

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

ENGROSSED

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

LLS NO. 10-0057.01 Esther van Mourik

HOUSE BILL 10-1119

HOUSE SPONSORSHIP

Ferrandino, Carroll T., Court, Fischer, Gagliardi, Hullinghorst, Kerr A., Labuda, Levy, Merrifield, Middleton, Pace, Pommer, Primavera, Rice, Scanlan, Schafer S., Solano, Todd, Weissmann

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House Committees

State, Veterans, & Military Affairs
Appropriations

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A BILL FOR AN ACT

101 **CONCERNING THE PROCESS BY WHICH THE STATE ANNUALLY**
102 **ALLOCATES MONEYS FOR ITS BUDGET AND, IN CONNECTION**
103 **THEREWITH, ANTICIPATING THE RECEIPT OF FEDERAL FUNDS TO**
104 **BE USED THEREFOR.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Section 1 of the bill sets forth that the bill shall be known and may be cited as the "State Measurements for Accountable, Responsive, and

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
Am ended 2nd Reading
March 12, 2010

Transparent (SMART) Government Act".

Section 2 of the bill requires the joint budget committee (JBC) to consider for recommendation to the general assembly any report approved by the office of state planning and budgeting from a department that suggests improved budgetary efficiency or administrative flexibility through line item consolidation in the annual general appropriation act. Section 2 also requires the JBC to prioritize requests for information in preparing any letter to the governor after passage of the annual general appropriation act.

Section 3 of the bill repeals and reenacts provisions requiring departmental presentations to legislative committees of reference (committees). The new provisions mainly make changes to the part of the law that specifies what the presentations must include and, in addition, implement a new performance-based budgeting program to work in cooperation with the committees.

The new performance-based budgeting program includes the following:

- ! For the state budget process for the state fiscal year 2012-13, and the state budget process for each fiscal year thereafter, each principal department of the executive branch and the judicial branch of state government (department) must develop a strategic plan.
- ! Like the existing law, each department must make a presentation to the assigned committees. The bill also requires that:
 - ! During the legislative session commencing January 2011, the presentation must at least include a presentation regarding the department's progress toward creating a strategic plan.
 - ! During the legislative session commencing January 2012, and during each legislative session thereafter, the presentation must at least include a presentation of the department's strategic plan, a review of the department's performance-based goals and performance measures, and a report on the actual outcomes.
- ! During the legislative session commencing January 2012, and during each legislative session thereafter, each committee must assign 2 members, one from each party, as liaisons with their assigned departments regarding the performance-based budgeting process. During the same sessions, the chair of the JBC must also assign one member of the JBC to serve as a liaison to work with the committee liaisons.
- ! Within 30 days after the department presentation, each

committee must provide any written recommendations to the department and to the office of state planning and budgeting. Each department may implement the recommendations in the following state fiscal year's strategic plan. If recommendations were not implemented, the department shall provide the committee a written explanation no later than the fifth day of the legislative session of that fiscal year.

- ! Prior to the legislative session commencing in January 2013, the state auditor must conduct a performance audit of one or more specific programs or services in at least 2 departments and must continue to conduct performance audits of one or more specific programs or services in at least 2 departments annually to audit all departments in a 10-year cycle. Performance audits of the programs or services selected for audit may include, but are not limited to, a review of the integrity of the performance measures audited, the accuracy and validity of reported results, and the overall cost and effectiveness of the audited programs or services in achieving legislative intent and the department's performance-based goals. After presenting the performance audit to the legislative audit committee and obtaining permission for the report to be released, the state auditor must present the audit report to the appropriate committee within the first 15 days of the legislative session. The state auditor must also present any other audit reports that he or she deems relevant for the committee of reference's review.
- ! During the legislative session commencing January 2012, and during each legislative session thereafter, each committee must consider the department's strategic plan, its presentation of the plan, and any performance audit and must report to the JBC its recommendations for priorities or any changes. The recommendations made by the committee are limited to the department's November 1 budget request for the upcoming state fiscal year. The JBC may take the committee's recommendations into account in preparing the annual general appropriation act. The JBC must report back to the committees its reasoning for following or not following the committee's recommendations.
- ! Starting December 1, 2012, and each December 1 thereafter, the office of state planning and budgeting must publish an annual performance report. The annual performance report is a summary of each department's

strategic plan. The report must be clearly written and easily understood, and limited in length. The report must be distributed to the members of the general assembly to assist members in making decisions related to the annual general appropriation act.

Sections 4 and 5 of the bill make adjustments to the duties of the legislative audit committee and the state auditor, respectively, to accommodate the requirements set forth in the bill.

Sections 6 and 7 of the bill make conforming amendments.

Section 8 of the bill requires the director of the office of state planning and budgeting to require that all state agency budget submissions be distributed in an electronic format.

Section 9 of the bill deals with intradepartmental transfers between appropriations. Limits for such types of transfers have not been adjusted since 1994. Section 9 increases the statewide limit from \$2 million to \$5 million but does not change any other parts of the structured approval process or change limits for specific agencies. Section 9 also eliminates the prohibition from departments using the intradepartmental transfer authority to:

- ! Transfer dollars from a nonpersonal services line item (such as operating) into a personal services line item;
- ! Transfer dollars between personal services line items; and
- ! Transfer dollars from an operating line into a utilities line or lease space line, or between utility line items.

Section 10 of the bill deals with the controller's authority to allow, upon approval of the governor, a department to make an expenditure in excess of the amount authorized in an appropriation. Current law limits such excess expenditures to \$1 million. Section 10 increases that amount to \$3 million.

Section 11 of the bill repeals the statutory section requiring the implementation of a zero-base budgeting system for the state.

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

2 **SECTION 1. Short title.** This act shall be known and may be
3 cited as the "State Measurement for Accountable, Responsive, and
4 Transparent (SMART) Government Act".

5 **SECTION 2.** 2-3-203, Colorado Revised Statutes, is amended BY
6 THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to
7 read:

1 (c) DEPARTMENTS SHOULD BE HELD ACCOUNTABLE FOR THE
2 PROGRAMS AND SERVICES THEY DELIVER IN ACCORDANCE WITH CLEARLY
3 DEFINED PERFORMANCE-BASED GOALS;

4 (d) PERFORMANCE-BASED BUDGETING SHOULD ENCOURAGE
5 DEPARTMENTS, WHERE APPROPRIATE, TO DETERMINE WHETHER THEIR
6 PROGRAMS AND SERVICES:

7 (I) REDUCE CHILD AND FAMILY POVERTY;

8 (II) BUILD THE ASSETS AND FINANCIAL SECURITY OF THE STATE'S
9 RESIDENTS;

10 (III) INCREASE PRESCHOOL THROUGH POSTSECONDARY
11 EDUCATIONAL OPPORTUNITIES;

12 (IV) EXPAND THE STATE'S WORK FORCE WITH QUALITY JOBS THAT
13 MEET PRIVATE SECTOR NEEDS;

14 (V) ALLOW FOR COOPERATION WITH COMMUNITY-BASED
15 ORGANIZATIONS WHERE APPROPRIATE;

16 (VI) ESTABLISH FAIR, SUSTAINABLE, AND TARGETED TAX POLICIES;
17 AND

18 (VII) ADDRESS WORK SUPPORT ISSUES FOR THE STATE'S RESIDENTS
19 SUCH AS CHILD CARE, HOUSING, UTILITIES, HEALTH, AND FOOD SECURITY.

20 (e) IN THE PROCESS OF PERFORMANCE-BASED BUDGETING, THE
21 HEAD OF EACH PRINCIPAL DEPARTMENT SHOULD INCLUDE IN THE
22 DEPARTMENT'S STRATEGIC PLAN A THOUGHTFUL CONSIDERATION OF ALL
23 MAJOR FUNCTIONS OF STATE GOVERNMENT MANAGED BY EACH PRINCIPAL
24 DEPARTMENT IN AN EFFORT TO PROPERLY PRIORITIZE SUCH MAJOR
25 FUNCTIONS.

26 (f) PERFORMANCE MEASURES FOR EVALUATING
27 PERFORMANCE-BASED GOALS SHOULD BE INTEGRATED INTO THE STATE

1 PLANNING AND BUDGETING PROCESS;

2 (g) PERFORMANCE-BASED GOALS, PERFORMANCE MEASURES, AND
3 PERFORMANCE EVALUATION METHODOLOGY SHOULD BE DEVELOPED WITH
4 THE INPUT OF THE GENERAL ASSEMBLY, EMPLOYEES OF DEPARTMENTS,
5 AND ANY CERTIFIED EMPLOYEE ORGANIZATIONS;

6 (h) PERFORMANCE-BASED BUDGETING WILL BE MORE USEFUL AND
7 RELIABLE FOR THE GENERAL ASSEMBLY AND THE PUBLIC IF PERFORMANCE
8 AUDITS OF THE DEPARTMENTS ARE COMPLETED; AND

9 (i) DEPARTMENTS NEED STATUTORY AUTHORITY AND FLEXIBILITY
10 TO USE THEIR RESOURCES IN THE BEST POSSIBLE WAY TO BETTER SERVE
11 THE PEOPLE OF COLORADO THROUGH THE EFFECTIVE ADMINISTRATION
12 AND DELIVERY OF GOVERNMENTAL PROGRAMS AND SERVICES.

13 **2-7-202. Definitions.** AS USED IN THIS PART 2, UNLESS THE
14 CONTEXT OTHERWISE REQUIRES:

15 (1) "COMMITTEE OF REFERENCE" MEANS THE HOUSE OR SENATE
16 COMMITTEE OF REFERENCE THAT IS ASSIGNED TO REVIEW THE PRIMARY
17 FUNCTIONS AND RESPONSIBILITIES OF A DEPARTMENT AS SPECIFIED IN
18 SECTION 2-7-203.

19 (2) "DEPARTMENT" MEANS THE JUDICIAL BRANCH AND THE
20 PRINCIPAL DEPARTMENTS OF THE EXECUTIVE BRANCH OF STATE
21 GOVERNMENT AS SPECIFIED IN SECTION 24-1-110, C.R.S., INCLUDING ANY
22 DIVISION, OFFICE, AGENCY, OR OTHER UNIT CREATED WITHIN A PRINCIPAL
23 DEPARTMENT.

24 (3) "JOINT BUDGET COMMITTEE" MEANS THE JOINT BUDGET
25 COMMITTEE ESTABLISHED IN SECTION 2-3-201.

26 (4) "LEGISLATIVE AUDIT COMMITTEE" MEANS THE LEGISLATIVE
27 AUDIT COMMITTEE CREATED IN SECTION 2-3-101 (1).

1 (5) "OFFICE OF STATE PLANNING AND BUDGETING" MEANS THE
2 OFFICE OF STATE PLANNING AND BUDGETING CREATED IN SECTION
3 24-37-102, C.R.S.

4 (6) "PERFORMANCE-BASED GOAL" MEANS A BROAD
5 POLICY-ORIENTED GOAL THAT INDICATES TO THE PUBLIC AND MEMBERS OF
6 THE GENERAL ASSEMBLY THE INTENDED PURPOSE OF A DEPARTMENT AND
7 ITS PROGRAMS AND SERVICES, WITH SECONDARY GOALS OF REALIZING
8 COST SAVINGS TO THE STATE AND SAVING TAXPAYERS' MONEY. A
9 "PERFORMANCE-BASED GOAL" SHOULD LEAD TO INCREASED EFFICIENCY
10 AND SUSTAINABILITY AND SHOULD ALLOW FOR LONG-RANGE PLANNING,
11 INCLUDING COLLABORATION AMONG THE VARIOUS DEPARTMENTS. A
12 "PERFORMANCE-BASED GOAL" SHOULD RECOGNIZE PREVENTIVE EFFORTS
13 THAT RESULT IN LONG-TERM COST-EFFECTIVENESS AND SHOULD
14 ENCOURAGE INVESTMENT IN EFFECTIVE STRATEGIES THAT LEAD TO
15 POSITIVE AND MEASURABLE OUTCOMES.

16 (7) "PERFORMANCE EVALUATION" MEANS AN ANNUAL REVIEW OF
17 A DEPARTMENT'S OUTCOMES AS COMPARED TO ITS BENCHMARKS STATED
18 IN ITS PERFORMANCE MEASURES. THE PERFORMANCE EVALUATION SHALL
19 BE CONDUCTED BY THE DEPARTMENT.

20 (8) "PERFORMANCE MEASURE" MEANS A QUANTITATIVE OR
21 QUALITATIVE INDICATOR USED TO ASSESS A DEPARTMENT'S PROGRESS
22 TOWARD PERFORMANCE-BASED GOALS USING BENCHMARKS WITHIN THE
23 DEPARTMENT. PERFORMANCE MEASURES SHOULD BE REASONABLY
24 UNDERSTANDABLE TO THE PUBLIC AND DEVELOPED WITH THE INPUT OF
25 DEPARTMENT EMPLOYEES AND ANY CERTIFIED EMPLOYEE
26 ORGANIZATIONS. A PERFORMANCE MEASURE SHALL BE INDEXED TO A
27 BASELINE AND SHALL SPECIFY THE PERIOD OVER WHICH SUCCESSFUL

1 PERFORMANCE SHALL BE MEASURED. FOR PURPOSES OF THIS SUBSECTION
2 (8), "BASELINE" MEANS EITHER THE FIRST YEAR OF PERFORMANCE
3 MEASURES RECORDED IN A DEPARTMENT'S STRATEGIC PLAN FOR THE
4 2010-11 STATE FISCAL YEAR THAT WAS SUBMITTED TO THE GENERAL
5 ASSEMBLY IN NOVEMBER 2009 OR THE FIRST YEAR NEW PERFORMANCE
6 MEASURES ARE RECORDED SUBSEQUENT TO THE 2010-11 STATE FISCAL
7 YEAR.

8 (9) "STATE AUDITOR" MEANS THE STATE AUDITOR DESCRIBED IN
9 SECTION 2-3-102.

10 (10) (a) "STRATEGIC PLAN" MEANS A DOCUMENT PREPARED BY A
11 DEPARTMENT THAT SHOWS THE IMPACT OF MANAGEMENT STRATEGIES AND
12 FUNDING AND LINKS FUNDING IN THE DEPARTMENT'S BUDGET TO THE
13 RESULTS OF THAT FUNDING. THE STRATEGIC PLAN SERVES AS AN
14 OVERARCHING GUIDE TO A DEPARTMENT'S CORE FUNCTIONS AND AS A
15 TOOL TO EVALUATE PERFORMANCE-BASED GOALS OVER TIME.

16 (b) A STRATEGIC PLAN SHALL INCLUDE THE FOLLOWING
17 COMPONENTS, WHICH MAY BE FURTHER DEFINED BY THE OFFICE OF STATE
18 PLANNING AND BUDGETING IN INSTRUCTIONS IT SHALL ANNUALLY
19 PUBLISH:

20 (I) THE DEPARTMENT'S FIVE-YEAR MISSION OR VISION;

21 (II) PERFORMANCE-BASED GOALS THAT CORRESPOND TO THE
22 DEPARTMENT'S MISSION OR VISION;

23 (III) PERFORMANCE MEASURES THAT CORRESPOND TO THE
24 PERFORMANCE-BASED GOALS;

25 (IV) STRATEGIES TO MEET THE PERFORMANCE-BASED GOALS; AND

26 (V) A PERFORMANCE EVALUATION.

27 **2-7-203. Departmental presentations to legislative committees**

1 **of reference.** (1) THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND
2 THE PRESIDENT OF THE SENATE SHALL ASSIGN EACH DEPARTMENT TO A
3 HOUSE AND SENATE COMMITTEE OF REFERENCE FOR THEIR RESPECTIVE
4 HOUSES. IN MAKING THE ASSIGNMENTS, THE SPEAKER AND THE PRESIDENT
5 SHALL ENSURE THAT THE PRIMARY FUNCTIONS AND RESPONSIBILITIES OF
6 THE DEPARTMENT ARE WITHIN THE SUBJECT MATTER JURISDICTION OF THE
7 COMMITTEES OF REFERENCE TO WHICH IT IS ASSIGNED.

8 (2) (a) (I) EACH COMMITTEE OF REFERENCE SHALL CONDUCT
9 HEARINGS DURING THE FIRST FIFTEEN DAYS OF EACH LEGISLATIVE
10 SESSION, DURING WHICH HEARINGS THE COMMITTEE SHALL HEAR A
11 PRESENTATION FROM EACH DEPARTMENT THAT IS ASSIGNED TO SUCH
12 COMMITTEE PURSUANT TO SUBSECTION (1) OF THIS SECTION AND SHALL
13 ALLOW TIME FOR PUBLIC TESTIMONY REGARDING EACH SUCH DEPARTMENT
14 PRESENTATION.

15 (II) (A) FOR THE FIRST REGULAR SESSION OF THE SIXTY-EIGHTH
16 GENERAL ASSEMBLY, EACH HEARING SHALL INCLUDE A PRESENTATION BY
17 THE EXECUTIVE DIRECTOR OF EACH DEPARTMENT, OR THE EXECUTIVE
18 DIRECTOR'S DESIGNEE, REGARDING THE DEPARTMENT'S PROGRESS TOWARD
19 CREATING A STRATEGIC PLAN REQUIRED PURSUANT TO SECTION 2-7-204
20 (1) (a).

21 (B) COMMENCING WITH THE SECOND REGULAR SESSION OF THE
22 SIXTY-EIGHTH GENERAL ASSEMBLY AND DURING EACH REGULAR SESSION
23 THEREAFTER, EACH HEARING SHALL INCLUDE A PRESENTATION BY THE
24 EXECUTIVE DIRECTOR OF EACH DEPARTMENT, OR THE EXECUTIVE
25 DIRECTOR'S DESIGNEE, OF THE DEPARTMENT'S STRATEGIC PLAN REQUIRED
26 PURSUANT TO SECTION 2-7-204 (1) (a), A REVIEW OF THE DEPARTMENT'S
27 PERFORMANCE-BASED GOALS AND PERFORMANCE MEASURES, AND A

1 REPORT ON THE ACTUAL OUTCOMES WITH AN EXPLANATION OF ANY
2 PARTICULAR SUCCESSES OR FAILURES.

3 (III) (A) COMMENCING WITH THE SECOND REGULAR SESSION OF
4 THE SIXTY-EIGHTH GENERAL ASSEMBLY, AND DURING EACH REGULAR
5 SESSION THEREAFTER, THE CHAIR OF EACH COMMITTEE OF REFERENCE
6 SHALL ASSIGN TWO MEMBERS OF THE COMMITTEE, ONE FROM EACH MAJOR
7 POLITICAL PARTY, TO SERVE AS LIAISONS WITH THE DEPARTMENTS
8 ASSIGNED TO THEIR COMMITTEE OF REFERENCE REGARDING THE
9 PERFORMANCE-BASED BUDGETING PROCESS, FOR THE PURPOSE OF
10 TRACKING PERFORMANCE-BASED GOALS, PERFORMANCE MEASURES, AND
11 PERFORMANCE EVALUATIONS.

12 (B) COMMENCING WITH THE SECOND REGULAR SESSION OF THE
13 SIXTY-EIGHTH GENERAL ASSEMBLY, AND DURING EACH REGULAR SESSION
14 THEREAFTER, THE CHAIR OF THE JOINT BUDGET COMMITTEE SHALL ASSIGN
15 ONE MEMBER OF THE JOINT BUDGET COMMITTEE TO SERVE AS A LIAISON
16 FOR EACH DEPARTMENT. THE JOINT BUDGET COMMITTEE LIAISON SHALL
17 WORK WITH THE LIAISONS ASSIGNED PURSUANT TO SUB-SUBPARAGRAPH
18 (A) OF THIS SUBPARAGRAPH (III) TO INFORM THE COMMITTEE OF
19 REFERENCE REGARDING THE DEPARTMENT'S PROGRESS.

20 (C) THE EXECUTIVE DIRECTOR OF EACH DEPARTMENT, OR THE
21 EXECUTIVE DIRECTOR'S DESIGNEE, AND ANY APPROPRIATE STAFF OF THE
22 DEPARTMENT SHALL WORK WITH THE LIAISONS AS NECESSARY.

23 (b) THE HEARINGS MAY BE HELD JOINTLY BY THE HOUSE AND
24 SENATE COMMITTEES OF REFERENCE. A DEPARTMENT MAY MAKE THE
25 PRESENTATION REQUIRED BY THIS SUBSECTION (2) IN CONJUNCTION WITH
26 ANY HEARING OR OTHER GENERAL PRESENTATION THAT THE DEPARTMENT
27 MAKES BY THE FIFTEENTH LEGISLATIVE DAY TO THE SAME COMMITTEE OF

1 REFERENCE PURSUANT TO LAW OR LEGISLATIVE RULE.

2 (c) ALL LOCAL GOVERNMENT ENTITIES ARE ENCOURAGED TO
3 ATTEND THE HEARINGS DESCRIBED IN THIS SUBSECTION (2) TO PROVIDE
4 TESTIMONY OR TO SUBMIT AN OFFICIAL POSITION LETTER TO THE
5 COMMITTEES OF REFERENCE REGARDING ANY LOCAL IMPACT OF A
6 DEPARTMENT'S STRATEGIC PLAN DEVELOPED PURSUANT TO SECTION
7 2-7-204 (1) (a).

8 (d) PRIOR TO THE COMMENCEMENT OF THE SECOND REGULAR
9 SESSION OF THE SIXTY-EIGHTH GENERAL ASSEMBLY AND PRIOR TO THE
10 COMMENCEMENT OF EACH LEGISLATIVE SESSION THEREAFTER, EACH
11 COMMITTEE OF REFERENCE MAY HOLD MEETINGS OUTSIDE OF THE DENVER
12 METRO AREA TO HEAR PUBLIC TESTIMONY REGARDING LEGISLATIVE
13 PRIORITIES AND THE DEPARTMENT'S STRATEGIC PLAN REQUIRED PURSUANT
14 TO SECTION 2-7-204 (1) (a).

15 **2-7-204. Performance-based budgeting - program description.**

16 (1) (a) COMMENCING WITH THE STATE BUDGET PROCESS FOR THE STATE
17 FISCAL YEAR 2012-13, AND THE STATE BUDGET PROCESS FOR EACH STATE
18 FISCAL YEAR THEREAFTER, EACH DEPARTMENT SHALL DEVELOP A
19 STRATEGIC PLAN.

20 (b) EACH DEPARTMENT'S STRATEGIC PLAN SHALL BE POSTED ON
21 THE OFFICIAL WEB SITES OF THE DEPARTMENT AND THE OFFICE OF STATE
22 PLANNING AND BUDGETING. THE STATE TREASURER, THE ATTORNEY
23 GENERAL, THE SECRETARY OF STATE, AND THE STATE COURT
24 ADMINISTRATOR FOR THE JUDICIAL BRANCH SHALL ENSURE THE OFFICE OF
25 STATE PLANNING AND BUDGETING RECEIVES THE INFORMATION REQUIRED
26 TO BE POSTED ON THE OFFICE OF STATE PLANNING AND BUDGETING'S
27 WEBSITE PURSUANT TO THIS PARAGRAPH (b). THE OFFICE OF STATE

1 PLANNING AND BUDGETING SHALL NOT HAVE ACCESS TO EDIT ANY
2 INFORMATION PROVIDED BY THE STATE TREASURER, THE ATTORNEY
3 GENERAL, THE SECRETARY OF STATE, OR THE STATE COURT
4 ADMINISTRATOR FOR THE JUDICIAL BRANCH.

5 (2) EACH DEPARTMENT SHALL PRESENT ITS STRATEGIC PLAN TO
6 THE ASSIGNED COMMITTEES OF REFERENCE AS SPECIFIED IN SECTION
7 2-7-203 (2).

8 (3) (a) (I) FOR EACH DEPARTMENT EXCEPT THE DEPARTMENT OF
9 STATE, THE DEPARTMENT OF THE TREASURY, THE DEPARTMENT OF LAW,
10 AND THE JUDICIAL BRANCH, WITHIN THIRTY DAYS AFTER THE
11 PRESENTATION SPECIFIED IN SECTION 2-7-203 (2) (a) (II) (B), EACH
12 COMMITTEE OF REFERENCE SHALL PROVIDE TO THE DEPARTMENT ANY
13 WRITTEN RECOMMENDATIONS REGARDING THE STRATEGIC PLAN,
14 PERFORMANCE-BASED GOALS, AND PERFORMANCE MEASURES PRESENTED
15 BY THE DEPARTMENT AND SHALL PROVIDE A COPY OF THE WRITTEN
16 RECOMMENDATIONS TO THE OFFICE OF STATE PLANNING AND BUDGETING.

17 (II) FOR THE DEPARTMENTS OF STATE, TREASURY, AND LAW, AND
18 FOR THE JUDICIAL BRANCH, WITHIN THIRTY DAYS AFTER THE
19 PRESENTATION SPECIFIED IN SECTION 2-7-203 (2) (a) (II) (B), EACH
20 COMMITTEE OF REFERENCE SHALL PROVIDE TO THE SECRETARY OF STATE,
21 STATE TREASURER, ATTORNEY GENERAL, AND THE STATE COURT
22 ADMINISTRATOR, RESPECTIVELY, ANY WRITTEN RECOMMENDATIONS
23 REGARDING THE STRATEGIC PLAN, PERFORMANCE-BASED GOALS, AND
24 PERFORMANCE MEASURES PRESENTED BY SUCH DEPARTMENT OR BRANCH.

25 (b) EACH DEPARTMENT MAY IMPLEMENT THE RECOMMENDATIONS,
26 IF ANY, IN THE FOLLOWING STATE FISCAL YEAR'S STRATEGIC PLAN. IF ANY
27 RECOMMENDATIONS WERE NOT IMPLEMENTED, THE DEPARTMENT SHALL

1 PROVIDE A WRITTEN EXPLANATION NO LATER THAN THE FIFTH DAY OF THE
2 LEGISLATIVE SESSION OF THAT FISCAL YEAR.

3 (4) (a) PRIOR TO THE FIRST REGULAR SESSION OF THE SIXTY-NINTH
4 GENERAL ASSEMBLY, THE STATE AUDITOR SHALL, WITHIN EXISTING
5 RESOURCES, CONDUCT OR CAUSE TO BE CONDUCTED PERFORMANCE
6 AUDITS OF ONE OR MORE SPECIFIC PROGRAMS OR SERVICES IN AT LEAST
7 TWO DEPARTMENTS, AND SHALL CONTINUE TO CONDUCT OR CAUSE TO BE
8 CONDUCTED PERFORMANCE AUDITS OF ONE OR MORE SPECIFIC PROGRAMS
9 OR SERVICES IN AT LEAST TWO DEPARTMENTS ANNUALLY THEREAFTER SO
10 AS TO AUDIT ALL DEPARTMENTS IN A NINE-YEAR CYCLE.

11 (b) IN SELECTING BOTH DEPARTMENTS AND SPECIFIC PROGRAMS OR
12 SERVICES WITHIN THOSE DEPARTMENTS FOR PERFORMANCE AUDITS, THE
13 STATE AUDITOR SHALL CONSIDER RISK, AUDIT COVERAGE, RESOURCES
14 REQUIRED TO CONDUCT THE PERFORMANCE AUDITS, AND THE IMPACT OF
15 THE AUDITED PROGRAMS OR SERVICES ON A DEPARTMENT'S
16 PERFORMANCE-BASED GOALS.

17 (c) PERFORMANCE AUDITS OF THE PROGRAMS OR SERVICES
18 SELECTED FOR AUDIT MAY INCLUDE, BUT SHALL NOT BE LIMITED TO, THE
19 REVIEW OF THE FOLLOWING:

- 20 (I) THE INTEGRITY OF THE PERFORMANCE MEASURES AUDITED;
- 21 (II) THE ACCURACY AND VALIDITY OF REPORTED RESULTS; AND
- 22 (III) THE OVERALL COST AND EFFECTIVENESS OF THE AUDITED
23 PROGRAMS OR SERVICES IN ACHIEVING LEGISLATIVE INTENT AND THE
24 DEPARTMENTS' PERFORMANCE-BASED GOALS.

25 (d) THE STATE AUDITOR SHALL PRESENT THE PERFORMANCE AUDIT
26 REPORT TO THE LEGISLATIVE AUDIT COMMITTEE.

27 (e) AFTER THE PERFORMANCE AUDIT REPORT IS RELEASED BY THE

1 LEGISLATIVE AUDIT COMMITTEE, THE STATE AUDITOR SHALL PRESENT THE
2 PERFORMANCE AUDIT REPORT OF THOSE DEPARTMENTS WITH SERVICES OR
3 PROGRAMS AUDITED IN THE PREVIOUS YEAR TO THE APPROPRIATE
4 COMMITTEES OF REFERENCE WITHIN THE FIRST FIFTEEN DAYS OF THE
5 LEGISLATIVE SESSION. THE STATE AUDITOR SHALL ALSO PRESENT ANY
6 OTHER AUDIT REPORTS THAT HE OR SHE DEEMS RELEVANT FOR THE
7 COMMITTEE OF REFERENCE'S REVIEW. THE STATE AUDITOR'S
8 PRESENTATION MAY OCCUR AT THE SAME TIME THAT THE APPLICABLE
9 DEPARTMENT PRESENTS ITS STRATEGIC PLAN TO THE COMMITTEE OF
10 REFERENCE AS SPECIFIED IN SECTION 2-7-203 (2) (a) (II) (B).

11 (f) THE OFFICE OF THE STATE AUDITOR SHALL ENSURE THAT NONE
12 OF THE COSTS OF THE AUDITS DESCRIBED IN THIS SUBSECTION (4) SHALL BE
13 BORNE BY THE DEPARTMENTS.

14 (5) (a) (I) COMMENCING WITH THE SECOND REGULAR SESSION OF
15 THE SIXTY-EIGHTH GENERAL ASSEMBLY, AND DURING EACH REGULAR
16 SESSION THEREAFTER, EACH COMMITTEE OF REFERENCE SHALL CONSIDER
17 THE STRATEGIC PLAN PREPARED BY EACH ASSIGNED DEPARTMENT, THE
18 PRESENTATION OF THE STRATEGIC PLAN AS SPECIFIED IN SUBSECTION (2)
19 OF THIS SECTION, ANY PUBLIC TESTIMONY REGARDING DEPARTMENT
20 PRESENTATIONS HEARD AS SPECIFIED IN SECTION 2-7-203 (2) (a), ANY
21 LOCAL IMPACT OF A DEPARTMENT'S STRATEGIC PLAN AS PRESENTED OR
22 SUBMITTED BY ANY LOCAL GOVERNMENT ENTITY AS SPECIFIED IN SECTION
23 2-7-203 (2) (c), ANY PUBLIC TESTIMONY THE COMMITTEES OF REFERENCE
24 MAY HAVE RECEIVED AS A RESULT OF ANY MEETINGS HELD BY THE
25 COMMITTEES OF REFERENCE OUTSIDE OF THE DENVER METRO AREA AS
26 ALLOWED IN SECTION 2-7-203 (2) (d), AND ANY PERFORMANCE AUDIT OF
27 A DEPARTMENT PERFORMED PURSUANT TO SUBSECTION (4) OF THIS

1 SECTION AND MAY REPORT TO THE JOINT BUDGET COMMITTEE AS
2 SPECIFIED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (a) ITS
3 RECOMMENDED PRIORITIES FOR EACH DEPARTMENT OR ANY
4 RECOMMENDED CHANGES SUBJECT TO THE LIMIT SPECIFIED IN PARAGRAPH
5 (b) OF THIS SUBSECTION (5).

6 (II) AFTER THE COMPLETION OF A DEPARTMENT'S PRESENTATION
7 OF ITS STRATEGIC PLAN AND THE PRESENTATION OF THE STATE AUDITOR'S
8 PERFORMANCE AUDIT REPORT TO THE COMMITTEE OF REFERENCE, BUT NO
9 LATER THAN THE TWENTY-FIFTH DAY OF THE LEGISLATIVE SESSION, THE
10 COMMITTEE OF REFERENCE SHALL HOLD A JOINT HEARING WITH THE JOINT
11 BUDGET COMMITTEE. THE JOINT HEARING MAY INCLUDE A PRESENTATION
12 BY THE COMMITTEE OF REFERENCE OF ANY RECOMMENDATIONS
13 DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (a). THE JOINT
14 BUDGET COMMITTEE MAY TAKE THE COMMITTEE OF REFERENCE
15 RECOMMENDATIONS INTO ACCOUNT IN PREPARING THE ANNUAL GENERAL
16 APPROPRIATION ACT. THE JOINT BUDGET COMMITTEE SHALL REPORT BACK
17 TO THE COMMITTEES OF REFERENCE EITHER THROUGH A PRESENTATION OR
18 IN WRITING ITS REASONING FOR FOLLOWING OR NOT FOLLOWING THE
19 COMMITTEE OF REFERENCE'S RECOMMENDATIONS DESCRIBED IN
20 SUBPARAGRAPH (I) OF THIS PARAGRAPH (a).

21 (b) THE AMOUNT OF ANY COMMITTEE OF REFERENCE
22 RECOMMENDATION FOR A DEPARTMENT SHALL NOT EXCEED THE AMOUNT
23 OF THE DEPARTMENT'S NOVEMBER 1 REQUEST FOR THE UPCOMING STATE
24 FISCAL YEAR.

25 **2-7-205. Annual performance report.** (1) (a) ON DECEMBER 1,
26 2012, AND EACH DECEMBER 1 THEREAFTER, THE OFFICE OF STATE
27 PLANNING AND BUDGETING SHALL PUBLISH AN ANNUAL PERFORMANCE

1 REPORT FOR EACH DEPARTMENT EXCEPT THE DEPARTMENT OF STATE, THE
2 DEPARTMENT OF THE TREASURY, THE DEPARTMENT OF LAW, AND THE
3 JUDICIAL BRANCH. THE ANNUAL PERFORMANCE REPORT SHALL INCLUDE
4 A SUMMARY OF EACH DEPARTMENT'S STRATEGIC PLAN. THE ANNUAL
5 PERFORMANCE REPORT SHALL BE CLEARLY WRITTEN AND EASILY
6 UNDERSTOOD AND SHALL BE LIMITED TO A MAXIMUM OF FOUR PAGES PER
7 DEPARTMENT.

8 (b) ON DECEMBER 1, 2012, AND EACH DECEMBER 1 THEREAFTER,
9 THE DEPARTMENT OF STATE, THE DEPARTMENT OF THE TREASURY, THE
10 DEPARTMENT OF LAW, AND THE JUDICIAL BRANCH SHALL EACH PUBLISH
11 AN ANNUAL PERFORMANCE REPORT INCLUDING A SUMMARY OF ITS
12 STRATEGIC PLAN. THE ANNUAL PERFORMANCE REPORTS SHALL BE
13 CLEARLY WRITTEN AND EASILY UNDERSTOOD AND SHALL EACH BE LIMITED
14 TO A MAXIMUM OF FOUR PAGES.

15 (2) (a) THE ANNUAL PERFORMANCE REPORTS SHALL BE POSTED ON
16 THE OFFICIAL WEB SITES OF THE STATE OF COLORADO AND THE OFFICE OF
17 THE GOVERNOR. THE ANNUAL PERFORMANCE REPORTS SHALL INCLUDE A
18 HYPERLINK TO EACH DEPARTMENT'S STRATEGIC PLAN POSTED ON THE
19 OFFICIAL WEB SITE OF EACH DEPARTMENT PURSUANT TO SECTION 2-7-204
20 (1) (b).

21 (b) THE ANNUAL PERFORMANCE REPORTS SHALL BE DISTRIBUTED
22 TO ALL MEMBERS OF THE GENERAL ASSEMBLY PURSUANT TO SECTION
23 24-1-136 (9), C.R.S., FOR MEMBERS TO USE TO MAKE DECISIONS RELATED
24 TO THE ANNUAL GENERAL APPROPRIATION ACT.

25 **SECTION 4.** 2-3-101 (3), Colorado Revised Statutes, is amended
26 BY THE ADDITION OF A NEW PARAGRAPH to read:

27 **2-3-101. Legislative audit committee - membership - meetings**

1 **- powers and duties.** (3) It is the function of the committee:

2 (h) TO REVIEW THE ACTIVITIES AND REPORTS OF THE STATE
3 AUDITOR RELATED TO PERFORMANCE AUDITS HE OR SHE IS REQUIRED TO
4 CONDUCT OR CAUSE TO BE CONDUCTED PURSUANT TO SECTION 2-3-103
5 (9).

6 **SECTION 5.** 2-3-103, Colorado Revised Statutes, is amended BY
7 THE ADDITION OF A NEW SUBSECTION to read:

8 **2-3-103. Duties of state auditor.** (9) IT IS THE DUTY OF THE
9 STATE AUDITOR TO CONDUCT OR CAUSE TO BE CONDUCTED PERFORMANCE
10 AUDITS AS SPECIFIED IN SECTION 2-7-204 (4).

11 **SECTION 6.** 24-34-101 (13), Colorado Revised Statutes, is
12 amended to read:

13 **24-34-101. Department created - executive director.** (13) The
14 executive director shall include in the presentation to the legislative
15 committee of reference pursuant to ~~section 2-7-201~~ SECTION 2-7-203,
16 C.R.S., the number of confidential letters of concern issued in the twelve
17 months prior to the presentation by the director of the division of
18 registrations and any board pursuant to title 12, C.R.S.

19 **SECTION 7.** 24-37-103 (1) (d), Colorado Revised Statutes, is
20 amended to read:

21 **24-37-103. Director - duties.** (1) The director shall:

22 (d) ~~Assist state agencies in complying with, and the joint budget~~
23 ~~committee in administering, the provisions of section 2-3-207, C.R.S.,~~
24 ~~concerning a zero-base budgeting program review~~ PUBLISH AN ANNUAL
25 PERFORMANCE REPORT AS SPECIFIED IN SECTION 2-7-205, C.R.S.;

26 **SECTION 8.** 24-37-302, Colorado Revised Statutes, is amended
27 BY THE ADDITION OF A NEW SUBSECTION to read:

1 **24-37-302. Responsibilities of the office of state planning and**

2 **budgeting.** (3) (a) NOTWITHSTANDING ANY OTHER PROVISION OF LAW
3 TO THE CONTRARY, THE DIRECTOR OF THE OFFICE OF STATE PLANNING AND
4 BUDGETING SHALL REQUIRE THAT ALL STATE AGENCY BUDGET
5 SUBMISSIONS BE DISTRIBUTED IN AN ELECTRONIC FORMAT EITHER BY
6 DELIVERY OF A COMPACT DISC OR BY THE SENDING OF AN ELECTRONIC
7 NOTIFICATION THAT INCLUDES AN ATTACHED BUDGET SUBMISSION OR A
8 HYPERLINK TO THE WEB SITE WHERE THE BUDGET SUBMISSION IS POSTED.

9 (b) THE DEPARTMENT OF STATE, THE DEPARTMENT OF THE
10 TREASURY, THE DEPARTMENT OF LAW, AND THE JUDICIAL BRANCH SHALL
11 USE THE STATE AGENCY BUDGET SUBMISSIONS DESCRIBED IN PARAGRAPH
12 (a) OF THIS SUBSECTION (3) AS A GUIDELINE FOR THE SUBMISSION OF THEIR
13 BUDGETS TO THE JOINT BUDGET COMMITTEE.

14 **SECTION 9.** 24-37.5-105, Colorado Revised Statutes, is
15 amended BY THE ADDITION OF A NEW SUBSECTION to read:

16 **24-37.5-105. Office - responsibilities - rules.** (10) (a) BY
17 NOVEMBER 1, 2010, THE OFFICE SHALL CONDUCT A FEASIBILITY AND
18 REQUIREMENTS STUDY TO DETERMINE THE COST TO BUILD AN ELECTRONIC
19 BUDGETING SYSTEM FOR THE STATE.

20 (b) THE ELECTRONIC BUDGETING SYSTEM SHOULD, AT MINIMUM:

21 (I) ALLOW ACCESS BY THE PRINCIPAL DEPARTMENTS OF THE
22 EXECUTIVE BRANCH OF STATE GOVERNMENT, AS SPECIFIED IN SECTION
23 24-1-110, THE JUDICIAL AND LEGISLATIVE BRANCH AGENCIES, THE OFFICE
24 OF STATE PLANNING AND BUDGETING, AND THE JOINT BUDGET COMMITTEE
25 STAFF;

26 (II) ALLOW FOR THE CONFIDENTIAL DEVELOPMENT OF THE
27 GOVERNOR'S ANNUAL BUDGET REQUEST AND THE ANNUAL BUDGET

1 REQUESTS OF THE JUDICIAL AND LEGISLATIVE BRANCH AGENCIES;

2 (III) ALLOW FOR THE CONFIDENTIAL ELECTRONIC COMMUNICATION

3 OF BUDGET REQUESTS FROM EACH PRINCIPAL DEPARTMENT OF THE

4 EXECUTIVE BRANCH OF STATE GOVERNMENT TO THE OFFICE OF STATE

5 PLANNING AND BUDGETING;

6 (IV) ALLOW FOR THE ELECTRONIC COMMUNICATION OF THE

7 GOVERNOR'S ANNUAL BUDGET REQUEST AND THE ANNUAL BUDGET

8 REQUESTS OF THE JUDICIAL AND LEGISLATIVE BRANCH AGENCIES TO THE

9 JOINT BUDGET COMMITTEE STAFF;

10 (V) ALLOW THE OFFICE OF STATE PLANNING AND BUDGETING TO

11 CONFIDENTIALLY EDIT AND FINALIZE THE BUDGET REQUESTS OF THE

12 PRINCIPAL DEPARTMENTS OF THE EXECUTIVE BRANCH OF STATE

13 GOVERNMENT;

14 (VI) ALLOW THE JOINT BUDGET COMMITTEE STAFF TO VIEW THE

15 FINAL VERSION OF THE GOVERNOR'S ANNUAL BUDGET REQUESTS AND THE

16 BUDGET REQUESTS OF THE JUDICIAL AND LEGISLATIVE BRANCH AGENCIES;

17 (VII) INCLUDE SECURITY FEATURES THAT LOCK CERTAIN USERS

18 FROM ACCESSING THE SYSTEM AT CERTAIN POINTS DURING THE BUDGET

19 PREPARATION CYCLE;

20 (VIII) ALLOW THE JOINT BUDGET COMMITTEE STAFF TO USE THE

21 SYSTEM TO TRACK SUPPLEMENTAL APPROPRIATION BILLS, THE ANNUAL

22 GENERAL APPROPRIATION ACT, AND ANY SUBSTANTIVE BUDGET

23 LEGISLATION BEING CONSIDERED BY THE GENERAL ASSEMBLY; AND

24 (IX) ALLOW THE OFFICE OF STATE PLANNING AND BUDGETING TO

25 USE THE SYSTEM TO TRACK SUPPLEMENTAL APPROPRIATION BILLS, THE

26 ANNUAL GENERAL APPROPRIATION ACT, AND ANY SUBSTANTIVE BUDGET

27 LEGISLATION BEING CONSIDERED FOR SIGNATURE BY THE GOVERNOR.

1 (c) THE FEASIBILITY AND REQUIREMENTS STUDY SHOULD ALSO
2 ASSESS THE COST AND FEASIBILITY TO IMPLEMENT THE FOLLOWING
3 POTENTIAL SYSTEM COMPONENTS:

4 (I) A WEB-BASED INTERFACE THAT WILL ALLOW THE PRINCIPAL
5 DEPARTMENTS OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT TO
6 UPLOAD AND SUBMIT BUDGET DOCUMENTS AND REQUESTS TO THE OFFICE
7 OF STATE PLANNING AND BUDGETING;

8 (II) A WEB-BASED INTERFACE THAT WILL ALLOW THE JUDICIAL
9 AND LEGISLATIVE BRANCH AGENCIES TO UPLOAD AND SUBMIT BUDGET
10 DOCUMENTS AND REQUESTS TO THE JOINT BUDGET COMMITTEE STAFF;

11 (III) THE ABILITY TO PRODUCE A DRAFT AND FINAL ANNUAL
12 GENERAL APPROPRIATION ACT BY THE JOINT BUDGET COMMITTEE STAFF;

13 (IV) COMPATIBILITY WITH THE JOINT BUDGET COMMITTEE'S
14 CURRENT BUDGET PREPARATION SYSTEM; AND

15 (V) POTENTIAL INCORPORATION OF OR INTERACTION WITH OTHER
16 STATE HUMAN RESOURCES AND FINANCIAL SYSTEMS FOR DATA
17 COLLECTION AND TRACKING, INCLUDING BUT NOT LIMITED TO THE
18 COLORADO FINANCIAL REPORTING SYSTEM.

19 (d) THE OFFICE SHALL PROVIDE A COPY OF ITS FEASIBILITY AND
20 REQUIREMENTS STUDY TO THE JOINT BUDGET COMMITTEE NO LATER THAN
21 NOVEMBER 15, 2010. THE OFFICE SHALL MAKE A REQUEST FOR FUNDING
22 TO THE JOINT BUDGET COMMITTEE, IF NECESSARY, BY NOVEMBER 1, 2010.

23 **SECTION 10.** 24-75-108 (2) (a), (2) (b), (3) (a), (8), and (11),
24 Colorado Revised Statutes, are amended to read:

25 **24-75-108. Intradepartmental transfers between**
26 **appropriations - repeal.** (2) None of the following transfers shall be
27 deemed to be between like purposes within the meaning of subsection (1)

1 of this section:

2 (a) ~~Transfers from a nonpersonal services item into a personal~~
3 ~~services item; except that transfers from a nonpersonal services item into~~
4 ~~a personal services item shall be allowed for temporary personal services~~
5 ~~as provided in section 24-50-110 (1) (c);~~

6 (b) ~~Transfers from one program's personal services item to another~~
7 ~~program's personal services item;~~

8 (3) (a) ~~Transfers within a principal department from an operating~~
9 ~~expense item to a utilities item, from an operating expense item to a~~
10 ~~leased space item, or from a utilities item to a utilities item, which are~~
11 ~~made on or after May 1 and before the forty-fifth day after the close of~~
12 ~~each fiscal year, shall be deemed to be between like purposes within the~~
13 ~~meaning of subsection (1) of this section.~~

14 (8) The total amount of moneys transferred between items of
15 appropriation made to principal departments of state government and to
16 the office of the governor pursuant to this section, other than transfers
17 within a principal department from an operating expense item to a utilities
18 item, from a utilities item to an operating expense item pursuant to
19 paragraph (b) of subsection (3) of this section, or from a utilities item to
20 a utilities item, shall not exceed ~~two~~ FIVE million dollars.

21 (11) This section is repealed, effective ~~September 1, 2014~~
22 SEPTEMBER 1, 2020.

23 **SECTION 11.** 24-75-109 (1) (c), Colorado Revised Statutes, is
24 amended to read:

25 **24-75-109. Controller may allow expenditures in excess of**
26 **appropriations - limitations - appropriations for subsequent fiscal**
27 **year restricted - repeal.** (1) For the purpose of closing the state's books,

1 and subject to the provisions of this section, the controller may, on or
2 after May 1 of any fiscal year and before the forty-fifth day after the close
3 thereof, upon approval of the governor, allow any department, institution,
4 or agency of the state, including any institution of higher education, to
5 make an expenditure in excess of the amount authorized by an item of
6 appropriation for such fiscal year if:

7 (c) The overexpenditure is for any purpose of a department,
8 institution, or agency of the executive branch other than the department
9 of human services, but the total of all overexpenditures allowed pursuant
10 to this paragraph (c) shall not exceed ~~one~~ THREE million dollars in any
11 fiscal year; or

12 **SECTION 12. Repeal.** 2-3-207, Colorado Revised Statutes, is
13 repealed.

14 **SECTION 13. Federal funds.** The general assembly anticipates
15 that, for the fiscal year beginning July 1, 2010, the office of the governor,
16 for allocation to the office of information technology, will receive the
17 sum of sixty-five thousand dollars (\$65,000) in federal funds for the
18 implementation of this act. Although these funds are not appropriated in
19 this act, they are noted for the purpose of indicating the assumptions used
20 relative to these funds.

21 **SECTION 14. Act subject to petition - effective date.** This act
22 shall take effect at 12:01 a.m. on the day following the expiration of the
23 ninety-day period after final adjournment of the general assembly (August
24 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a
25 referendum petition is filed pursuant to section 1 (3) of article V of the
26 state constitution against this act or an item, section, or part of this act
27 within such period, then the act, item, section, or part shall not take effect

1 unless approved by the people at the general election to be held in
2 November 2010 and shall take effect on the date of the official
3 declaration of the vote thereon by the governor.