SECTION 3. Capital construction appropriation. (1) (a) The sums in this section, or so much thereof as may be necessary for the purposes specified, are hereby appropriated out of any funds accrued or accruing to the capital construction fund not otherwise appropriated and out of the cash funds and federal funds specified for construction projects at the respective institutions and agencies enumerated in this section. Except as otherwise provided in particular line items of appropriation, the appropriations made in this section shall become available upon passage and approval of this act and, if any appropriated project is initiated within the fiscal year, the appropriation therefor shall remain available until completion of the project or for a period of three years, whichever comes first, at which time unexpended and unencumbered balances shall revert to the funds from which they were appropriated.

(b) For purposes of section 20 of article X of the state constitution and pursuant to section 24-75-302 (1) (b), Colorado Revised Statutes, the unrestricted year-end balance of the capital construction fund for the 1991-92 fiscal year shall constitute a reserve. Consequently, any moneys credited to the capital construction fund constitute a reserve increase and therefore constitute state fiscal year spending, as defined in section 24-77-102 (17) (a), Colorado Revised Statutes, and any moneys transferred or expended from the capital construction fund constitutes a reserve transfer or expenditure which is excluded from state fiscal year spending, as defined in section 24-77-102 (17) (b), Colorado Revised Statutes.

(c) Moneys appropriated in this section from the capital construction fund include:

(I) One hundred forty-five million six hundred thousand dollars ($145,600,000) representing one-third of the 2005-06 fiscal year general fund surplus, which was transferred to the capital construction fund in the 2006-07 fiscal year pursuant to section 24-75-218, Colorado Revised Statutes, which sum constitutes state fiscal year spending as defined in section 24-77-102 (17) (a), Colorado Revised Statutes;

(II) Sums transferred pursuant to section 24-75-302, Colorado Revised Statutes, which sums constitute state fiscal year spending as defined in section 24-77-102 (17) (a), Colorado Revised Statutes;

(III) Nine million nine hundred thousand dollars ($9,900,000) in interest earnings for the 2006-07 fiscal year in the capital construction fund pursuant to section 24-75-302 (1), Colorado Revised Statutes, which sum does not constitute state fiscal year spending as defined in section 24-77-102 (17) (a), Colorado Revised Statutes; and,

(IV) Two hundred twenty-six thousand dollars ($226,000) in fund balance, which sum constitutes state fiscal year spending as defined in section 24-77-102 (17) (a), Colorado Revised Statutes.

(d) Moneys appropriated in this section from cash funds shall constitute state fiscal year spending as defined in section 24-77-102 (17) (a), Colorado Revised Statutes. Moneys appropriated in this section from cash funds exempt do not constitute state fiscal year spending as defined in section 24-77-102 (17) (b), Colorado Revised Statutes.

(2) Except as otherwise specifically noted, appropriations from state funds shall be reduced by the amount of any funds received from federal, local, private, or other state sources and not appropriated in this act. This restriction shall not apply to any funds received by a state agency or institution of higher education or the Council on the Arts from any state or nonstate source for use in the Art in Public Places program.

(3) Operating and maintenance costs shall be a major consideration in the design and construction of any project involving renovation.

(4) A construction project for which the lowest bid is in excess of the appropriation shall be redesigned to conform to the appropriation and may be commenced if approved under the procedures set forth in this subsection (4). The agency shall submit the redesigned project to the state buildings division of the department of administration or, for higher education projects, to the Colorado commission on higher education, which shall assure that the redesigned project meets the program needs of the agency and the necessary quality of the building. The state buildings division and the Colorado commission on higher education shall report all such analyses to the joint budget committee and to the capital development committee on a regular basis. If the redesigned project is approved by the state buildings division or the Colorado commission on higher education, the project may commence. If the

redesigned project is not approved, it shall not be commenced until further action is taken by the general assembly to preauthorize the project.

(5) Expenditures of funds appropriated for capital construction shall be in accord with section 17-24-111, Colorado Revised Statutes, which requires institutions, agencies, and departments to purchase such goods and services as are produced by the division of correctional industries from said division.

(6) **Definitions.** As used in this section:

(a) "Physical planning" includes all fees for survey and site investigation and architectural and engineering services, but no contract for architectural/engineering services shall commit the state to physical planning expenses greater than those which are provided in the appropriation. No funds appropriated for any other purpose shall be expended for physical planning.

(b) "Program plan" or "program planning" relates to a specific project or facility and shall include, but is not limited to, an inventory of amounts and types of space currently available; an analysis of amounts, types, and relative locations of space required for current programs as determined by use of accepted state space standards; an analysis of projected programs and space required; and, if a change in facilities is justified based on analysis, recommendations for demolition, remodeling, or construction, including a detailed budget which relates to a realistic timetable for implementation.