

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 10-0336.01 Julie Pelegrin

SENATE BILL 10-003

SENATE SPONSORSHIP

Morse, Heath

HOUSE SPONSORSHIP

Ferrandino, Court, Gerou

Senate Committees
Education

House Committees

A BILL FOR AN ACT

101 CONCERNING HIGHER EDUCATION FLEXIBILITY.

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>.)

Long-term Fiscal Stability Commission. Section 1. The bill directs the council for a common course number system (council), in conjunction with the state institutions of higher education (institutions) and the guaranteed transfer program, to develop articulation agreements for 5 degree programs before January 1, 2011. After completion of the first 5 articulation agreements, the council will develop additional articulation agreements.

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.

Section 2. Under current law, each institution must ensure that no less than two-thirds of the students enrolled at each campus of the institution are in-state students. The bill applies the two-thirds in-state student requirement to the institution as a whole rather than each campus. Under current law, foreign students are included as out-of-state students for purposes of calculating the ratio between in-state and out-of-state students. The bill exempts institutions that meet certain criteria from the requirement that they include foreign students in the calculations for in-state and out-of-state students.

Sections 3 and 4. Where, under current law, the department of higher education sets financial aid eligibility requirements, the bill gives institutions that authority. The bill removes the requirement that an institution that is an enterprise dedicate a percentage of its revenues to need-based financial aid if the institution increases tuition.

Sections 5-7. Where institutions are currently subject to the state fiscal rules, the bill allows the institutions to adopt their own rules.

Section 8. Where institutions are currently subject to information technology rules promulgated by the state chief information security officer, the bill allows the institutions to adopt their own rules.

Section 9. Where institutions are required to provide various state entities with financial data, the bill permits an institution to provide only audited financial statements in those cases.

Sections 10-14. Under current law, institutions must submit capital construction projects to the Colorado commission on higher education (CCHE) for approval and comply with other statutory provisions regarding capital construction projects. The bill allows the institutions to notify CCHE and the capital development committee of its projects.

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

2 **SECTION 1.** 23-1-108.5 (3), Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

4 **23-1-108.5. Duties and powers of the commission with regard**
5 **to common course numbering system - repeal.** (3) (d.5) (I) (A) ON OR
6 BEFORE JANUARY 1, 2011, THE COUNCIL SHALL DEVELOP STATEWIDE
7 ARTICULATION AGREEMENTS FOR AT LEAST FIVE COMMON DEGREE
8 PROGRAMS AMONG THE STATE'S TWO-YEAR AND FOUR-YEAR HIGHER
9 EDUCATION INSTITUTIONS. THE COUNCIL SHALL WORK WITH ALL OF THE

1 HIGHER EDUCATION INSTITUTIONS AND THE GUARANTEED TRANSFER
2 PROGRAM IN THE DEPARTMENT OF HIGHER EDUCATION TO DEVELOP THE
3 ARTICULATION AGREEMENTS.

4 (B) THE ARTICULATION AGREEMENTS SHALL GUARANTEE THAT A
5 STUDENT WHO RECEIVES AN ASSOCIATE'S DEGREE FROM A TWO-YEAR
6 HIGHER EDUCATION INSTITUTION IN A DEGREE PROGRAM WITH AN
7 ARTICULATION AGREEMENT MAY ENROLL WITH JUNIOR STATUS AT A
8 FOUR-YEAR HIGHER EDUCATION INSTITUTION IN A DEGREE PROGRAM WITH
9 SAID ARTICULATION AGREEMENT. THE ARTICULATION AGREEMENT SHALL
10 PERMIT A FOUR-YEAR HIGHER EDUCATION INSTITUTION TO REQUIRE
11 ADDITIONAL LOWER-DIVISION DEGREE PREPARATION COURSES AFTER THE
12 TRANSFER, IF NECESSARY, IN THE DEGREE PROGRAM WITH THE
13 ARTICULATION AGREEMENT WITHOUT EXTENDING THE TIME TO
14 GRADUATION COMPARED TO STUDENTS WHO ENROLLED IN THE DEGREE
15 PROGRAM AS FRESHMEN AT THE FOUR-YEAR INSTITUTION.

16 (C) THE ARTICULATION AGREEMENTS SHALL NOT GUARANTEE AN
17 INDIVIDUAL WHO RECEIVES AN ASSOCIATE'S DEGREE FROM A TWO-YEAR
18 HIGHER EDUCATION INSTITUTION ADMISSION TO A FOUR-YEAR HIGHER
19 EDUCATION INSTITUTION. THE ARTICULATION AGREEMENTS SHALL NOT
20 PRECLUDE A TWO-YEAR HIGHER EDUCATION INSTITUTION FROM OFFERING
21 DEGREE PROGRAMS THAT ARE NOT SUBJECT TO THE TRANSFER PROVISIONS
22 OF THIS SECTION.

23 (II) THE COUNCIL, WITH THE STATE INSTITUTIONS OF HIGHER
24 EDUCATION AND THE GUARANTEED TRANSFER PROGRAM IN THE
25 DEPARTMENT OF HIGHER EDUCATION, SHALL CONTINUE TO DEVELOP
26 ARTICULATION AGREEMENTS FOR PROGRAMS AFTER COMPLETING THE
27 NUMBER OF ARTICULATION DEGREE PROGRAMS SPECIFIED IN

1 SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (d.5).

2 (III) EACH OF THE TWO-YEAR HIGHER EDUCATION INSTITUTIONS
3 AND FOUR-YEAR HIGHER EDUCATION INSTITUTIONS THAT OFFER THE
4 DEGREE PROGRAMS THAT ARE THE SUBJECT OF THE ARTICULATION
5 AGREEMENTS SHALL OFFER EACH OF THE COURSES NECESSARY FOR THE
6 DEGREE REQUIREMENTS AT ITS PARTICULAR DEGREE LEVEL.

7 **SECTION 2.** 23-1-113.5 (1), Colorado Revised Statutes, is
8 amended, and the said 23-1-113.5 is further amended BY THE
9 ADDITION OF A NEW SUBSECTION, to read:

10 **23-1-113.5. Commission directive - resident admissions.** (1) It
11 is the intent of the general assembly that all state-supported institutions
12 of higher education operate primarily to serve and educate the people of
13 Colorado. The general assembly therefore directs the commission to
14 develop admission policies to ensure that, beginning with the fall term of
15 1994 and for the fall term of each year thereafter, not less than fifty-five
16 percent of the incoming freshman class at each state-supported institution
17 of higher education are in-state students as defined in section 23-7-102
18 (5). Commencing with the fall term of 1995, this requirement shall be
19 met if the percentage of in-state students in the incoming freshman class
20 for the then-current fall term and the two previous fall terms averages not
21 less than fifty-five percent. Such fifty-five percent requirement shall also
22 apply to the percentage of incoming freshmen students who are admitted
23 based on criteria other than standardized test scores, high school class
24 rank, and high school grade point average pursuant to section 23-1-113
25 (1) (b). In addition, the commission shall develop admission policies to
26 ensure, beginning with the fiscal year ~~which~~ THAT begins July 1, 1994,
27 and for each fiscal year thereafter, that not less than two-thirds of the total

1 student enrollment, including undergraduate and graduate students, at
2 ~~each campus of~~ each state-supported institution of higher education,
3 except the Colorado school of mines, are in-state students as defined in
4 section 23-7-102 (5) and that not less than sixty percent of the total
5 student enrollment, including undergraduate and graduate students, at the
6 Colorado school of mines are in-state students as defined in section
7 23-7-102 (5). This requirement shall be met if, commencing with the
8 fiscal year that begins July 1, 1995, the fraction of in-state students, as
9 defined in section 23-7-102 (5), enrolled at each state-supported
10 institution of higher education, except the Colorado school of mines,
11 averages not less than two-thirds of the total fiscal year student
12 enrollment for the then-current fiscal year plus the two previous fiscal
13 years. For the Colorado school of mines, this fraction of in-state students
14 shall be not less than three-fifths. Such policies shall be implemented no
15 later than July 1, 1994.

16 (4) SO LONG AS A STATE-SUPPORTED INSTITUTION OF HIGHER
17 EDUCATION CONTINUES TO ADMIT ALL IN-STATE, FIRST-TIME FRESHMAN
18 APPLICANTS THAT MEET PUBLISHED GUARANTEED ADMISSIONS CRITERIA,
19 OR, FOR COLORADO SCHOOL OF MINES, SO LONG AS IT CONTINUES TO
20 ABIDE BY THE PROVISION SET FORTH IN SECTION 23-41-104.6 (6) (b), THE
21 CALCULATIONS IN SUBSECTION (1) OF THIS SECTION REGARDING THE
22 PERCENTAGE OF STUDENTS WHO ARE IN-STATE STUDENTS AT A
23 STATE-SUPPORTED INSTITUTION OF HIGHER EDUCATION SHALL EXCLUDE
24 FOREIGN STUDENTS. FOR PURPOSES OF THIS SUBSECTION (4), "FOREIGN
25 STUDENT" MEANS A STUDENT WHO IS COUNTED AS FOREIGN AND PRESENT
26 IN THE UNITED STATES ON A NONIMMIGRANT VISA.

27 **SECTION 3.** 23-3.3-102 (2) and (3), the introductory portion to

1 23-3.3-102 (3.5), and 23-3.3-102 (4), Colorado Revised Statutes, are
2 amended to read:

3 **23-3.3-102. Assistance program authorized - procedure -**
4 **audits.** (2) The commission shall determine, by guideline, the
5 institutions eligible for participation in the program AND SHALL
6 ANNUALLY DETERMINE THE AMOUNT ALLOCATED TO EACH INSTITUTION.

7 (3) ~~The commission~~ EACH STATE INSTITUTION shall administer ~~the~~
8 A FINANCIAL ASSISTANCE program ~~with the assistance of institutions~~
9 according to policies and procedures established by the ~~commission~~
10 GOVERNING BOARD OF THE INSTITUTION. EACH PARTICIPATING
11 NONPUBLIC INSTITUTION SHALL ADMINISTER A FINANCIAL ASSISTANCE
12 PROGRAM ACCORDING TO POLICIES AND PROCEDURES ESTABLISHED BY THE
13 COMMISSION. EACH INSTITUTION SHALL FUND ITS ASSISTANCE PROGRAM
14 USING STATE MONEYS ALLOCATED TO THE INSTITUTION AND
15 INSTITUTIONAL MONEYS.

16 (3.5) Notwithstanding any provision of this article to the contrary,
17 ~~the commission~~ EACH PARTICIPATING INSTITUTION shall adopt policies
18 and procedures to allow a person who meets the following criteria to
19 qualify for financial assistance through the financial assistance programs
20 established pursuant to this article:

21 (4) Program disbursements shall be handled by the institution
22 subject to audit and review. ~~except that each nonpublic institution of~~
23 ~~higher education which receives additional financial assistance pursuant~~
24 ~~to this section, due to the change in the determination of need pursuant to~~
25 ~~subsection (6) of this section, shall allocate such financial assistance on~~
26 ~~the basis of need. The change in the determination of need pursuant to~~
27 ~~said subsection (6) shall in no way reduce the allocation by the Colorado~~

1 ~~commission on higher education of moneys for merit-based programs to~~
2 ~~nonpublic institutions of higher education.~~

3 **SECTION 4. Repeal.** 23-18-202 (3) (c), Colorado Revised
4 Statutes, is repealed as follows:

5 **23-18-202. College opportunity fund - appropriations -**
6 **payment of stipends - reimbursement.** (3) (c) ~~If an institution of~~
7 ~~higher education is designated as an enterprise pursuant to section~~
8 ~~23-5-101.7, the institution shall annually allocate at least twenty percent~~
9 ~~of any increase in undergraduate resident tuition revenues above inflation~~
10 ~~to need-based financial assistance.~~

11 **SECTION 5.** 23-20-111, Colorado Revised Statutes, is amended
12 to read:

13 **23-20-111. Supervisory powers of board.** The board of regents
14 has general supervision of the university and control and direction of all
15 funds of and appropriations to the university. ~~except that the controller~~
16 ~~shall have the authority to promulgate fiscal rules pursuant to section~~
17 ~~24-30-202, C.R.S., which shall be applicable to the university and its~~
18 ~~officers and employees.~~

19 **SECTION 6.** 24-30-202 (13) (b), Colorado Revised Statutes, is
20 amended to read:

21 **24-30-202. Procedures - vouchers and warrants - rules -**
22 **penalties.** (13) (b) It is the intent of the general assembly that fiscal rules
23 promulgated by the controller shall be applicable to any institution of
24 higher education; ~~notwithstanding any specific grant of authority to the~~
25 ~~governing board of such~~ EXCEPT THAT THE GOVERNING BOARD OF AN
26 institution of higher education THAT HAS ADOPTED FISCAL PROCEDURES
27 AND HAS DETERMINED THAT THE FISCAL PROCEDURES PROVIDE ADEQUATE

1 SAFEGUARDS FOR THE PROPER EXPENDITURE OF THE MONEYS OF THE
2 INSTITUTION MAY ELECT TO EXEMPT THE INSTITUTION FROM THE FISCAL
3 RULES PROMULGATED BY THE CONTROLLER PURSUANT TO THIS SECTION
4 AND SHALL NOT BE REQUIRED TO COMPLY WITH THE PROVISIONS OF THIS
5 SUBSECTION (13), SUBSECTION (1), (9), (20.1), (22), OR (26) OF THIS
6 SECTION, OR PARAGRAPH (b) OF SUBSECTION (5) OF THIS SECTION.

7 **SECTION 7.** 24-30-1102 (5), Colorado Revised Statutes, is
8 amended to read:

9 **24-30-1102. Definitions.** As used in this part 11, unless the
10 context otherwise requires:

11 (5) "State agency" means this state or any department, board,
12 bureau, commission, institution, or other agency of the state, ~~including~~
13 ~~institutions of higher education~~ but shall not include the state board of
14 stock commissioners, created pursuant to section 35-41-101, C.R.S., AND
15 SHALL NOT INCLUDE INSTITUTIONS OF HIGHER EDUCATION.

16 **SECTION 8.** 24-37.5-403 (2) (b), Colorado Revised Statutes, is
17 amended to read:

18 **24-37.5-403. Chief information security officer - duties and**
19 **responsibilities.** (2) The chief information security officer shall:

20 (b) (I) Promulgate rules pursuant to article 4 of this title
21 containing information security policies, standards, and guidelines for
22 such agencies on or before December 31, 2006.

23 (II) THE RULES PROMULGATED PURSUANT TO THIS PARAGRAPH (b)
24 SHALL NOT APPLY TO INSTITUTIONS OF HIGHER EDUCATION.

25 **SECTION 9.** Article 1 of title 23, Colorado Revised Statutes, is
26 amended BY THE ADDITION OF A NEW SECTION to read:

27 **23-1-129. Limitation on institution financial reporting.**

1 NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, AN
2 INSTITUTION OF HIGHER EDUCATION SHALL PROVIDE ONLY AUDITED
3 FINANCIAL STATEMENTS WHEN IT IS REQUIRED TO PROVIDE FINANCIAL
4 DATA REPORTING INFORMATION TO A STATE ENTITY.

5 **SECTION 10.** 23-1-106, Colorado Revised Statutes, is amended
6 to read:

7 **23-1-106. Duties and powers of the commission with respect**
8 **to capital construction and long-range planning.** ~~(1) Except as~~
9 ~~permitted by subsections (9) and (10) of this section, it is declared to be~~
10 ~~the policy of the general assembly not to authorize or to acquire sites or~~
11 ~~initiate any program or activity requiring capital construction for~~
12 ~~state-supported institutions of higher education unless approved by the~~
13 ~~commission.~~

14 ~~(2) The commission shall, after consultation with the appropriate~~
15 ~~governing boards of the state-supported institutions of higher education~~
16 ~~and the appropriate state administrative agencies, have authority to~~
17 ~~prescribe uniform policies, procedures, and standards of space utilization~~
18 ~~for the development and approval of capital construction programs by~~
19 ~~institutions.~~

20 ~~(3) The commission shall review and approve facility master plans~~
21 ~~for all state institutions of higher education on land owned or controlled~~
22 ~~by the state or an institution and capital construction program plans for~~
23 ~~projects other than those projects constructed pursuant to subsection (9)~~
24 ~~or (10) of this section. Except for those projects constructed pursuant to~~
25 ~~subsection (9) or (10) of this section, no capital construction shall~~
26 ~~commence except in accordance with an approved facility master plan~~
27 ~~and program plan.~~

1 ~~(4) The commission shall ensure conformity of facilities master~~
2 ~~planning with approved educational master plans and facility program~~
3 ~~plans with approved facilities master plans.~~

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

10 ~~(b) The commission may except from the requirements for~~
11 ~~program and physical planning any project that shall require less than two~~
12 ~~million dollars of state moneys.~~

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

23 ~~(b) The commission shall request annually from the governing~~
24 ~~board of each state institution of higher education a two-year projection~~
25 ~~of capital construction projects to be constructed pursuant to subsection~~
26 ~~(9) or (10) of this section and estimated to require total project~~
27 ~~expenditures exceeding two million dollars. The projection shall include~~

1 the estimated cost, the method of funding, and a schedule for project
2 completion for each project. An institution shall amend the projection
3 prior to commencing a project that is not included in the institution's most
4 recent projection.

5 (7)(a) The commission annually shall prepare a unified, five-year
6 capital improvements report of projects to be constructed, but not
7 including those projects constructed pursuant to subsection (9) or (10) of
8 this section, coordinated with education plans. The commission shall
9 transmit the report to the office of state planning and budgeting, the
10 governor, and the general assembly, consistent with the executive budget
11 timetable, together with a recommended priority of funding of capital
12 construction projects for the system of public higher education. The
13 commission shall annually transmit the recommended priority of funding
14 of capital construction projects to the capital development committee no
15 later than November 1 of each year.

16 (b) Except as provided in subsection (5) of this section, it is the
17 policy of the general assembly to appropriate funds only for projects
18 approved by the commission.

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

26 (H)(A) Commencing in the 2010 regular legislative session, and
27 in each regular legislative session thereafter, the commission shall submit

1 the two-year projections prepared by each state institution of higher
2 education for the 2010-11 and 2011-12 fiscal years, and for each two-year
3 period thereafter as applicable, to the office of state planning and
4 budgeting and the capital development committee. Beginning in the 2010
5 regular legislative session and in each regular legislative session
6 thereafter, the capital development committee shall conduct a hearing on
7 the projections and either approve the projections or return the projections
8 to the institution for modification. The commission and the office of state
9 planning and budgeting shall provide the capital development committee
10 with comments concerning each projection.

11 (B) A state institution of higher education may submit to the staff
12 of the capital development committee, the commission, and the office of
13 state planning and budgeting an amendment to its approved two-year
14 projection. The capital development committee shall conduct a hearing
15 on the amendment within thirty days after submission during a regular
16 legislative session of the general assembly or within forty-five days after
17 submission during any period that the general assembly is not in regular
18 legislative session. The capital development committee shall either
19 approve the projections or return the projections to the institution for
20 modification. The commission and the office of state planning and
21 budgeting shall provide the capital development committee with
22 comments concerning each amendment.

23 (8) Any acquisition of real property by a state-supported
24 institution of higher education that is conditional upon or requires
25 expenditures of state-controlled funds or federal funds shall be subject to
26 the approval of the commission, whether acquisition is by lease-purchase,
27 purchase, gift, or otherwise.

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

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

25 ~~(c) Each governing board shall ensure, consistent with its~~
26 ~~responsibilities as set forth in section 5 (2) of article VIII of the state~~
27 ~~constitution, that a capital construction project initiated pursuant to this~~

1 subsection (9) shall be in accordance with its institution's mission, be of
2 a size and scope to provide for the defined program needs, and be
3 designed in accordance with all applicable building codes and
4 accessibility standards.

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

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

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

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

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

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

12 ~~(10.5) (a) For any project commenced pursuant to subsection (9)~~
13 ~~or (10) of this section, if, after commencement of construction, the~~
14 ~~governing board of the institution receives an additional gift, grant, or~~
15 ~~donation for the project, the governing board may amend the project~~
16 ~~without the approval of the commission, the office of state planning and~~
17 ~~budgeting, the capital development committee, or the joint budget~~
18 ~~committee so long as the governing board notifies the commission, the~~
19 ~~office of state planning and budgeting, the capital development~~
20 ~~committee, and the joint budget committee in writing, explaining how the~~
21 ~~project has been amended and verifying the receipt of the additional gift,~~
22 ~~grant, or donation.~~

23 ~~(b) For any project commenced pursuant to subsection (9) or (10)~~
24 ~~of this section, the governing board may enhance the project in an amount~~
25 ~~not to exceed fifteen percent of the original estimate of the cost of the~~
26 ~~project without the approval of the commission, the office of state~~
27 ~~planning and budgeting, the capital development committee, or the joint~~

1 ~~budget committee so long as the governing board notifies the~~
2 ~~commission, the office of state planning and budgeting, the capital~~
3 ~~development committee, and the joint budget committee in writing,~~
4 ~~explaining how the project has been enhanced and the source of the~~
5 ~~moneys for the enhancement.~~

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

10 ~~(I) Was not subject to review by the commission pursuant to~~
11 ~~subsection (9) of this section;~~

12 ~~(II) Was approved pursuant to subsection (10) of this section;~~

13 ~~(III) Was estimated to require total expenditures of two million~~
14 ~~dollars or less; or~~

15 ~~(IV) Was amended or enhanced after commencement of~~
16 ~~construction pursuant to subsection (10.5) of this section.~~

17 ~~(b) The commission shall submit a compilation of the projects to~~
18 ~~the capital development committee on or before December 1 of each year.~~

19 ~~(12) Each institution shall submit to the commission a facility~~
20 ~~management plan or update required by section 24-30-1303.5 (3.5);~~
21 ~~C.R.S. The commission shall review the facility management plan or~~
22 ~~update and make recommendations regarding it to the department of~~
23 ~~personnel.~~

24 ~~(13) The provisions of this section shall not apply to any local~~
25 ~~junior college district that is not a part of the state system and not eligible~~
26 ~~to receive any state funds for capital construction pursuant to section~~
27 ~~23-71-202 (3). A STATE-SUPPORTED INSTITUTION OF HIGHER EDUCATION~~

1 SHALL NOTIFY THE COMMISSION AND THE CAPITAL DEVELOPMENT
2 COMMITTEE OF EACH OF ITS CAPITAL CONSTRUCTION PROJECTS.

3 **SECTION 11.** 24-37-304 (1) (c.3) (I), Colorado Revised Statutes,
4 is amended to read:

5 **24-37-304. Additional budgeting responsibilities.** (1) In
6 addition to the responsibilities enumerated in section 24-37-302, the
7 office of state planning and budgeting shall:

8 (c.3) (I) Except for projects ~~authorized pursuant~~ SUBJECT to
9 section 23-1-106, ~~(9) or (10)~~, C.R.S., ensure submission of all capital
10 construction and controlled maintenance requests and proposals for the
11 acquisition of capital assets by each state department, institution, and
12 agency to the capital development committee no later than September 1
13 of each year;

14 **SECTION 12. Repeal.** 24-30-1301 (13) (b) (I), Colorado
15 Revised Statutes, is repealed as follows:

16 **24-30-1301. Definitions.** As used in this part 13, unless the
17 context otherwise requires:

18 (13) "State-assisted facility" means a facility constructed, or a
19 major facility constructed or renovated, in whole or in part, with state
20 funds or with funds guaranteed or insured by a state agency; except that,
21 for purposes of section 24-30-1305 (9):

22 (b) "State-assisted facility" does not include:

23 (I) ~~A facility specified in section 23-1-106, (9), C.R.S.; or~~

24 **SECTION 13.** 24-30-1303 (5) (c), Colorado Revised Statutes, is
25 amended to read:

26 **24-30-1303. Department of personnel - responsibilities.**

27 (5) (c) ~~If the executive director determines that the governing board of~~

1 ~~a state institution of higher education has adopted procedures that~~
2 ~~adequately meet the safeguards set forth in the requirements of part 14 of~~
3 ~~this article and article 92 of this title, the executive director may exempt~~
4 ~~the institution from any of the procedural requirements of part 14 of this~~
5 ~~article and article 92 of this title in regard to a capital construction project~~
6 ~~to be constructed pursuant to the provisions of section 23-1-106 (9) or~~
7 ~~(10), C.R.S.; except that the selection of any contractor to perform~~
8 ~~professional services as defined in section 24-30-1402 (6) shall be made~~
9 ~~in accordance with the criteria set forth in section 24-30-1403 (2). A~~
10 PROJECT SUBJECT TO SECTION 23-1-106, C.R.S., SHALL BE EXEMPT FROM
11 THE PROCEDURAL REQUIREMENTS SET FORTH IN PART 14 OF THIS ARTICLE
12 AND ARTICLE 92 OF THIS TITLE.

13 **SECTION 14.** 24-75-303 (3), Colorado Revised Statutes, is
14 amended to read:

15 **24-75-303. Appropriation for capital construction.** (3) (a) A
16 capital construction project for a state-supported institution of higher
17 education that is estimated to require total expenditures exceeding two
18 million dollars may not be commenced unless:

19 (I) The project:

20 (A) Is to be constructed solely from cash funds held by the
21 institution;

22 (B) Is to be constructed in whole or in part using moneys subject
23 to the higher education revenue bond intercept program established
24 pursuant to section 23-5-139, C.R.S.; and

25 (C) ~~Has been approved by the Colorado commission on higher~~
26 ~~education pursuant to~~ COMPLIED WITH section 23-1-106, ~~(10)~~, C.R.S.; or

27 (II) (A) ~~The plan for the project was contained in the most recent~~

1 ~~unified, two-year capital improvements projection provided pursuant to~~
2 ~~section 23-1-106 (6) (b), C.R.S., as the projection may be amended from~~
3 ~~time to time;~~

4 (B) The project has been approved by the governing board of the
5 institution; and

6 (C) The project is to be constructed, operated, and maintained
7 solely from cash funds held by the institution, or the project is an
8 academic building and is to be constructed solely from cash funds held by
9 the institution, but may be operated or maintained using cash funds or
10 state moneys appropriated for such purposes, or both.

11 (b) This subsection (3) shall not apply to any capital construction
12 project of a state-supported institution of higher education that requires
13 an appropriation of state moneys from the capital construction fund
14 created in section 24-75-302 (1).

15 **SECTION 15. Act subject to petition - effective date.** This act
16 shall take effect at 12:01 a.m. on the day following the expiration of the
17 ninety-day period after final adjournment of the general assembly (August
18 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a
19 referendum petition is filed pursuant to section 1 (3) of article V of the
20 state constitution against this act or an item, section, or part of this act
21 within such period, then the act, item, section, or part shall not take effect
22 unless approved by the people at the general election to be held in
23 November 2010 and shall take effect on the date of the official
24 declaration of the vote thereon by the governor.