

**NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.**

# An Act

SENATE BILL 17-297

BY SENATOR(S) Lambert, Lundberg, Moreno, Crowder, Kefalas, Martinez Humenik, Tate;  
also REPRESENTATIVE(S) Hamner, Young, Rankin, Buckner, Ginal, Kennedy, Mitsch Bush, Rosenthal.

CONCERNING REVISING HIGHER EDUCATION PERFORMANCE REQUIREMENTS.

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

**SECTION 1.** In Colorado Revised Statutes, **amend** 23-1-105.5 as follows:

**23-1-105.5. Duties and powers of the commission with respect to student fees - report on tuition and fees.** (1) (a) The commission shall adopt policies concerning the collection and use of student fees by the governing boards of the state institutions of higher education, as defined in section 23-5-119.5. The policies may address, but need not be limited to, the purposes for student fees categories of student fees, the distinctions between tuition revenue and student fee revenue, accounting for student fee revenue, student fee fund balances, the minimum level of student involvement in the processes for establishing, reviewing, changing the amount of, and discontinuing student fees, and student fees that apply to a student concurrently enrolled pursuant to article 35 of title 22. ~~C.R.S.~~ In

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

preparing the policies, the commission shall seek input from the governing boards, the state institutions of higher education, and the student representative to the advisory committee created pursuant to section 23-1-103 and representatives of the student governments at the state institutions of higher education.

(b) THE COMMISSION MAY WAIVE THE REQUIREMENTS OF THE POLICIES ADOPTED PURSUANT TO THIS SUBSECTION (1).

(2) (a) On or before January 15, ~~2012~~ 2018, and on or before January 15 each year thereafter, the department shall report to THE JOINT BUDGET COMMITTEE AND the education committees of the house of representatives and the senate, or any successor committees, concerning the governing boards' fee policies, and the collection and use of student fees, AND TUITION RATES.

(b) NOTWITHSTANDING THE PROVISIONS OF SECTION 24-1-136 (11)(a)(I) TO THE CONTRARY, THE REPORT REQUIRED PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION CONTINUES INDEFINITELY.

**SECTION 2.** In Colorado Revised Statutes, 23-1-106, **amend** (7)(b); and **add** (14) and (15) as follows:

**23-1-106. Duties and powers of the commission with respect to capital construction and long-range planning - legislative declaration - definitions.** (7) (b) Except as provided in ~~subsection (5)~~ SUBSECTIONS (5) AND (15) of this section, it is the policy of the general assembly to appropriate funds only for capital construction or capital renewal projects approved by the commission.

(14) WITH THE COMMISSION'S APPROVAL, BEGINNING JULY 1, 2017, A STATE INSTITUTION OF HIGHER EDUCATION IS NOT SUBJECT TO FACILITY MASTER PLAN APPROVAL DESCRIBED IN SUBSECTIONS (3) AND (4) OF THIS SECTION, SO LONG AS THE GOVERNING BOARD OF THE INSTITUTION APPROVES EACH PLAN, NOTIFIES THE COMMISSION OF ITS APPROVAL, AND MAKES THE PLAN AVAILABLE TO THE COMMISSION. SUCH INSTITUTION IS ALSO EXEMPT FROM THE PROVISIONS OF SUBSECTION (5) OF THIS SECTION FOR A PROJECT THE COST OF WHICH DOES NOT EXCEED TWO MILLION DOLLARS.

(15) WITH THE COMMISSION'S APPROVAL, BEGINNING JULY 1, 2017, AND NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (7)(b) OF THIS SECTION, A STATE INSTITUTION OF HIGHER EDUCATION IS NOT REQUIRED TO SUBMIT PROJECTS FOR FACILITIES TO THE COMMISSION FOR APPROVAL PURSUANT TO SUBSECTION (6)(b) OF THIS SECTION SO LONG AS THE INSTITUTION ANNUALLY SUBMITS A REPORT TO THE CAPITAL DEVELOPMENT COMMITTEE THAT IS SUBSTANTIALLY SIMILAR IN CONTENT TO THE REPORT CONCERNING CAPITAL CONSTRUCTION PROJECTS DESCRIBED IN SUBSECTION (6)(b) OF THIS SECTION.

**SECTION 3.** In Colorado Revised Statutes, 23-1-107, **amend** (1); and **add** (3.5) as follows:

**23-1-107. Duties and powers of the commission with respect to program approval, review, reduction, and discontinuance.** (1) ~~(a) The commission shall define what constitutes an academic or career and technical education program and shall establish criteria or guidelines that define programs and procedures for approval of new programs~~ A GOVERNING BOARD OF A STATE-SUPPORTED INSTITUTION OF HIGHER EDUCATION IS NOT REQUIRED TO SUBMIT A PROPOSAL TO OR OBTAIN APPROVAL FROM THE COMMISSION TO CREATE, MODIFY, OR DISCONTINUE ACADEMIC OR VOCATIONAL PROGRAMS OFFERED BY THE INSTITUTION, SO LONG AS THE CREATION, MODIFICATION, OR DISCONTINUANCE OF THE ACADEMIC OR VOCATIONAL PROGRAM IS CONSISTENT WITH THE INSTITUTION'S STATUTORY ROLE AND MISSION.

~~(b) An institution of higher education shall submit a proposal for a new program to the department. Within a reasonable time after receipt of a proposal for a new program, the department shall review and, consistent with the institutional role and mission and the statewide goals specified in section 23-1-108 and further articulated in the master plan adopted pursuant to section 23-1-108, make recommendations to the commission for appropriate action on a proposal for a new program.~~

~~(c) An institution of higher education shall not establish a new program without first notifying and receiving approval from the commission.~~

~~(d) The provisions of this subsection (1) shall not apply to an institution of higher education for which there is a performance contract in~~

~~effect with the commission as an exemplary institution of higher education pursuant to section 23-41-104.6 or an institution of higher education for which there is a performance contract in effect with the department pursuant to section 23-5-129.~~

(3.5) THE COMMISSION MAY WAIVE THE PROVISIONS OF SUBSECTIONS (2) AND (3) OF THIS SECTION.

**SECTION 4.** In Colorado Revised Statutes, 23-1-108, **amend** (1.5)(f), (1.7), and (3); and **add** (14) as follows:

**23-1-108. Duties and powers of the commission with regard to systemwide planning - reporting.** (1.5) (f) (I) (A) The commission, IN COLLABORATION WITH THE PUBLIC INSTITUTIONS OF HIGHER EDUCATION, shall ensure that the master plan is implemented through ~~the performance contracts authorized pursuant to sections 23-5-129 and 23-41-104.6, by negotiating with the governing boards individualized goals and expectations for the public institutions of higher education, which goals and expectations support achievement of the statewide goals identified in paragraph (c) of this subsection (1.5) and in the master plan. The commission and the governing boards shall ensure that the institutions' renegotiated performance contracts are finalized no later than December 1, 2012~~ THE PUBLIC INSTITUTIONS OF HIGHER EDUCATION, INCLUDING THROUGH FUNDING ALLOCATED PURSUANT TO PART 3 OF ARTICLE 18 OF THIS TITLE 23 AND SECTION 23-41-104.6. THE DEPARTMENT SHALL SUBMIT A BUDGET REQUEST PURSUANT TO SECTION 23-18-307 THAT SUPPORTS MASTER PLAN GOALS.

(B) THE DEPARTMENT AND PUBLIC INSTITUTIONS OF HIGHER EDUCATION SHALL ANNUALLY AFFIRM THE INSTITUTIONS' CONTRIBUTION TOWARD MEETING THE GOALS OF THE COMMISSION'S MASTER PLAN CREATED PURSUANT TO THIS SECTION. AN INSTITUTION'S CONTRIBUTIONS TOWARD MEETING THE GOALS OF THE MASTER PLAN MUST BE OUTLINED IN ACCORDANCE WITH THE INSTITUTION'S ROLE AND MISSION AND SHALL INCLUDE, AT A MINIMUM, INCREASING CREDENTIAL COMPLETION, INCREASING ANNUAL COMPLETIONS BY MINORITY AND LOW-INCOME STUDENTS, AND IMPROVING PERSISTENCE AND RETENTION RATES. THE DEPARTMENT SHALL MEASURE AN INSTITUTION'S CONTRIBUTIONS USING DATA COLLECTED FOR STATE AND FEDERAL REPORTING PURPOSES AND FOR POPULATING THE HIGHER EDUCATION FUNDING MODEL.

~~(II) In fulfilling the requirements of paragraph (c) of subsection (1) of this section, the commission shall refer to each institution's role and mission and service area, as necessary, to interpret jointly with the institution's governing board the implications of the role and mission and service area on the academic, financial, and student services elements of each institution's performance contract BEGINNING DECEMBER 1, 2017, AND NO LATER THAN DECEMBER 1 OF EACH YEAR THEREAFTER, THE DEPARTMENT SHALL REPORT TO THE JOINT BUDGET COMMITTEE AND TO THE EDUCATION COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND OF THE SENATE, OR THEIR SUCCESSOR COMMITTEES, CONCERNING THE MASTER PLAN GOALS AND EACH INSTITUTION'S PROGRESS TOWARD MEETING THOSE GOALS. THE DEPARTMENT SHALL POST THE INFORMATION CONTAINED IN THE REPORT ON THE DEPARTMENT'S WEBSITE. NOTWITHSTANDING THE PROVISIONS OF SECTION 24-1-136 (11)(a)(I) TO THE CONTRARY, THE DEPARTMENT'S REPORT CONTINUES INDEFINITELY.~~

(1.7) The commission, working with the department, the governing boards, and the institutions of higher education, shall collect data, including but not limited to research conducted by national policy organizations and agencies or institutions of higher education in other states, as necessary to support development and implementation of the master plan pursuant to subsection (1.5) of this section. ~~and to use in negotiating the performance contracts pursuant to sections 23-5-129 and 23-41-104.6. The commission shall take into consideration the costs to the governing boards of collecting and reporting any data the commission may request from the governing boards or the institutions of higher education pursuant to this subsection (1.7):~~

(3) The commission, ~~shall develop,~~ after consultation with the governing boards of institutions, MAY SUPPORT THE DEVELOPMENT OF cooperative programs among state-supported institutions of higher education.

(14) PURSUANT TO SECTION 23-18-201 (2), THE COMMISSION SHALL NEGOTIATE PERFORMANCE CONTRACTS WITH PRIVATE INSTITUTIONS OF HIGHER EDUCATION THAT PARTICIPATE IN THE COLLEGE OPPORTUNITY FUND PROGRAM.

**SECTION 5.** In Colorado Revised Statutes, **repeal** 23-1-108 (1.9).

**SECTION 6.** In Colorado Revised Statutes, 23-1-109.7, **amend** (2) as follows:

**23-1-109.7. Duties and powers of the commission with regard to the provision of educational services.** (2) Beginning July 1, 2005, the commission is responsible for ensuring the provision of postsecondary educational services pursuant to part 3 of article 18 of this title TITLE 23. The department of higher education on behalf of the commission shall annually enter into fee-for-service contracts with one or more governing boards of institutions of higher education pursuant to section 23-18-303 to provide the higher education services specified in section 23-18-301. ~~The department of higher education may contract with a governing board of an institution of higher education only to the extent that the contract remains consistent with any contract entered into pursuant to section 23-5-129 with the governing board.~~

**SECTION 7.** In Colorado Revised Statutes, 23-1-113.2, **amend** (3) as follows:

**23-1-113.2. Department directive - admission standards for students holding international baccalaureate diplomas.** (3) The provisions of this section shall not apply to ~~any institution of higher education that has entered into a performance contract with the commission as an exemplary institution of higher education~~ THE COLORADO SCHOOL OF MINES WHILE THE INSTITUTION IS OPERATING UNDER A PERFORMANCE CONTRACT NEGOTIATED PURSUANT TO SECTION 23-41-104.6.

**SECTION 8.** In Colorado Revised Statutes, **repeal** 23-1-118.

**SECTION 9.** In Colorado Revised Statutes, 23-1-104, **amend** (3)(a); and **add** (3.5) as follows:

**23-1-104. Financing the system of postsecondary education - report.** (3) (a) Notwithstanding the provisions of section 24-75-102, C.R.S., the governing boards are authorized to retain all ~~moneys~~ MONEY appropriated pursuant to this section ~~and section 23-1-118~~, or otherwise generated from fiscal year to fiscal year.

(3.5) EACH GOVERNING BOARD SHALL REPORT TO THE COLORADO COMMISSION ON HIGHER EDUCATION, USING APPROVED FORMS, THE

INSTITUTION'S PLANS FOR ANY TUITION OR OTHER PROPOSED INCREASES FOR THE FOLLOWING FISCAL YEAR. THE COMMISSION SHALL REVIEW THE PLANS AND MAKE RECOMMENDATIONS TO THE GENERAL ASSEMBLY DURING THE ANNUAL BUDGET PROCESS.

**SECTION 10.** In Colorado Revised Statutes, 23-2-103.8, **amend** (1)(a) as follows:

**23-2-103.8. Financial integrity - surety.** (1) A private college or university is exempt from the provisions of this section if:

(a) The private college or university is a party to a performance contract with the commission ~~under section 23-5-129~~ PURSUANT TO SECTION 23-18-201 (2); or

**SECTION 11.** In Colorado Revised Statutes, **repeal** 23-5-129.

**SECTION 12.** In Colorado Revised Statutes, 23-18-102, **amend** the introductory portion and (8) as follows:

**23-18-102. Definitions.** As used in parts 1 and 2 of this ~~article~~ ARTICLE 18, unless the context otherwise requires:

(8) "Participating private institution of higher education" means a private institution of higher education that enters into a performance contract with the department pursuant to ~~section 23-5-129~~ SECTION 23-18-201 (2) and agrees to participate in the program.

**SECTION 13.** In Colorado Revised Statutes, 23-18-201, **amend** (2) as follows:

**23-18-201. College opportunity fund program - creation - eligibility - guidelines.** (2) A student of a private institution of higher education shall be a beneficiary of the college opportunity fund and eligible to participate in the college opportunity fund program only if the private institution of higher education that the student attends has agreed to participate in the program by establishing a performance contract with the department. ~~pursuant to section 23-5-129~~. THE PERFORMANCE CONTRACT SHALL SPECIFY THE PERFORMANCE GOALS THE INSTITUTION SHALL ACHIEVE DURING THE PERIOD THAT IT OPERATES UNDER THE PERFORMANCE

CONTRACT. The department shall include each participating private institution of higher education and its students who participate in the college opportunity fund program in the student unit reporting data system, in order to enable the students of the participating private institution of higher education to participate in the program. The participating private institution of higher education shall reimburse the department for the actual expenses associated with including the institution in the student unit reporting data system.

**SECTION 14.** In Colorado Revised Statutes, 23-18-202, **amend** (2)(e) and (5)(d)(I)(F) as follows:

**23-18-202. College opportunity fund - appropriations - payment of stipends - reimbursement.** (2) (e) An eligible undergraduate student who attends a participating private institution of higher education may receive financial assistance under this part 2 in the amount of fifty percent of the stipend amount. ~~except that the amount of the stipend under this paragraph (e) may increase in proportion to the percent of unfunded enrollment growth that is appropriated to the governing boards pursuant to section 23-5-129 (8).~~

(5) (d) (I) An eligible undergraduate student and an institution of higher education shall not receive the payment of a stipend on behalf of an eligible undergraduate student for:

(F) Off-campus, extended campus, or continuing education classes that are not supported by state general fund ~~moneys~~ MONEY, except as approved by the commission, and, on or after July 1, 2007, except for classes or programs offered by an institution of higher education that ~~has entered into a performance contract with the department pursuant to section 23-5-129, and that~~ an eligible undergraduate student who is a member of the armed forces or a dependent of a member of the armed forces attends for credit on a military base; or

**SECTION 15.** In Colorado Revised Statutes, 23-18-304, **amend** (2)(b) and (3)(b) as follows:

**23-18-304. Funding for specialty education programs - area technical colleges - local district junior colleges.** (2) (b) ~~After considering the status of the performance contracts with the area technical~~



~~colleges pursuant to section 23-5-129~~; The commission may recommend as part of its budget request that direct grants to area technical colleges increase by a percentage that is greater than the percentage change in the total state appropriation for the preceding state fiscal year or decrease by a percentage that is less than the percentage change in the total state appropriation for the applicable fiscal year from the total state appropriation for the preceding state fiscal year.

(3) (b) ~~After considering the status of the performance contracts with Colorado mountain college and with Aims community college pursuant to section 23-5-129~~; The commission may recommend as part of its budget request FOR COLORADO MOUNTAIN COLLEGE AND AIMS COMMUNITY COLLEGE that the direct grant to either or both institutions increase by a percentage that is greater than the percentage change in the total state appropriation for the preceding state fiscal year or decrease by a percentage that is less than the percentage change in the total state appropriation for the applicable fiscal year from the total state appropriation for the preceding state fiscal year.

**SECTION 16.** In Colorado Revised Statutes, **repeal** 23-18-305 (4).

**SECTION 17.** In Colorado Revised Statutes, 23-41-104.6, **amend** (3) introductory portion as follows:

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

(3) The board of trustees of the Colorado school of mines shall negotiate AND SIGN a performance contract with the department of higher education, subject to approval by the Colorado commission on higher education, that ~~shall specify~~ SPECIFIES the performance goals that the institution shall achieve during the period that it operates under the performance contract. The specified goals ~~shall~~ MUST be measurable and specific to the Colorado school of mines' role and mission and ~~shall include at a minimum, the goals negotiated for the institution pursuant to sections 23-1-108 (1.5)(f) and 23-5-129~~ PROVISIONS RELATING TO MASTER PLAN GOALS and MAY ALSO INCLUDE, BUT NEED NOT BE LIMITED TO, the following issues:

**SECTION 18.** In Colorado Revised Statutes, 23-60-211, **amend** (4) as follows:

**23-60-211. Degrees.** (4) ~~Notwithstanding the provisions of section~~

~~23-5-129 (6) (b)~~; Subject to the approval of the Colorado commission on higher education pursuant to section 23-1-133, the board may establish at community colleges within the state system technical, career, and workforce development bachelor of applied science degree programs. Nothing in this section shall be construed to allow for the approval of bachelor of arts or bachelor of science degree programs.

**SECTION 19.** In Colorado Revised Statutes, 2-7-204, **amend** (3)(a)(II)(A) as follows:

**2-7-204. Performance management systems.** (3) (a) (II) (A) The department of higher education will satisfy the requirements in this subsection (3) through the master plan for postsecondary education that the Colorado commission on higher education maintains as described in section 23-1-108 (1.5). ~~C.R.S., and any performance contracts that the Colorado commission on higher education negotiates and enters into with the governing boards of the state institutions of higher education as specified in section 23-5-129, C.R.S.~~ The department of higher education shall ensure that copies of the master plan ~~and performance contracts be~~ ARE submitted to the joint budget committee and the appropriate joint committee of reference as determined pursuant to section 2-7-203, and shall post the master plan and ANY performance contracts AND REPORTS to its official website and the official website of the office of state planning and budgeting.

**SECTION 20.** In Colorado Revised Statutes, 2-7-205, **amend** (1)(a)(II) as follows:

**2-7-205. Annual performance report.** (1) (a) (II) The office of state planning and budgeting shall prepare the section of the annual performance report for the department of higher education by reviewing the institutions of higher education's progress towards the goals set forth in the ~~institution of higher education's performance contract described in section 23-5-129, C.R.S., and the outcomes of the recommended performance funding plan required in section 23-1-108 (1.9)(b), C.R.S.~~ MASTER PLAN FOR COLORADO POSTSECONDARY EDUCATION, AS DESCRIBED IN SECTION 23-1-108 (1.5) AND TAKING INTO ACCOUNT THE DATA AND METRICS DESCRIBED IN SECTIONS 23-18-201 (2) AND PART 3 OF ARTICLE 18 OF TITLE 23.

**SECTION 21.** In Colorado Revised Statutes, 24-1-114, **amend** (5)(b) as follows:

**24-1-114. Department of higher education - creation.**  
(5) (b) With respect to the Colorado commission on higher education and the universities, colleges, and boards specified in subsection (4) of this section, the executive director ~~shall have~~ HAS only those powers, duties, and functions prescribed in article 1 of title 23; ~~C.R.S.~~; except that the executive director of the Colorado commission on higher education is authorized to negotiate, implement, and monitor contracts, as described in ~~sections 23-5-129 and~~ SECTIONS 23-18-201 (2), 23-18-303, 23-18-304, AND 23-41-104.6, ~~C.R.S.~~, with universities, colleges, and boards, in consultation with the Colorado commission on higher education.

**SECTION 22. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

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Kevin J. Grantham  
PRESIDENT OF  
THE SENATE

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Crisanta Duran  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

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Effie Ameen  
SECRETARY OF  
THE SENATE

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Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

APPROVED \_\_\_\_\_

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John W. Hickenlooper  
GOVERNOR OF THE STATE OF COLORADO