher preparation programs - biennial joint meeting. (1) (b) At the meeting, the committees shall consider the reports on the review of approved teacher preparation programs received from the Colorado commission on higher education pursuant to section 23-1-121 (6), C.R.S. The committees shall take testimony from representatives of the institutions of higher education that provide the teacher preparation programs, the state board of education, the Colorado commission on higher education, and from any other interested persons. Based on the review of said reports and any testimony received, the committees shall assess whether the approved teacher preparation programs are adequately preparing teacher candidates to meet the performance-based teacher licensure standards adopted by rule of the state board of education pursuant to section 22-2-109 (3). ~~In addition, the committees shall assess whether each approved teacher preparation program is being implemented in accordance with the requirements of the "Higher Education Quality Assurance Act", article 13 of title 23, C.R.S.~~

(2) If the committees, based on the reports received from the Colorado commission on higher education and the state board of education, determine that an approved educator preparation program is not adequately preparing licensure candidates, ~~or is not being implemented in accordance with the requirements of the "Higher Education Quality Assurance Act", article 13 of title 23, C.R.S.;~~ the committees shall instruct the Colorado commission on higher education to reduce the funding received by the institution of higher education that provides the approved educator preparation program during the next fiscal year. The commission shall notify the committees of the amount of said reduction prior to introduction of the annual general appropriation bill.

SECTION 7. 23-1-107 (1) (b) and (3), Colorado Revised Statutes, are amended to read:

23-1-107. Duties and powers of the commission with respect to program

approval, review, reduction, and discontinuance. (1)(b) An institution of higher education shall submit a proposal for a new program to the department. Within a reasonable time after receipt of a proposal for a new program, the department shall review and, consistent with the institutional role and mission and the statewide ~~expectations and goals specified in section 23-13-104~~ 23-1-108 AND FURTHER ARTICULATED IN THE MASTER PLAN ADOPTED PURSUANT TO SECTION 23-1-108, make recommendations to the commission for appropriate action on a proposal for a new program.

(3) Each governing board of the state-supported institutions of higher education shall submit to the department a plan describing the procedures and schedule for periodic program reviews and evaluation of each academic program at each institution consistent with the statewide ~~expectations and goals specified in section 23-13-104~~ 23-1-108 AND FURTHER ARTICULATED IN THE MASTER PLAN ADOPTED PURSUANT TO SECTION 23-1-108 and the role and mission of each institution. The information to be provided to the department shall include, but shall not be limited to, the procedures for using internal and external evaluators, the sequence of such reviews, and the anticipated use of the evaluations.

SECTION 8. 23-1-121 (1) (a) and (4) (b), Colorado Revised Statutes, are amended to read:

23-1-121. Commission directive - approval of teacher preparation programs.

(1) As used in this section, unless the context otherwise requires:

(a) "Approved teacher preparation program" means a teacher preparation program that has been reviewed pursuant to the provisions of this section and has been determined by the commission to meet the performance-based standards established by the commission pursuant to this section and the requirements of section 23-1-108. ~~and to be designed and implemented in accordance with the requirements of the "Higher Education Quality Assurance Act", article 13 of this title.~~

(4) (b) Each program review conducted pursuant to paragraph (a) of this subsection (4) shall ensure that the program meets the minimum requirements adopted pursuant to subsections (2) and (3) of this section and the requirements of section 23-1-108 and any policies adopted pursuant thereto. ~~In addition, the department shall ensure that the program is designed and implemented in accordance with the requirements of the "Higher Education Quality Assurance Act", article 13 of this title, for institutions of higher education that are subject to said act.~~ In determining whether to initially approve or continue the approval of a teacher preparation program, the commission shall consider any recommendations made by the state board of education pursuant to section 22-2-109 (5), C.R.S., concerning the effectiveness of the program content. If the state board of education recommends that a program not be approved, the commission shall follow the recommendation by refusing initial approval of the program or placing the program on probation.

SECTION 9. 23-41-104.6 (2), the introductory portion to 23-41-104.6 (3), and 23-41-104.6 (4) (b) and (4) (c), Colorado Revised Statutes, are amended to read:

23-41-104.6. Performance contract - authorization - operations. (2) For the

reasons specified in subsection (1) of this section, the general assembly hereby authorizes the Colorado school of mines to operate pursuant to a performance contract, as described in this section, with THE DEPARTMENT OF HIGHER EDUCATION AND the Colorado commission on higher education. The Colorado school of mines shall operate pursuant to a performance contract for the period specified in subsection (4) of this section.

(3) Beginning July 1, 2001, for the contract in effect through ~~June 30, 2011~~ NOVEMBER 30, 2012, and beginning ~~July 1, 2010~~ DECEMBER 1, 2012, for the contract in effect through ~~June 30, 2021~~ NOVEMBER 30, 2022, the board of trustees of the Colorado school of mines shall negotiate a performance contract with the DEPARTMENT OF HIGHER EDUCATION, SUBJECT TO APPROVAL BY 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 GOALS NEGOTIATED FOR THE INSTITUTION PURSUANT TO SECTIONS 23-1-108 (1.5) (f) AND 23-5-129 AND the following issues:

(4) (b) As early as possible during the 2002 regular session and as early as possible during the ~~2011 regular session~~ 2012 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~~ NOVEMBER 30, 2012. The school of mines shall operate pursuant to the performance contract that is approved by joint resolution passed during the ~~2011 regular session~~ 2012 REGULAR SESSION beginning on the date the performance contract is approved DECEMBER 1, 2012, and continuing through ~~June 30, 2021~~ NOVEMBER 30, 2022.

SECTION 10. Appropriation - adjustments in 2011 long bill. (1) For the implementation of this act, appropriations made in the annual general appropriation

act for the fiscal year beginning July 1, 2011, to the department of higher education, shall be adjusted as follows:

(a) The appropriation for the Colorado commission on higher education, for administration, is increased by two hundred fifty-one thousand seven hundred sixty-nine dollars (\$251,769) and 2.0 FTE. Said sum shall be reappropriated funds from statewide indirect cost recoveries.

(b) The appropriation for the Colorado commission on higher education financial aid, for need-based grants, is decreased by two hundred fifty-one thousand seven hundred sixty-nine dollars (\$251,769). Said sum shall be reappropriated funds from statewide indirect cost recoveries.

SECTION 11. 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: May 27, 2011