

**First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

ENGROSSED

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

LLS NO. 11-0266.01 Julie Pelegrin

SENATE BILL 11-052

SENATE SPONSORSHIP

Heath, Bacon, King K.

HOUSE SPONSORSHIP

Massey, Ferrandino

Senate Committees
Education

House Committees

A BILL FOR AN ACT

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

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>.)

The bill includes a legislative declaration concerning the areas of focus for the statewide system of higher education and the intent of the general assembly to provide rewards for institutions of higher education that make progress in these areas.

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.

SENATE
Amended 2nd Reading
April 29, 2011

The bill establishes 5 general goals for the statewide system of higher education and directs the Colorado commission on higher education (commission) to further articulate and specify the goals for each institutional tier in the system and for each state institution of higher education (institution). In each institution's memorandum of expectations, formerly referred to as a performance contract, the commission will specify clearly the expectations, goals, and benchmarks for each institution's contribution to meeting the statewide goals. The statewide goals and the specific articulation of those goals for each institution will replace the existing specified minimum contents of the performance contracts beginning in the 2012-13 academic year. A private institution of higher education that receives state moneys, whether through stipends or other student financial aid, will also enter into memorandums of expectations with the department.

The commission will regularly convene meetings of stakeholders to identify areas of priority for ensuring the success of the state. The meetings, at a minimum, must include representatives of the business and professional community; technological, environmental, and industrial interests; the arts community; higher education; elementary and secondary education; and the general assembly.

The commission and the department of higher education (department) will establish metrics and collect data from the institutions to measure their success in meeting their expectations and the success of the statewide system of higher education in meeting the goals. Each institution is required to provide the data in the form requested to allow the department to compare and longitudinally measure progress. The department will annually submit a report of the institutions' operations under the memorandums of expectations and of the metrics and compiled data to certain committees of the general assembly and make the report available on the department's web site.

Beginning with the 2013-14 budget-preparation process, the commission will submit to the joint budget committee recommendations for implementing a plan whereby, over the following 5 years, an increasing portion, eventually 25%, of the state funding for the statewide system of higher education will be allocated to governing boards based on their respective institutions' success in meeting expectations.

The commission, following adoption of the new state master plan for higher education and in collaboration with the governing boards, will examine the role and missions and graduate and research designations of each institution to clarify the organization and productivity of the statewide system of higher education. The commission will also review, in collaboration with the affected institutions, the operations of the Auraria higher education center to determine whether it continues to be effective in serving the needs of students in the Denver metropolitan area. The commission will recommend to the general assembly any appropriate

statutory changes in these areas.

The bill changes the term "performance contract" to "memorandum of expectations" and extends the existing performance contracts for the 2011-12 academic year. The bill repeals the provisions concerning the old performance contracts, effective July 1, 2012, and replaces them with new specifications for the memorandums of expectations based on the statewide goals.

The bill repeals the "Higher Education Quality Assurance Act". Sections 7 through 17 of the bill make conforming amendments.

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

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

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

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

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

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

20 (b) Each public institution of higher education should demonstrate

1 its successes in serving the people of the state in these focus areas,
2 demonstrate the level of efficiency and productivity with which it
3 provides these services, and publicly communicate these successes; and

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

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

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

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

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

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

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

9 **SECTION 2.** The introductory portion to 23-1-108 (1) and
10 23-1-108 (1.5) and (9), Colorado Revised Statutes, are amended, and the
11 said 23-1-108 is further amended BY THE ADDITION OF THE
12 FOLLOWING NEW SUBSECTIONS, to read:

13 **23-1-108. Duties and powers of the commission with regard to**
14 **systemwide planning.** (1) The commission shall develop and submit to
15 the governor and the general assembly a master plan for Colorado
16 postsecondary education. In developing the master plan, the commission
17 shall examine the statewide expectations and goals specified in section
18 23-13-104 and recommend that the general assembly amend the statewide
19 expectations and goals if necessary. Following amendment of the
20 statewide expectations and goals, the commission shall design the master
21 plan to assure achievement of the statewide expectations and goals in the
22 most timely, efficient, and effective manner. This plan shall recognize
23 the importance of private and proprietary institutions and the role and
24 relationship of elementary and secondary education in the state, though
25 their inclusion in the plan in no way implies control or state authority over
26 their operations. The commission, after consultation with the governing
27 boards of institutions and as a part of the master planning process, shall

1 have the authority to:

2 (1.5) (a) On or before ~~December 15, 2010~~ SEPTEMBER 1, 2012, the
3 commission shall develop and submit to the governor and the general
4 assembly a new master plan for Colorado postsecondary education. The
5 commission shall collaborate with the governing boards and chief
6 executive officers of the state institutions of higher education in
7 developing the master plan. In addition, the commission shall take into
8 account the final report of the higher education strategic planning steering
9 committee appointed by the governor. IN DRAFTING THE MASTER PLAN,
10 ADDRESSING THE ISSUES SPECIFIED IN PARAGRAPH (b) OF THIS SUBSECTION
11 (1.5), AND ESTABLISHING THE GOALS AS DESCRIBED IN PARAGRAPH (c) OF
12 THIS SUBSECTION (1.5) FOR THE STATE SYSTEM OF HIGHER EDUCATION,
13 THE COMMISSION SHALL ALSO TAKE INTO CONSIDERATION THE DATA
14 COLLECTED PURSUANT TO SUBSECTION (1.7) OF THIS SECTION.

15 (b) At a minimum, the commission shall address the following
16 issues in developing the master plan:

17 (I) The needs of the state with regard to the system of higher
18 education and the top priorities for the state system of higher education
19 in meeting those needs;

20 (II) Alignment of the state system of higher education with the
21 system of elementary and secondary education and increasing the rate at
22 which students who graduate from Colorado high schools enroll in and
23 complete postsecondary and career and technical education;

24 (III) Accessibility and affordability of the state system of higher
25 education, including consideration of methods to reduce the student debt
26 load and increase need-based financial aid funding;

27 (IV) Funding for the state system of higher education and

1 strategies for stabilizing and sustaining an adequate funding level;

2 (V) The role and mission of the state institutions of higher
3 education and the governance structure of the state system of higher
4 education; and

5 (VI) The role of two-year and four-year junior colleges and area
6 vocational schools in helping to address the workforce and economic
7 development needs of the state within the system of higher education;

8 AND

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

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

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

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

26 (H) (III) Ensuring the long term fiscal stability and affordability
27 of the state system of higher education and ensuring the efficient

1 allocation of available state resources to support institutions of higher
2 education while protecting the unique mission of each institution. The
3 allocation shall take into consideration, but need not be limited to, tuition
4 capacity, tuition rates relative to competitive institutions, the state
5 resources available to institutions, funding for high-cost programs, the
6 student and family incomes of students enrolled at institutions, enrollment
7 levels, geographic access to educational opportunities throughout the
8 state, and other issues deemed relevant by the commission.

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

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

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

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

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

22 ~~(c)~~ (d) (I) The commission shall ensure that the master plan
23 prepared pursuant to this subsection (1.5) specifically addresses providing
24 COORDINATED AND PROVEN programs that support and help ensure the
25 success of students who graduate from Colorado high schools and are
26 enrolling as first-time freshmen students and meet one or more of the
27 following criteria:

1 (A) The student's family is low-income and the student is likely
2 to incur significant student debt in attending an institution of higher
3 education;

4 (B) The student's parents did not attend postsecondary education
5 and may not have graduated from high school;

6 (C) The student is a member of an underrepresented population;
7 or

8 (D) The student has limited access to technologies to support
9 learning.

10 (II) Programs that may be addressed in the master plan include but
11 need not be limited to:

12 (A) Providing student support services including counseling or
13 tutoring;

14 (B) Implementing measures to reduce student debt by making
15 effective use of financial assistance and assisting in fee payments and
16 textbook costs; and

17 (C) Providing assistance in obtaining access to technology.

18 (d) (e) Prior to submitting the master plan to the governor and the
19 general assembly, the commission shall distribute a draft of the plan to the
20 governing boards for comment. Each governing board shall submit to the
21 commission its comments and any suggested revisions within fourteen
22 THIRTY days after receiving the draft plan. THE COMMISSION SHALL
23 DISCUSS AND CONSIDER ANY REVISIONS SUGGESTED BY THE GOVERNING
24 BOARDS TO THE DRAFT MASTER PLAN.

25 (e) (f) Beginning in the 2011-12 academic year The commission
26 shall ensure that the master plan is implemented through the performance
27 contracts authorized pursuant to section 23-5-129 SECTIONS 23-5-129 AND

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

9 (1.7) THE COMMISSION, WORKING WITH THE DEPARTMENT, THE
10 GOVERNING BOARDS, AND THE INSTITUTIONS OF HIGHER EDUCATION,
11 SHALL COLLECT DATA, INCLUDING BUT NOT LIMITED TO RESEARCH
12 CONDUCTED BY NATIONAL POLICY ORGANIZATIONS AND AGENCIES OR
13 INSTITUTIONS OF HIGHER EDUCATION IN OTHER STATES, AS NECESSARY TO
14 SUPPORT DEVELOPMENT AND IMPLEMENTATION OF THE MASTER PLAN
15 PURSUANT TO SUBSECTION (1.5) OF THIS SECTION AND TO USE IN
16 NEGOTIATING THE PERFORMANCE CONTRACTS PURSUANT TO SECTIONS
17 23-5-129 AND 23-41-104.6. _____ THE COMMISSION SHALL TAKE INTO
18 CONSIDERATION THE COSTS TO THE GOVERNING BOARDS OF COLLECTING
19 AND REPORTING ANY DATA THE COMMISSION MAY REQUEST FROM THE
20 GOVERNING BOARDS OR THE INSTITUTIONS OF HIGHER EDUCATION
21 PURSUANT TO THIS SUBSECTION (1.7).

22 (1.9) (a) (I) ON OR BEFORE DECEMBER 1, 2013, THE COMMISSION
23 SHALL CREATE A PERFORMANCE-BASED FUNDING PLAN TO APPROPRIATE
24 TO EACH GOVERNING BOARD, INCLUDING THE GOVERNING BOARDS FOR
25 THE JUNIOR COLLEGES AND AREA VOCATIONAL SCHOOLS, A PORTION OF
26 THE PERFORMANCE FUNDING AMOUNT FOR THE APPLICABLE STATE FISCAL
27 YEAR BASED ON THE SUCCESS DEMONSTRATED BY THE INSTITUTIONS

1 UNDER EACH GOVERNING BOARD'S CONTROL IN MEETING THE GOALS AND
2 EXPECTATIONS SPECIFIED IN THE INSTITUTIONS' RESPECTIVE PERFORMANCE
3 CONTRACTS.

4 (II) THE COMMISSION'S PERFORMANCE-BASED FUNDING PLAN
5 SHALL SPECIFICALLY ADDRESS THE MANNER IN WHICH THE APPROPRIATION
6 OF PERFORMANCE-BASED FUNDING WILL AFFECT THE COLLEGE
7 OPPORTUNITY FUND STIPENDS AUTHORIZED IN SECTION 23-18-202 AND
8 THE FEE-FOR-SERVICE CONTRACTS AUTHORIZED IN SECTIONS 23-1-109.7
9 AND 23-5-130.

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

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

24 (b) AFTER THE 2015-16 STATE FISCAL YEAR, IN EACH STATE
25 FISCAL YEAR IN WHICH THE GENERAL ASSEMBLY APPROPRIATES THE
26 RESTORED LEVEL OF GENERAL FUND APPROPRIATIONS FOR THE STATE
27 SYSTEM OF HIGHER EDUCATION, THE COMMISSION, BASED ON THE

1 PERFORMANCE-BASED FUNDING PLAN ADOPTED IN THE MASTER PLAN,
2 SHALL RECOMMEND TO THE JOINT BUDGET COMMITTEE THE PORTION OF
3 THE PERFORMANCE FUNDING AMOUNT TO BE APPROPRIATED TO EACH
4 GOVERNING BOARD, INCLUDING THE GOVERNING BOARDS FOR THE JUNIOR
5 COLLEGES AND THE AREA VOCATIONAL SCHOOLS, BASED ON THE
6 DEMONSTRATED PERFORMANCE OF THE INSTITUTIONS THAT ARE UNDER
7 THE GOVERNING BOARD'S CONTROL IN MEETING THE INSTITUTIONS' GOALS
8 AND EXPECTATIONS SPECIFIED IN THE INSTITUTIONS' RESPECTIVE
9 PERFORMANCE CONTRACTS.

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

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

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

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

24 (9) The state-supported institutions of higher education shall
25 provide the commission with such data as the commission deems
26 necessary upon its formal request, INCLUDING BUT NOT LIMITED TO ANY
27 DATA REQUESTED PURSUANT TO SUBSECTION (1.7) OF THIS SECTION. Data

1 for individual students or personnel shall not be divulged or made known
2 in any way by the director of the commission or by any commission
3 employee, except in accordance with judicial order or as otherwise
4 provided by law. Any person who violates this subsection (9) commits
5 a class 1 misdemeanor and shall be punished as provided in section
6 18-1.3-501, C.R.S. Such person shall, in addition thereto, be subject to
7 removal or dismissal from public service on grounds of malfeasance in
8 office.

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

13 **23-5-129. Governing boards - performance contract -**
14 **authorization - operations.** (1) As used in this section, unless the
15 context otherwise requires:

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

22 (2) (a) Beginning July 1, 2004, each governing board of a state
23 institution of higher education shall negotiate a performance contract with
24 the department of higher education that shall specify the performance
25 goals the institution shall achieve during the period that it operates under
26 the performance contract. A state institution of higher education's
27 compliance with the goals specified in the performance contract may be

1 in lieu of the requirements of article 1 of this title and the "Higher
2 Education Quality Assurance Act", article 13 of this title, for the period
3 of the performance contract.

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

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

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

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

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

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

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

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

16 **22-60.5-116.5. Education committees - evaluation of teacher**
17 **preparation programs - biennial joint meeting.** (1) (b) At the meeting,
18 the committees shall consider the reports on the review of approved
19 teacher preparation programs received from the Colorado commission on
20 higher education pursuant to section 23-1-121 (6), C.R.S. The
21 committees shall take testimony from representatives of the institutions
22 of higher education that provide the teacher preparation programs, the
23 state board of education, the Colorado commission on higher education,
24 and from any other interested persons. Based on the review of said
25 reports and any testimony received, the committees shall assess whether
26 the approved teacher preparation programs are adequately preparing
27 teacher candidates to meet the performance-based teacher licensure

1 standards adopted by rule of the state board of education pursuant to
2 section 22-2-109 (3). In addition, the committees shall assess whether
3 each approved teacher preparation program is being implemented in
4 accordance with the requirements of the "Higher Education Quality
5 Assurance Act", article 13 of title 23, C.R.S.

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

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

20 **23-1-107. Duties and powers of the commission with respect**
21 **to program approval, review, reduction, and discontinuance.**

22 (1) (b) An institution of higher education shall submit a proposal for a
23 new program to the department. Within a reasonable time after receipt of
24 a proposal for a new program, the department shall review and, consistent
25 with the institutional role and mission and the statewide expectations and
26 goals specified in section 23-13-104 23-1-108 AND FURTHER
27 ARTICULATED IN THE MASTER PLAN ADOPTED PURSUANT TO SECTION

1 23-1-108, make recommendations to the commission for appropriate
2 action on a proposal for a new program.

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

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

15 **23-1-121. Commission directive - approval of teacher**
16 **preparation programs.** (1) As used in this section, unless the context
17 otherwise requires:

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

25 (4) (b) Each program review conducted pursuant to paragraph (a)
26 of this subsection (4) shall ensure that the program meets the minimum
27 requirements adopted pursuant to subsections (2) and (3) of this section

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

14 **SECTION 9.** 23-41-104.6 (2), the introductory portion to
15 23-41-104.6 (3), and 23-41-104.6 (4) (b) and (4) (c), Colorado Revised
16 Statutes, are amended to read:

17 **23-41-104.6. Performance contract - authorization -**
18 **operations.** (2) For the reasons specified in subsection (1) of this section,
19 the general assembly hereby authorizes the Colorado school of mines to
20 operate pursuant to a performance contract, as described in this section,
21 with THE DEPARTMENT OF HIGHER EDUCATION AND the Colorado
22 commission on higher education. The Colorado school of mines shall
23 operate pursuant to a performance contract for the period specified in
24 subsection (4) of this section.

25 (3) Beginning July 1, 2001, for the contract in effect through June
26 30, 2011 NOVEMBER 30, 2012, and beginning July 1, 2010 DECEMBER 1,
27 2012, for the contract in effect through June 30, 2021 NOVEMBER 30,

1 2022, the board of trustees of the Colorado school of mines shall
2 negotiate a performance contract with the DEPARTMENT OF HIGHER
3 EDUCATION, SUBJECT TO APPROVAL BY THE Colorado commission on
4 higher education, that shall specify the performance goals that the
5 institution shall achieve during the period that it operates under the
6 performance contract. Compliance with the goals specified in the
7 performance contract shall be in lieu of compliance with the requirements
8 of the "Higher Education Quality Assurance Act", article 13 of this title,
9 and the Colorado school of mines shall therefore be exempt from the
10 requirements of said act while operating pursuant to the performance
11 contract. The specified goals shall be measurable and specific to the
12 Colorado school of mines' role and mission and shall include, at a
13 minimum, THE GOALS NEGOTIATED FOR THE INSTITUTION PURSUANT TO
14 SECTIONS 23-1-108 (1.5) (f) AND 23-5-129 AND the following issues:
15 (4) (b) As early as possible during the 2002 regular session and as
16 early as possible during the 2011 regular session 2012 REGULAR SESSION,
17 the Colorado commission on higher education shall present the finalized
18 performance contract for the applicable contract period at a joint session
19 of the education committees of the senate and the house of
20 representatives, or any successor committees, and the joint budget
21 committee of the general assembly. The members of the education
22 committees and the members of the joint budget committee shall review
23 the financial effect of the provisions of the contract with regard to
24 funding for the Colorado school of mines or funding for the statewide
25 system of higher education and may recommend changes to the terms of
26 the performance contract or renegotiation of the performance contract.
27 If a majority of the members of the education committees and the

1 members of the joint budget committee approve the terms of the
2 performance contract, the chairmen of the education committees, in
3 cooperation with the joint budget committee, shall sponsor a joint
4 resolution to recognize and approve the performance contract. The
5 performance contract shall be deemed approved upon final passage of
6 said joint resolution.

7 (c) The school of mines shall operate pursuant to the performance
8 contract that is approved by joint resolution passed during the 2002
9 regular session beginning on the date the performance contract is
10 approved and continuing through ~~June 30, 2011~~ NOVEMBER 30, 2012.
11 The school of mines shall operate pursuant to the performance contract
12 that is approved by joint resolution passed during the ~~2011 regular session~~
13 2012 REGULAR SESSION beginning on the date the performance contract
14 is approved DECEMBER 1, 2012, and continuing through ~~June 30, 2021~~
15 NOVEMBER 30, 2022.

16 **SECTION 10. Appropriation - adjustments in 2011 long bill.**

17 (1) For the implementation of this act, appropriations made in the annual
18 general appropriation act for the fiscal year beginning July 1, 2011, to the
19 department of higher education, shall be adjusted as follows:

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

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

1 recoveries.

2 **SECTION 11. Safety clause.** The general assembly hereby finds,

3 determines, and declares that this act is necessary for the immediate

4 preservation of the public peace, health, and safety.