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2001



SENATE BILL 01-229

BY SENATOR(S) Anderson, Perlmutter, Andrews, Arnold, Cairns, Dyer (Durango), Entz, Evans, Fitz-Gerald, Hagedorn, Matsunaka, May, McElhany, Musgrave, Nichol, Owen, and Teck;  
also REPRESENTATIVE(S) Witwer, Daniel, Boyd, Paschall, Rippy, Spence, and Williams S..

CONCERNING THE USE OF PERFORMANCE CONTRACTS FOR STATE-SUPPORTED INSTITUTIONS OF HIGHER EDUCATION.

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

**SECTION 1.** Article 41 of title 23, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

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

(1) THE GENERAL ASSEMBLY HEREBY FINDS THAT THE COLORADO SCHOOL OF MINES IS AN EXEMPLARY INSTITUTION OF HIGHER EDUCATION THAT HAS DEMONSTRATED A HIGH DEGREE OF RESPONSIBILITY AND CAPABILITY WITH REGARD TO ITS ACADEMIC AND ADMINISTRATIVE FUNCTIONS AS EVIDENCED BY THE FOLLOWING:

(a) THE COLORADO SCHOOL OF MINES RETAINS AND GRADUATES OVER SIXTY PERCENT OF THE STUDENTS WHO ENROLL IN THE INSTITUTION;

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

(b) THE COLORADO SCHOOL OF MINES CONSISTENTLY DEMONSTRATES THAT AT LEAST NINETY PERCENT OF ITS GRADUATES ARE EMPLOYED IN A FIELD THAT IS RELEVANT TO THE EDUCATION THEY RECEIVED AT THE INSTITUTION AND THAT THE AVERAGE STARTING SALARY OF THOSE GRADUATES IS IN EXCESS OF THE NATIONAL AVERAGE FOR ENGINEERING SCHOOL GRADUATES;

(c) THE COLORADO SCHOOL OF MINES CONTINUES TO RECEIVE ACCREDITATION REVIEWS FROM NATIONAL ACCREDITING ORGANIZATIONS THAT RAISE NO ISSUES WITH THE QUALITY OF THE ENGINEERING PROGRAMS OFFERED AT THE INSTITUTION;

(d) SENIOR STUDENTS AT THE COLORADO SCHOOL OF MINES CONSISTENTLY SCORE ABOVE THE NATIONAL AVERAGE ON A STANDARDIZED EXAM FOR ENGINEERING SCHOOL STUDENTS;

(e) OVER SEVENTY-FIVE PERCENT OF THE UNDERGRADUATE STUDENTS AT THE COLORADO SCHOOL OF MINES RECEIVE SOME FORM OF FINANCIAL AID;

(f) THE COLORADO SCHOOL OF MINES HAS AN ENDOWMENT THAT PLACES IT AMONG THE TOP FIFTEEN PUBLIC INSTITUTIONS OF HIGHER EDUCATION IN THE AMOUNT OF ENDOWMENT PER STUDENT.

(2) FOR THE REASONS SPECIFIED IN SUBSECTION (1) OF THIS SECTION, THE GENERAL ASSEMBLY HEREBY AUTHORIZES THE COLORADO SCHOOL OF MINES TO OPERATE PURSUANT TO A PERFORMANCE CONTRACT, AS DESCRIBED IN THIS SECTION, WITH THE COLORADO COMMISSION ON HIGHER EDUCATION. THE COLORADO SCHOOL OF MINES SHALL OPERATE PURSUANT TO A PERFORMANCE CONTRACT FOR THE PERIOD SPECIFIED IN SUBSECTION (4) OF THIS SECTION.

(3) BEGINNING JULY 1, 2001, THE BOARD OF TRUSTEES OF THE COLORADO SCHOOL OF MINES SHALL NEGOTIATE A PERFORMANCE CONTRACT WITH THE COLORADO COMMISSION ON HIGHER EDUCATION THAT SHALL SPECIFY THE PERFORMANCE GOALS THAT THE INSTITUTION SHALL ACHIEVE DURING THE PERIOD THAT IT OPERATES UNDER THE PERFORMANCE CONTRACT. COMPLIANCE WITH THE GOALS SPECIFIED IN THE PERFORMANCE CONTRACT SHALL BE IN LIEU OF COMPLIANCE WITH THE REQUIREMENTS OF THE "HIGHER EDUCATION QUALITY ASSURANCE ACT", ARTICLE 13 OF THIS

TITLE, AND THE COLORADO SCHOOL OF MINES SHALL THEREFORE BE EXEMPT FROM THE REQUIREMENTS OF SAID ACT WHILE OPERATING PURSUANT TO THE PERFORMANCE CONTRACT. THE SPECIFIED GOALS SHALL BE MEASURABLE AND SPECIFIC TO THE COLORADO SCHOOL OF MINES' ROLE AND MISSION AND SHALL INCLUDE, AT A MINIMUM, THE FOLLOWING ISSUES:

(a) APPROPRIATE LEVELS OF STUDENT ENROLLMENT, TRANSFER, RETENTION, AND GRADUATION RATES, AND INSTITUTIONAL PROGRAMS SPECIFICALLY DESIGNED TO ASSIST STUDENTS IN ACHIEVING THEIR ACADEMIC GOALS;

(b) STUDENT SATISFACTION AND STUDENT PERFORMANCE AFTER GRADUATION, INCLUDING EMPLOYMENT AND ENROLLMENT IN GRADUATE PROGRAMS;

(c) ASSESSMENT OF THE QUALITY OF THE INSTITUTION'S ACADEMIC PROGRAMS, INCLUDING ASSESSMENT BY EXTERNAL REVIEWERS SUCH AS ACCREDITATION BOARDS AND EMPLOYERS AND CONSIDERATION OF STUDENT PERFORMANCE ON NATIONAL EXAMINATIONS;

(d) INCREASING FINANCIAL SUPPORT TO SUSTAIN AND ENHANCE ESSENTIAL FUNCTIONS THAT ARE PARTIALLY STATE FUNDED, INCLUDING:

(I) EDUCATION, INDUSTRIAL, AND FEDERAL RESEARCH CAPABILITIES AND COMPETITIVENESS;

(II) STUDENT FINANCIAL AID;

(III) CAPITAL CONSTRUCTION; AND

(IV) TECHNOLOGICAL ADVANCEMENTS.

(4) THE PERFORMANCE CONTRACT NEGOTIATED PURSUANT TO THIS SECTION SHALL NOT TAKE EFFECT UNTIL APPROVED BY A JOINT RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY. THE GROUNDS FOR REJECTION OF THE PERFORMANCE CONTRACT SHALL INCLUDE THE EFFECT OF THE PROVISIONS OF THE CONTRACT ON THE FUNDING FOR THE COLORADO SCHOOL OF MINES AND FUNDING FOR THE STATEWIDE SYSTEM OF HIGHER EDUCATION. AS EARLY AS POSSIBLE DURING THE 2002 REGULAR SESSION, THE COLORADO COMMISSION ON HIGHER EDUCATION SHALL PRESENT THE FINALIZED PERFORMANCE CONTRACT AT A JOINT SESSION OF THE EDUCATION

COMMITTEES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES AND THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY. THE MEMBERS OF THE EDUCATION COMMITTEES AND THE MEMBERS OF THE JOINT BUDGET COMMITTEE SHALL REVIEW THE FINANCIAL EFFECT OF THE PROVISIONS OF THE CONTRACT WITH REGARD TO FUNDING FOR THE COLORADO SCHOOL OF MINES OR FUNDING FOR THE STATEWIDE SYSTEM OF HIGHER EDUCATION AND MAY RECOMMEND CHANGES TO THE TERMS OF THE PERFORMANCE CONTRACT OR RENEGOTIATION OF THE PERFORMANCE CONTRACT. IF A MAJORITY OF THE MEMBERS OF THE EDUCATION COMMITTEES AND THE MEMBERS OF THE JOINT BUDGET COMMITTEE APPROVE THE TERMS OF THE PERFORMANCE CONTRACT, THE CHAIRMEN OF THE EDUCATION COMMITTEES, IN COOPERATION WITH THE JOINT BUDGET COMMITTEE, SHALL SPONSOR A JOINT RESOLUTION TO RECOGNIZE AND APPROVE THE PERFORMANCE CONTRACT. THE PERFORMANCE CONTRACT SHALL BE DEEMED APPROVED UPON FINAL PASSAGE OF SAID JOINT RESOLUTION. THE SCHOOL OF MINES SHALL OPERATE PURSUANT TO THE PERFORMANCE CONTRACT BEGINNING ON THE DATE THE PERFORMANCE CONTRACT IS APPROVED AND CONTINUING THROUGH JUNE 30, 2011.

(5) WHILE OPERATING PURSUANT TO THE PERFORMANCE CONTRACT NEGOTIATED PURSUANT TO THIS SECTION, THE BOARD OF TRUSTEES OF THE COLORADO SCHOOL OF MINES:

(a) SHALL CONTINUE TO OPERATE AS THE GOVERNING BOARD FOR THE INSTITUTION. IN ADDITION, THE GOVERNOR MAY APPOINT ADDITIONAL ADVISORY MEMBERS TO THE BOARD TO SUSTAIN AND ENHANCE THE ROLE AND MISSION OF THE COLORADO SCHOOL OF MINES. ANY ADDITIONAL MEMBERS OF THE BOARD OF TRUSTEES SHALL SERVE AS NON-VOTING MEMBERS OF THE BOARD AND BE REPRESENTATIVE OF NATIONAL AND INTERNATIONAL INDUSTRIES AND RESEARCH AND ACADEMIC INSTITUTIONS. THE ROLE OF ANY SUCH ADVISORY MEMBERS SHALL BE TO IMPROVE THE TRUSTEES' OPPORTUNITIES TO DEVELOP AND ENRICH THE ACADEMIC AND RESEARCH PROGRAMS AT THE INSTITUTION.

(b) NEED NOT CONSULT WITH NOR OBTAIN APPROVAL FROM THE COLORADO COMMISSION ON HIGHER EDUCATION TO CREATE, MODIFY, OR ELIMINATE ACADEMIC AND VOCATIONAL PROGRAMS OFFERED BY THE COLORADO SCHOOL OF MINES, SO LONG AS SUCH CREATIONS, MODIFICATIONS, AND ELIMINATIONS ARE CONSISTENT WITH THE INSTITUTION'S STATUTORY ROLE AND MISSION;

(c) (I) SHALL HAVE SOLE AUTHORITY TO ESTABLISH RESIDENT AND NONRESIDENT TUITION RATES FOR THE COLORADO SCHOOL OF MINES; EXCEPT THAT THE ANNUAL PERCENTAGE INCREASE IN RESIDENT TUITION RATES SHALL NOT EXCEED A PERCENTAGE EQUAL TO TWO TIMES THE RATE OF THE PERCENTAGE CHANGE IN THE CONSUMER PRICE INDEX FOR THE DENVER METROPOLITAN AREA.

(II) ON OR BEFORE FEBRUARY 15, 2003, AND ON OR BEFORE FEBRUARY 15 OF EACH YEAR THEREAFTER DURING WHICH THE COLORADO SCHOOL OF MINES OPERATES PURSUANT TO THE PERFORMANCE CONTRACT NEGOTIATED PURSUANT TO THIS SECTION, THE COLORADO SCHOOL OF MINES SHALL REPORT TO THE COLORADO COMMISSION ON HIGHER EDUCATION, THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY, AND THE EDUCATION COMMITTEES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES ON ITS PLANS FOR RESIDENT AND NONRESIDENT TUITION INCREASES FOR THE FOLLOWING ACADEMIC YEAR. THE GENERAL ASSEMBLY SHALL CONSIDER SUCH INFORMATION IN ESTABLISHING THE AMOUNT OF HIGHER EDUCATION TUITION SPENDING AUTHORITY IN THE ANNUAL GENERAL APPROPRIATION BILL.

(6) WHILE OPERATING PURSUANT TO THE PERFORMANCE CONTRACT NEGOTIATED PURSUANT TO THIS SECTION, THE COLORADO SCHOOL OF MINES SHALL:

(a) REMAIN ELIGIBLE FOR STATE-FUNDED CAPITAL CONSTRUCTION PROJECTS AND CONTROLLED MAINTENANCE PROJECTS AS PROVIDED IN SECTION 23-1-106;

(b) CONTINUE TO ADMIT ALL COLORADO RESIDENT APPLICANTS WHO MEET THE ADMISSIONS CRITERIA OF THE INSTITUTION AND SHALL PROVIDE EQUAL EDUCATIONAL OPPORTUNITIES TO ALL STUDENTS.

(7) DURING THE PERIOD THAT THE COLORADO SCHOOL OF MINES OPERATES PURSUANT TO THE PERFORMANCE CONTRACT NEGOTIATED PURSUANT TO THIS SECTION, THE GENERAL ASSEMBLY SHALL MAKE ANNUAL APPROPRIATIONS OF GENERAL FUND MONEYS AS A SINGLE BLOCK GRANT FOR THE SUPPORT OF RESIDENT STUDENTS WHO ARE ENROLLED IN THE INSTITUTION. NOTWITHSTANDING THE PROVISIONS OF SECTION 23-1-105 AND THE DISTRIBUTION FORMULA ESTABLISHED BY THE COLORADO COMMISSION ON HIGHER EDUCATION, THE COMMISSION AND THE BOARD OF TRUSTEES FOR THE COLORADO SCHOOL OF MINES SHALL ANNUALLY

NEGOTIATE ADJUSTMENTS IN SAID ANNUAL BLOCK GRANT APPROPRIATION OF GENERAL FUND MONEYS, TAKING INTO ACCOUNT THE VARIETY OF FACTORS AFFECTING THE LEVEL OF COSTS INCURRED AND THE LEVEL OF FUNDING RECEIVED BY THE COLORADO SCHOOL OF MINES.

(8) ON OR BEFORE FEBRUARY 15, 2003, AND ON OR BEFORE FEBRUARY 15 EVERY THREE YEARS THEREAFTER, THE COLORADO SCHOOL OF MINES SHALL SUBMIT TO THE EDUCATION COMMITTEES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES A REPORT REVIEWING THE INSTITUTION'S OPERATIONS UNDER THE PERFORMANCE CONTRACT.

**SECTION 2. 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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Stan Matsunaka  
PRESIDENT OF  
THE SENATE

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Doug Dean  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

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Karen Goldman  
SECRETARY OF  
THE SENATE

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Judith Rodrigue  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

APPROVED \_\_\_\_\_

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Bill Owens  
GOVERNOR OF THE STATE OF COLORADO