

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

INTRODUCED

LLS NO. 11-0387.02 Julie Pelegrin

HOUSE BILL 11-1301

HOUSE SPONSORSHIP

Waller, Gardner B., Murray, Priola, Todd, Fields, Levy, Casso, Schafer S., Stephens

SENATE SPONSORSHIP

Schwartz, Williams S.

House Committees
State, Veterans, & Military Affairs

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING STATUTORY CHANGES TO INCREASE EFFICIENCY IN THE**
102 **OPERATIONS OF PUBLIC INSTITUTIONS OF HIGHER EDUCATION.**

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 first 9 sections of the bill address provisions that directly impact students enrolled at state institutions of higher education (institutions):

! Under current law, an institution may enter into a contract with a student that guarantees the tuition and fee rate that

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.

the student will pay for the full time he or she is enrolled in the institution. **Section 1** of the bill limits the contracts to addressing only tuition and clarifies that the contracts are not included in an institution's financial accountability plan.

- ! **Sections 2 through 9** of the bill address student fees. Under existing law, the Colorado commission on higher education (commission) establishes fee policies that the governing boards must follow in setting student fees. These sections of the bill direct the governing boards to adopt fee policies for their respective institutions and specify the minimum requirements for the policies. The commission will still adopt some policies pertaining to the use of student fees. Fees collected by the institutions will not be subject to appropriation. **Sections 4 through 9** are conforming amendments.

The next 8 sections of the bill address administrative provisions that increase the institutions' operational flexibility:

- ! Under current law, an institution must obtain approval from the commission to create certain nonprofit entities. Under **section 10** of the bill, the institution may create a nonprofit entity if the institution's governing board finds that creating the nonprofit entity would be in the institution's best interests, and the institution need not obtain the commission's approval.
- ! **Section 11** of the bill authorizes the governing board of an institution to contract to indemnify and hold harmless a contractor if the contract serves a valid public purpose, the institution's risk is limited, and the benefits of the contract outweigh the risks. The state risk management fund will not be responsible for any liability claims or expenses that may arise as a result of one of these indemnification contracts.
- ! **Section 12** of the bill clarifies the responsibilities of each institution in adopting and implementing an information security program. The changes remove the requirements that each program be submitted to the commission and the state's chief information security officer for comment, but the institutions will annually report to the department of higher education (department) their compliance with the requirements pertaining to the information security program, and the department will provide a statement of compliance to the chief information security officer.
- ! **Sections 13 and 14** of the bill specify that an institution may qualify for a special event liquor permit.
- ! The current law requires state agencies, including

institutions, to use the division of correctional industries in the department of corrections (division) when disposing of surplus state property. **Sections 15 and 16** remove institutions from this requirement.

- ! Under current law, state agencies are required to purchase certain goods and services from the division. **Section 17** allows, but does not require, the institutions to purchase goods and services from the division.

The next 7 sections of the bill address employee issues:

- ! **Section 18** of the bill amends the list of positions that the president of an institution may exempt from the state personnel system, including adding positions funded by gifts and auxiliary fees.
- ! Current statutes specify limitations on certain contracts for personnel services. **Section 19** of the bill exempts from these limitations contracts entered into by an institution, so long as the chief executive officer of the institution, or a designee, determines that certain conditions are met for contracts that implicate the state personnel system.
- ! **Section 20** of the bill exempts employees of institutions from the program that recognizes state employees' ideas that improve state government operations.
- ! Under current law, an institution may hire up to 10 public employee retirees to work for up to 140 days at each principal campus or with the system administration. **Section 21** of the bill allows an institution to employ those 10 employees for a maximum of 5 years without a limitation on the hours worked.
- ! **Section 22** of the bill authorizes an institution or group of institutions to offer group benefit plans to their classified employees, which plans would be in addition to or in lieu of the group benefit plans approved by the state personnel director.
- ! **Section 23** of the bill authorizes the chief executive officer of an institution to offer an employee incentive program for the institution's employees, including classified employees, as an alternative to the general employee incentive plan offered for state classified employees. An institution's employee incentive program must include most of the elements required for the state plan.
- ! **Section 24** of the bill authorizes the chief executive officer of an institution to authorize administrative leave for the institution's classified employees.

The last 9 sections of the bill address issues pertaining to capital construction and facilities:

- ! **Sections 25 and 26** of the bill clarify that the streamlined review process for cash-funded capital construction projects for institutions applies to projects for which the governing board makes a supplemental cash fund appropriation request on or after January 1, 2010, regardless of whether the project was initially approved under the streamlined review process.
- ! **Sections 27 and 28** of the bill provide that, for cash-funded capital construction or acquisition projects that are approved under the streamlined review process, the governing board is required to submit only an annual expenditure report to the state controller and not quarterly reports.
- ! **Section 29** of the bill clarifies that, if an institution funds a capital construction project using a combination of nonstate moneys and state appropriations, the institution, at any time prior to or after receiving the nonstate moneys, may receive the moneys appropriated from the capital construction fund.
- ! The current statutes assign certain duties to the department of personnel with regard to state capital construction projects, including the purchase of land and the purchase of scientific equipment. **Section 30** of the bill exempts from these duties land purchases and purchases of scientific equipment by an institution if the purchases do not involve state-appropriated capital construction moneys.
- ! **Sections 31 and 32** of the bill repeal the requirement that each institution submit to the commission a facility management plan for vacant buildings.
- ! **Section 33** of the bill removes the requirement that an institution seek student input if it chooses to pledge a percentage of tuition revenue as security for repayment of an advance of moneys to build or equip an auxiliary facility. The institution is no longer limited in how it may use any surplus of pledged income, fees, and revenues that exists after the advance of moneys is repaid, and it does not need to seek review of said use by representatives of student government.

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

2 **SECTION 1.** 23-5-131 (1) (b), (1) (c), (2), (4) (a), and (4) (b),
3 Colorado Revised Statutes, are amended, and the said 23-5-131 is further

1 amended BY THE ADDITION OF A NEW SUBSECTION, to read:

2 **23-5-131. Governing boards - tuition - fixed rate contract.**

3 (1) As used in this section, unless the context otherwise requires:

4 (b) "Fixed rate" means the fixed tuition ~~and fee~~ rate specified in
5 a contract between a state-supported institution of higher education and
6 a student enrolled in the institution.

7 (c) "Program" means the fixed tuition ~~and fee~~ rate program.

8 (2) There is hereby established a fixed tuition ~~and fee~~ rate
9 program. ~~Beginning in the 2005-06 academic year,~~ The governing board
10 of each state-supported institution of higher education that has been
11 designated as an enterprise pursuant to section 23-5-101.7 may offer a
12 fixed tuition ~~and fee~~ rate to a student who is willing to enter into a
13 contract with the institution for the fixed rate. ~~A student who enters into~~
14 ~~a fixed-rate contract may be charged additional fees that are not included~~
15 ~~in the contract so long as the fees are approved by the student government~~
16 ~~of the state-supported institution of higher education.~~ A FIXED-RATE
17 CONTRACT SHALL ALSO SPECIFY THE AMOUNT OF THE STUDENT FEES
18 COLLECTED BY THE INSTITUTION AS OF THE DATE OF THE CONTRACT AND
19 SHALL INFORM THE STUDENT THAT THE AMOUNT OF STUDENT FEES MAY
20 INCREASE OVER THE TERM OF THE CONTRACT IN ACCORDANCE WITH THE
21 INSTITUTION'S STUDENT FEE PLAN ADOPTED PURSUANT TO SECTION
22 23-5-119.5.

23 (4) (a) Each governing board that is participating in the program
24 shall establish guidelines for each institution under its control relating to
25 the fixed tuition ~~and fee~~ rate program that shall include, at a minimum,
26 the degree of flexibility a student has in changing majors or degree
27 programs without voiding a fixed-rate contract.

1 (b) ~~Each governing board shall submit the guidelines adopted for~~
2 ~~each institution under its control to the commission for review and~~
3 ~~approval.~~

4 (6) A FIXED-RATE CONTRACT ENTERED INTO PURSUANT TO THIS
5 SECTION IS NOT REQUIRED TO BE INCLUDED IN THE FIVE-YEAR FINANCIAL
6 ACCOUNTABILITY PLAN, IF ANY, SUBMITTED PURSUANT TO SECTION
7 23-5-130.5 BY THE STATE-SUPPORTED INSTITUTION OF HIGHER EDUCATION
8 OFFERING THE FIXED-RATE CONTRACT.

9 **SECTION 2.** Article 5 of title 23, Colorado Revised Statutes, is
10 amended BY THE ADDITION OF A NEW SECTION to read:

11 **23-5-119.5. Student fees - legislative declaration - definitions**
12 **- institutional plans - fee information - reporting.** (1) THE GENERAL
13 ASSEMBLY HEREBY FINDS THAT, DUE TO INCREASING FINANCIAL
14 RESTRICTIONS, FEES ARE INCREASINGLY BEING USED AS SOURCES OF
15 REVENUE FOR STATE INSTITUTIONS OF HIGHER EDUCATION. THE GENERAL
16 ASSEMBLY FURTHER FINDS THAT IT IS IMPORTANT TO ALLOW THE
17 GOVERNING BOARDS FLEXIBILITY IN MANAGING STUDENT FEES IN THE
18 MANNER THAT IS MOST EFFECTIVE FOR THEIR RESPECTIVE INSTITUTIONS.
19 HOWEVER, THE GENERAL ASSEMBLY ALSO FINDS THAT STATE
20 INSTITUTIONS OF HIGHER EDUCATION MUST DEVELOP MEANINGFUL
21 PROCESSES FOR RECEIVING AND CONSIDERING STUDENT INPUT
22 CONCERNING THE AMOUNT ASSESSED IN FEES AND THE PURPOSES FOR
23 WHICH THE INSTITUTION USES THE REVENUES RECEIVED. IT IS THEREFORE
24 THE INTENT OF THE GENERAL ASSEMBLY THAT THE GOVERNING BOARDS
25 ADOPT POLICIES CONCERNING THE DEFINITION, ASSESSMENT, INCREASE,
26 AND USE OF FEES, INCLUDING BUT NOT LIMITED TO THE POLICIES SPECIFIED
27 IN THIS SECTION.

1 (2) FOR PURPOSES OF THIS SECTION:

2 (a) "AUXILIARY FACILITY" HAS THE SAME MEANING AS DEFINED IN
3 SECTION 23-5-101.5 (2) (a).

4 (b) "COMMISSION" MEANS THE COLORADO COMMISSION ON
5 HIGHER EDUCATION ESTABLISHED IN SECTION 23-1-102.

6 (c) "STATE INSTITUTION OF HIGHER EDUCATION" OR "INSTITUTION"
7 MEANS A STATE-SUPPORTED INSTITUTION OF HIGHER EDUCATION IN
8 COLORADO.

9 (d) "USER FEE" MEANS A FEE PAID BY A STUDENT TO EXERCISE A
10 PRIVILEGE OR RECEIVE A SERVICE PROVIDED BY AN AUXILIARY FACILITY.

11 "USER FEE" DOES NOT INCLUDE:

12 (I) ANY GENERAL FEE CHARGED TO ALL STUDENTS;

13 (II) ANY FEE PAID FOR CONTINUING EDUCATION FACILITIES OR
14 ACTIVITIES; OR

15 (III) ANY FEE PAID TO PURCHASE A TICKET TO AN ATHLETIC EVENT
16 OCCURRING AT THE INSTITUTION.

17 (3) EACH GOVERNING BOARD IS AUTHORIZED TO REQUIRE
18 STUDENTS TO PAY FEES TO OFFSET COSTS THAT ARE SPECIFIC TO CERTAIN
19 COURSES OR PROGRAMS OR THAT OTHERWISE EXCEED OR ARE IN ADDITION
20 TO NORMAL OVERHEAD AND OPERATING COSTS THAT ARE PAID BY TUITION
21 REVENUES. REVENUES RECEIVED BY A GOVERNING BOARD AS STUDENT
22 FEES ARE NOT SUBJECT TO ANNUAL APPROPRIATION. THE COSTS FOR
23 WHICH A GOVERNING BOARD MAY IMPOSE FEES MAY INCLUDE, BUT NEED
24 NOT BE LIMITED TO:

25 (a) COSTS RELATED TO THE CONSTRUCTION, MAINTENANCE,
26 FURNISHING, AND EQUIPPING OF BUILDINGS AND INFRASTRUCTURE;

27 (b) COSTS THAT ARE UNIQUE TO SPECIFIC COURSES OR PROGRAMS

1 AND BENEFIT THE STUDENTS WHO CHOOSE TO ENROLL IN THE COURSE OR
2 PROGRAM;

3 (c) COSTS RELATED TO STUDENT-CENTERED FACILITIES, SERVICES,
4 OR ACTIVITIES SUCH AS STUDENT CENTERS, RECREATION FACILITIES,
5 TECHNOLOGY, PARKING LOTS, CHILD CARE, HEALTH CLINICS, MANDATORY
6 INSURANCE, STUDENT GOVERNMENT, AND OTHER STUDENT
7 ORGANIZATIONS OR ACTIVITIES;

8 (d) COSTS INCURRED BY AN INSTITUTION THAT ARE IN ADDITION
9 TO THE COSTS OF DIRECT DELIVERY OF INSTRUCTION SUCH AS
10 REGISTRATION COSTS, COSTS FOR STUDENT ORIENTATION AND
11 GRADUATION, AND COSTS INCURRED IN COMMUNICATING WITH STUDENTS
12 AND THEIR FAMILIES.

13 (4) (a) ON OR BEFORE JULY 1, 2012, EACH GOVERNING BOARD
14 SHALL ADOPT FOR EACH INSTITUTION AND CAMPUS THAT IT GOVERNS AN
15 INSTITUTIONAL PLAN FOR STUDENT FEES. EACH GOVERNING BOARD SHALL
16 ENSURE THAT THE PROCESS FOR DEVELOPING THE PLAN INCLUDES THE
17 OPPORTUNITY FOR MEANINGFUL INPUT FROM THE STUDENTS ENROLLED AT
18 THE AFFECTED INSTITUTION OR CAMPUS. AT A MINIMUM, THE FEE PLAN
19 SHALL SPECIFY:

20 (I) THE TYPES AND PURPOSES OF STUDENT FEES COLLECTED BY THE
21 INSTITUTION;

22 (II) THE PROCEDURES FOR ESTABLISHING, REVIEWING, CHANGING
23 THE AMOUNT OF, AND DISCONTINUING STUDENT FEES, INCLUDING THE
24 LEVEL OF STUDENT INVOLVEMENT IN EACH PROCESS, WHICH, AT A
25 MINIMUM, SHALL INCLUDE CONSULTATION WITH STUDENTS WHENEVER
26 POSSIBLE PRIOR TO THE ESTABLISHMENT OF A NEW FEE OR THE INCREASE
27 OF AN EXISTING FEE;

1 (III) PROCEDURES BY WHICH STUDENTS MAY CONTEST THE
2 IMPOSITION OR AMOUNT OF A FEE AND A PROCESS FOR RESOLVING
3 DISPUTES REGARDING FEES; AND

4 (IV) A PLAN FOR ADDRESSING RESERVE FUND BALANCES.

5 (b) A GOVERNING BOARD SHALL ANNUALLY REVIEW AND REVISE,
6 AS NECESSARY, THE FEE PLAN FOR EACH OF THE INSTITUTIONS AND
7 CAMPUSES THAT IT GOVERNS. IN CREATING, REVIEWING, AND REVISING
8 THE FEE PLANS, A GOVERNING BOARD SHALL COLLABORATE WITH THE
9 STUDENT GOVERNMENT ORGANIZATION AT THE APPLICABLE INSTITUTION
10 OR CAMPUS. EACH GOVERNING BOARD SHALL MAKE THE FEE PLANS
11 AVAILABLE TO THE PUBLIC ON A WEB SITE FOR THE RESPECTIVE
12 INSTITUTION OR CAMPUS.

13 (5) THE FEE PLAN ADOPTED FOR EACH INSTITUTION PURSUANT TO
14 SUBSECTION (4) OF THIS SECTION SHALL INCLUDE, BUT NEED NOT BE
15 LIMITED TO, THE FOLLOWING POLICIES:

16 (a) **Fees related to bonds issued on behalf of auxiliary facilities**
17 **on or after July 1, 1997.** (I) (A) FOR ANY BONDS OR OTHER DEBT
18 OBLIGATIONS ISSUED OR INCURRED ON OR AFTER JULY 1, 1997, ON BEHALF
19 OF AN AUXILIARY FACILITY, THE ISSUING OR INCURRING GOVERNING
20 BOARD MAY ASSESS A USER FEE AGAINST PERSONS USING THE AUXILIARY
21 FACILITY THAT INCLUDES THE AMOUNT NECESSARY FOR REPAYMENT OF
22 THE BONDS OR OTHER DEBT OBLIGATIONS AND ANY AMOUNT NECESSARY
23 FOR THE OPERATION AND MAINTENANCE OF THE AUXILIARY FACILITY.

24 (B) IF A GOVERNING BOARD USES REVENUES FROM A GENERAL
25 STUDENT FEE FOR THE REPAYMENT OF BONDS OR OTHER DEBT
26 OBLIGATIONS ISSUED OR INCURRED PURSUANT TO THIS PARAGRAPH (a),
27 THE GOVERNING BOARD SHALL SPECIFY THE PORTION OF THE GENERAL

1 STUDENT FEE THAT IS ACTUALLY APPLIED TO REPAYMENT OF THE BONDS
2 OR OTHER DEBT OBLIGATIONS. THE ITEMIZATION OF ANY GENERAL
3 STUDENT FEE, ALL OR A PORTION OF WHICH IS USED FOR REPAYMENT OF
4 BONDS OR OTHER DEBT OBLIGATIONS, SHALL APPEAR ON THE STUDENT
5 BILLING STATEMENT.

6 (II) THE ISSUING OR INCURRING GOVERNING BOARD MAY, SUBJECT
7 TO THE RESTRICTIONS SPECIFIED IN PARAGRAPH (c) OF THIS SUBSECTION
8 (5), PLEDGE ANY EXCESS REVENUE RECEIVED FROM ANY USER FEE
9 ASSESSED PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) OR
10 FROM ANY PORTION OF A GENERAL STUDENT FEE APPLIED TO THE
11 REPAYMENT OF SUCH BONDS OR OTHER DEBT OBLIGATIONS PURSUANT TO
12 SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) TO
13 THE REPAYMENT OF ANY BONDS OR OTHER DEBT OBLIGATIONS ISSUED OR
14 INCURRED ON BEHALF OF ANY OTHER AUXILIARY FACILITY, SO LONG AS
15 SUCH PLEDGE OF EXCESS REVENUE FROM ANY GENERAL STUDENT FEE
16 AUTHORIZED FOR THE REPAYMENT OF BONDS OR OTHER DEBT
17 OBLIGATIONS ISSUED OR INCURRED TO FINANCE A SPECIFIC FACILITY SHALL
18 TERMINATE UPON FULL REPAYMENT OF ALL BONDS OR OTHER DEBT
19 OBLIGATIONS, INCLUDING REFUNDING BONDS OR OBLIGATIONS, AND ALL
20 FEES AND COSTS RELATED TO SUCH BONDS OR OTHER DEBT OBLIGATIONS
21 INCURRED WITH RESPECT TO SUCH SPECIFIC FACILITY.

22 (III) ON AND AFTER THE DATE UPON WHICH ALL BONDS OR OTHER
23 DEBT OBLIGATIONS ISSUED, SECURED, OR INCURRED PURSUANT TO THIS
24 PARAGRAPH (a) ARE FULLY REPAID:

25 (A) THE AMOUNT OF THE USER FEE ASSESSED AGAINST PERSONS
26 USING THE AUXILIARY FACILITY, IF ANY, SHALL BE REDUCED, IF
27 NECESSARY, SO AS NOT TO EXCEED ONE HUNDRED TEN PERCENT OF THE

1 COSTS INCURRED IN OPERATING AND MAINTAINING THE AUXILIARY
2 FACILITY DURING THE PRECEDING YEAR; EXCEPT THAT THE GOVERNING
3 BOARD MAY REDUCE THE AMOUNT OF THE USER FEE TO AN AMOUNT NOT
4 TO EXCEED ONE HUNDRED TWENTY PERCENT OF THE COSTS INCURRED IN
5 OPERATING AND MAINTAINING THE AUXILIARY FACILITY DURING THE
6 PRECEDING YEAR AND SET ASIDE THE ADDITIONAL TEN PERCENT IN A
7 RESERVE FUND FOR REPAIR AND REPLACEMENT OF THE AUXILIARY
8 FACILITY;

9 (B) THE GOVERNING BOARD SHALL CEASE COLLECTING ANY
10 PORTION OF A GENERAL STUDENT FEE ASSESSED FOR THE REPAYMENT OF
11 THE BONDS OR OTHER DEBT OBLIGATIONS; EXCEPT THAT, IF NO USER FEE
12 WAS ASSESSED FOR THE REPAYMENT OF THE BONDS OR OTHER DEBT
13 OBLIGATIONS OR IF THE AMOUNT OF THE USER FEE IS LESS THAN THE COSTS
14 INCURRED IN OPERATING AND MAINTAINING THE AUXILIARY FACILITY
15 DURING THE PRECEDING YEAR, THE GOVERNING BOARD MAY CONTINUE
16 COLLECTING THE SPECIFIED PORTION OF THE GENERAL STUDENT FEE THAT
17 WAS APPLIED TO REPAYMENT OF THE BONDS OR OTHER DEBT OBLIGATIONS
18 SO LONG AS SAID PORTION OF THE GENERAL STUDENT FEE IS REDUCED, IF
19 NECESSARY, TO AN AMOUNT THAT, IN COMBINATION WITH ANY USER FEE
20 COLLECTED FOR THE AUXILIARY FACILITY, DOES NOT EXCEED ONE
21 HUNDRED TEN PERCENT OF THE COSTS INCURRED IN OPERATING AND
22 MAINTAINING THE AUXILIARY FACILITY DURING THE PRECEDING YEAR.
23 NOTWITHSTANDING THE PROVISIONS OF THIS SUB-SUBPARAGRAPH (B),
24 THE GOVERNING BOARD MAY REDUCE SAID PORTION OF THE GENERAL
25 STUDENT FEE TO AN AMOUNT THAT, IN COMBINATION WITH ANY USER FEE
26 COLLECTED FOR THE AUXILIARY FACILITY, DOES NOT EXCEED ONE
27 HUNDRED TWENTY PERCENT OF THE COSTS INCURRED IN OPERATING AND

1 MAINTAINING THE AUXILIARY FACILITY DURING THE PRECEDING YEAR AND
2 SET ASIDE THE ADDITIONAL TEN PERCENT IN A RESERVE FUND FOR REPAIR
3 AND REPLACEMENT OF THE AUXILIARY FACILITY.

4 (C) THE REVENUES RECEIVED PURSUANT TO THIS SUBPARAGRAPH
5 (III), EITHER THROUGH A USER FEE OR THROUGH A SPECIFIED PORTION OF
6 A GENERAL STUDENT FEE, MAY NOT BE PLEDGED FOR THE REPAYMENT OF
7 ANY BONDS OR OTHER DEBT OBLIGATIONS ISSUED ON BEHALF OF ANY
8 OTHER AUXILIARY FACILITY. ANY AMOUNT OF SAID REVENUE THAT
9 EXCEEDS BOTH THE AMOUNT NECESSARY FOR THE OPERATION AND
10 MAINTENANCE OF THE AUXILIARY FACILITY AND ANY AMOUNT SET ASIDE
11 IN A RESERVE FUND FOR REPAIR AND REPLACEMENT OF THE AUXILIARY
12 FACILITY IS SURPLUS AND MAY BE USED BY THE GOVERNING BOARD AS
13 PROVIDED IN SECTION 23-5-103 (3).

14 (b) **Fees related to bonds issued on behalf of auxiliary facilities**
15 **prior to July 1, 1997.** (I) FOR ANY BONDS OR OTHER DEBT OBLIGATIONS
16 ISSUED OR INCURRED PRIOR TO JULY 1, 1997, ON BEHALF OF AN AUXILIARY
17 FACILITY:

18 (A) APPROVAL OF THE STUDENT BODY IS NOT REQUIRED FOR ANY
19 FEE ASSESSED FOR REPAYMENT OF SAID BONDS OR OTHER DEBT
20 OBLIGATIONS;

21 (B) APPROVAL OF THE STUDENT BODY IS NOT REQUIRED TO
22 INCREASE ANY FEE THAT IS APPLIED TO THE REPAYMENT OF SAID BONDS OR
23 OTHER DEBT OBLIGATIONS IF THE FEE INCREASE IS NECESSITATED BY A
24 COVENANT IN THE AUTHORIZING BOND RESOLUTION OR OTHER
25 AGREEMENT FOR WHICH THE BONDS OR OTHER DEBT OBLIGATIONS WERE
26 ISSUED OR INCURRED;

27 (C) APPROVAL OF THE STUDENT BODY IS NOT REQUIRED TO

1 INCREASE ANY FEE THAT IS APPLIED TO THE REPAYMENT OF SAID BONDS OR
2 OTHER DEBT OBLIGATIONS IF THE FEE INCREASE IS ASSESSED FOR THE
3 REPAYMENT OF BONDS THAT ARE ISSUED TO REFUND THE EXISTING BONDS.

4 (II) THE ISSUING OR INCURRING GOVERNING BOARD MAY, SUBJECT
5 TO THE RESTRICTIONS SPECIFIED IN PARAGRAPH (c) OF THIS SUBSECTION
6 (5), PLEDGE ANY EXCESS REVENUE RECEIVED FROM THE FEE, WHETHER IT
7 IS A USER FEE OR A PORTION OF A GENERAL STUDENT FEE APPLIED TO THE
8 REPAYMENT OF SUCH BONDS OR OTHER DEBT OBLIGATIONS, TO THE
9 REPAYMENT OF ANY BONDS OR OTHER DEBT OBLIGATIONS ISSUED OR
10 INCURRED ON BEHALF OF ANY OTHER AUXILIARY FACILITY, SO LONG AS
11 SUCH PLEDGE OF EXCESS REVENUE FROM ANY GENERAL STUDENT FEE
12 AUTHORIZED FOR THE REPAYMENT OF BONDS OR OTHER DEBT OBLIGATION
13 ISSUED OR INCURRED TO FINANCE A SPECIFIC FACILITY SHALL TERMINATE
14 UPON FULL REPAYMENT OF ALL BONDS OR OTHER DEBT OBLIGATIONS,
15 INCLUDING REFUNDING BONDS OR OBLIGATIONS, AND ALL FEES AND COSTS
16 RELATED TO SUCH BONDS OR OTHER DEBT OBLIGATIONS INCURRED WITH
17 RESPECT TO SUCH SPECIFIC FACILITY.

18 (III) ON AND AFTER THE DATE UPON WHICH ALL BONDS OR OTHER
19 DEBT OBLIGATIONS ISSUED, SECURED, OR INCURRED PURSUANT TO THIS
20 PARAGRAPH (b) ARE FULLY REPAYED:

21 (A) THE AMOUNT OF THE USER FEE, IF ANY, ASSESSED AGAINST
22 PERSONS USING THE AUXILIARY FACILITY SHALL BE REDUCED, IF
23 NECESSARY, SO AS NOT TO EXCEED ONE HUNDRED TEN PERCENT OF THE
24 COSTS INCURRED IN OPERATING AND MAINTAINING THE AUXILIARY
25 FACILITY DURING THE PRECEDING YEAR; EXCEPT THAT THE GOVERNING
26 BOARD MAY REDUCE THE AMOUNT OF THE USER FEE TO AN AMOUNT NOT
27 TO EXCEED ONE HUNDRED TWENTY PERCENT OF THE COSTS INCURRED IN

1 OPERATING AND MAINTAINING THE AUXILIARY FACILITY DURING THE
2 PRECEDING YEAR AND SET ASIDE THE ADDITIONAL TEN PERCENT IN A
3 RESERVE FUND FOR REPAIR AND REPLACEMENT OF THE AUXILIARY
4 FACILITY;

5 (B) THE GOVERNING BOARD SHALL CEASE COLLECTING ANY
6 PORTION OF A GENERAL STUDENT FEE ASSESSED FOR THE REPAYMENT OF
7 THE BONDS OR OTHER DEBT OBLIGATIONS; EXCEPT THAT, IF NO USER FEE
8 WAS ASSESSED FOR THE REPAYMENT OF THE BONDS OR OTHER DEBT
9 OBLIGATIONS OR IF THE AMOUNT OF THE USER FEE IS LESS THAN THE COSTS
10 INCURRED IN OPERATING AND MAINTAINING THE AUXILIARY FACILITY
11 DURING THE PRECEDING YEAR, THE GOVERNING BOARD MAY CONTINUE
12 COLLECTING THE SPECIFIED PORTION OF THE GENERAL STUDENT FEE THAT
13 WAS APPLIED TO REPAYMENT OF THE BONDS OR OTHER DEBT OBLIGATIONS
14 SO LONG AS SAID PORTION OF THE GENERAL STUDENT FEE IS REDUCED, IF
15 NECESSARY, TO AN AMOUNT THAT, IN COMBINATION WITH ANY USER FEE
16 COLLECTED FOR THE AUXILIARY FACILITY, DOES NOT EXCEED ONE
17 HUNDRED TEN PERCENT OF THE COSTS INCURRED IN OPERATING AND
18 MAINTAINING THE AUXILIARY FACILITY DURING THE PRECEDING YEAR.
19 NOTWITHSTANDING THE PROVISIONS OF THIS SUB-SUBPARAGRAPH (B),
20 THE GOVERNING BOARD MAY REDUCE SAID PORTION OF THE GENERAL
21 STUDENT FEE TO AN AMOUNT THAT, IN COMBINATION WITH ANY USER FEE
22 COLLECTED FOR THE AUXILIARY FACILITY, DOES NOT EXCEED ONE
23 HUNDRED TWENTY PERCENT OF THE COSTS INCURRED IN OPERATING AND
24 MAINTAINING THE AUXILIARY FACILITY DURING THE PRECEDING YEAR AND
25 SET ASIDE THE ADDITIONAL TEN PERCENT IN A RESERVE FUND FOR REPAIR
26 AND REPLACEMENT OF THE AUXILIARY FACILITY.

27 (C) THE REVENUES RECEIVED PURSUANT TO THIS SUBPARAGRAPH

1 (III), EITHER THROUGH A USER FEE OR THROUGH A SPECIFIED PORTION OF
2 A GENERAL STUDENT FEE, MAY NOT BE PLEDGED FOR THE REPAYMENT OF
3 ANY BONDS OR OTHER DEBT OBLIGATIONS ISSUED ON BEHALF OF ANY
4 OTHER AUXILIARY FACILITY. ANY AMOUNT OF SAID REVENUE THAT
5 EXCEEDS BOTH THE AMOUNT NECESSARY FOR THE OPERATION AND
6 MAINTENANCE OF THE AUXILIARY FACILITY AND ANY AMOUNT SET ASIDE
7 IN A RESERVE FUND FOR REPAIR AND REPLACEMENT OF THE AUXILIARY
8 FACILITY IS SURPLUS AND MAY BE USED BY THE GOVERNING BOARD AS
9 PROVIDED IN SECTION 23-5-103 (3).

10 (c) **Restrictions on pledging of amounts received in fees.**

11 (I) SUBJECT TO THE PROVISIONS OF PARAGRAPHS (a) AND (b) OF THIS
12 SUBSECTION (5), A USER FEE THAT IS ASSESSED AGAINST PERSONS USING
13 AN AUXILIARY FACILITY THAT IS NOT DESIGNATED AS AN ENTERPRISE
14 PURSUANT TO SECTION 23-5-101.5 MAY BE PLEDGED FOR THE REPAYMENT
15 OF BONDS OR OTHER DEBT OBLIGATIONS ISSUED OR INCURRED ON BEHALF
16 OF ANY OTHER AUXILIARY FACILITY THAT IS NOT DESIGNATED AS AN
17 ENTERPRISE, AS PROVIDED IN SECTIONS 23-5-102 AND 23-5-103.

18 (II) SUBJECT TO THE PROVISIONS OF PARAGRAPHS (a) AND (b) OF
19 THIS SUBSECTION (5), A USER FEE THAT IS ASSESSED AGAINST PERSONS
20 USING AN AUXILIARY FACILITY THAT IS DESIGNATED AS AN ENTERPRISE BY
21 THE UNIVERSITY OF COLORADO PURSUANT TO SECTION 23-5-101.5 MAY BE
22 PLEDGED FOR THE REPAYMENT OF BONDS OR OTHER DEBT OBLIGATIONS
23 ISSUED OR INCURRED ON BEHALF OF ANOTHER AUXILIARY FACILITY THAT
24 IS DESIGNATED AS AN ENTERPRISE BY THE UNIVERSITY OF COLORADO, AS
25 PROVIDED IN SECTIONS 23-5-102 AND 23-5-103.

26 (III) A GOVERNING BOARD MAY NOT PLEDGE A USER FEE ASSESSED
27 AGAINST PERSONS USING AN AUXILIARY FACILITY THAT IS NOT

1 DESIGNATED AS AN ENTERPRISE FOR REPAYMENT OF BONDS OR OTHER
2 DEBT OBLIGATIONS ISSUED OR INCURRED ON BEHALF OF ANY AUXILIARY
3 FACILITY THAT IS DESIGNATED AS AN ENTERPRISE OR ON BEHALF OF THE
4 INSTITUTION WITH WHICH THE AUXILIARY FACILITY IS ASSOCIATED.
5 EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (II) OF THIS
6 PARAGRAPH (c), A GOVERNING BOARD MAY NOT PLEDGE A USER FEE
7 ASSESSED AGAINST PERSONS USING AN AUXILIARY FACILITY THAT IS
8 DESIGNATED AS AN ENTERPRISE PURSUANT TO SECTION 23-5-101.5 FOR
9 THE REPAYMENT OF BONDS OR OTHER DEBT OBLIGATIONS ISSUED OR
10 INCURRED ON BEHALF OF ANY OTHER AUXILIARY FACILITY, REGARDLESS
11 OF WHETHER THE OTHER AUXILIARY FACILITY IS DESIGNATED AS AN
12 ENTERPRISE, OR ON BEHALF OF THE INSTITUTION WITH WHICH THE
13 AUXILIARY FACILITY IS ASSOCIATED.

14 (d) **Itemization of bond fees.** EVERY FEE, THE PURPOSE OF WHICH
15 INCLUDES MAKING PAYMENTS ON BONDS OR OTHER OBLIGATIONS, SHALL
16 BE SEPARATELY ITEMIZED ON THE STUDENT BILLING STATEMENT.

17 (6) (a) AS SOON AS PRACTICABLE FOLLOWING THE EFFECTIVE DATE
18 OF THIS SECTION, EACH GOVERNING BOARD SHALL MAKE REASONABLE
19 EFFORTS TO PROVIDE ON THE WEB SITE FOR EACH INSTITUTION OR CAMPUS
20 IT GOVERNS CURRENT INFORMATION ABOUT THE TUITION RATES AND FEES,
21 INCLUDING INFORMATION CONCERNING THE PURPOSES OF THE FEES,
22 CHARGED BY THE INSTITUTION OR CAMPUS; EXCEPT THAT THE INSTITUTION
23 OR CAMPUS MAY PROVIDE INFORMATION ABOUT FEES THAT ARE SPECIFIC
24 TO COURSES OR PROGRAMS EITHER ON ITS WEB SITE OR IN THE MOST
25 RECENT COURSE CATALOG, WHICHEVER IS APPROPRIATE.

26 (b) AS SOON AS PRACTICABLE FOLLOWING THE EFFECTIVE DATE OF
27 THIS SECTION, EACH GOVERNING BOARD SHALL MAKE REASONABLE

1 EFFORTS TO PROVIDE A FUNCTION FOR CALCULATING TUITION AND FEES ON
2 THE WEB SITE OF EACH INSTITUTION OR CAMPUS IT GOVERNS TO ASSIST
3 STUDENTS IN ESTIMATING THEIR ANNUAL AND TOTAL COST OF
4 ATTENDANCE AT THE INSTITUTION OR CAMPUS.

5 (c) BEGINNING WITH THE 2011-12 ACADEMIC YEAR, EACH
6 GOVERNING BOARD SHALL ENSURE THAT THE TUITION BILL FOR EACH
7 STUDENT ENROLLED IN AN INSTITUTION OR CAMPUS GOVERNED BY THE
8 GOVERNING BOARD INCLUDES A CLEAR ITEMIZATION OF THE FEES
9 CHARGED TO THE STUDENT.

10 (7) IN ESTABLISHING FEES, A GOVERNING BOARD SHALL COMPLY
11 WITH THE PROCEDURES SPECIFIED IN THE FEE PLAN FOR THE APPLICABLE
12 INSTITUTION OR CAMPUS. IN ADDITION, THE GOVERNING BOARD SHALL
13 PROVIDE TO STUDENTS AT LEAST THIRTY DAYS' ADVANCE NOTICE OF A
14 NEW FEE ASSESSMENT OR FEE INCREASE, WHICH NOTICE, AT A MINIMUM,
15 SPECIFIES:

16 (a) THE AMOUNT OF THE NEW FEE OR OF THE FEE INCREASE;

17 (b) THE REASON FOR THE NEW FEE OR FEE INCREASE;

18 (c) THE PURPOSE FOR WHICH THE INSTITUTION WILL USE THE
19 REVENUES RECEIVED FROM THE NEW FEE OR FEE INCREASE; AND

20 (d) WHETHER THE NEW FEE OR FEE INCREASE IS TEMPORARY OR
21 PERMANENT AND, IF TEMPORARY, THE EXPECTED DATE ON WHICH THE NEW
22 FEE OR FEE INCREASE WILL BE DISCONTINUED.

23 (8) A DECISION BY A GOVERNING BOARD WITH REGARD TO A FEE
24 SHALL BE FINAL AND INCONTESTABLE EITHER ON THE THIRTIETH DAY
25 AFTER FINAL ACTION BY THE GOVERNING BOARD OR ON THE DATE ON
26 WHICH ANY EVIDENCE OF INDEBTEDNESS OR OTHER OBLIGATION PAYABLE
27 FROM THE FEE REVENUES IS ISSUED OR INCURRED BY THE GOVERNING

1 BOARD, WHICHEVER IS EARLIER.

2 **SECTION 3.** Article 1 of title 23, Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW SECTION to read:

4 **23-1-105.5. Duties and powers of the commission with respect**
5 **to student fees.** THE COMMISSION IS AUTHORIZED TO ADOPT GUIDELINES
6 CONCERNING THE COLLECTION AND USE OF STUDENT FEES BY THE
7 GOVERNING BOARDS OF THE STATE INSTITUTIONS OF HIGHER EDUCATION,
8 AS DEFINED IN SECTION 23-5-119.5. THE GUIDELINES MAY ADDRESS, BUT
9 NEED NOT BE LIMITED TO, THE PURPOSES FOR STUDENT FEES, CATEGORIES
10 OF STUDENT FEES, THE DISTINCTIONS BETWEEN TUITION REVENUE AND
11 STUDENT FEE REVENUE, ACCOUNTING FOR STUDENT FEE REVENUE, AND
12 STUDENT FEE FUND BALANCES. IN PREPARING THE GUIDELINES, THE
13 COMMISSION SHALL SEEK INPUT FROM THE GOVERNING BOARDS, THE
14 STATE INSTITUTIONS OF HIGHER EDUCATION, AND STUDENTS ENROLLED IN
15 THE STATE INSTITUTIONS OF HIGHER EDUCATION.

16 **SECTION 4.** 23-1-104 (1) (b) (II), Colorado Revised Statutes, is
17 amended to read:

18 **23-1-104. Financing the system of postsecondary education -**
19 **report - repeal.** (1) (b) (II) For the 2010-11 fiscal year and for fiscal
20 years beginning on or after July 1, 2016, the general assembly shall also
21 make annual appropriations of cash funds, other than cash funds received
22 as tuition income OR AS FEES, as a single line item to each governing
23 board for the operation of its campuses. Each governing board shall
24 allocate said cash fund appropriations to the institutions under its control
25 in the manner deemed most appropriate by the governing board.

26 **SECTION 5. Repeal.** 23-1-123, Colorado Revised Statutes, is
27 repealed.

1 **SECTION 6.** 12-47-308 (1) (b) and (3) (b), Colorado Revised
2 Statutes, are amended to read:

3 **12-47-308. Unlawful financial assistance.**

4 (1) (b) Notwithstanding the provisions of paragraph (a) of this subsection
5 (1), any person or party described in said paragraph (a) may provide
6 financial or in-kind assistance, directly or indirectly, to a nonprofit arts
7 organization that has been issued an arts license pursuant to section
8 12-47-417 or to a ~~state~~ STATE-SUPPORTED institution of higher education
9 ~~as defined in section 23-1-123 (7) (d), C.R.S.~~ IN COLORADO, INCLUDING
10 JUNIOR COLLEGES, AREA VOCATIONAL SCHOOLS, AND THE AURARIA
11 HIGHER EDUCATION CENTER, or the governing board of ~~such~~ A
12 STATE-SUPPORTED institution OF HIGHER EDUCATION, or to ~~an~~ A
13 NONPUBLIC institution of higher education as defined in section
14 23-3.7-102, C.R.S., that is operating pursuant to 26 U.S.C. sec. 501 (c) (3)
15 of the federal "Internal Revenue Code of 1986", as amended, if the
16 institution has been issued a license pursuant to article 46, 47, or 48 of
17 this title.

18 (3) (b) Notwithstanding the provisions of paragraph (a) of this
19 subsection (3), a nonprofit arts organization that has been issued an arts
20 license pursuant to section 12-47-417 or a ~~state~~ STATE-SUPPORTED
21 institution of higher education ~~as defined in section 23-1-123 (7) (d),~~
22 ~~C.R.S.~~ IN COLORADO, INCLUDING JUNIOR COLLEGES, AREA VOCATIONAL
23 SCHOOLS, AND THE AURARIA HIGHER EDUCATION CENTER, or the
24 governing board of ~~such~~ A STATE-SUPPORTED institution OF HIGHER
25 EDUCATION, or ~~an~~ A NONPUBLIC institution of higher education as defined
26 in section 23-3.7-102, C.R.S., that is operating pursuant to 26 U.S.C. sec.
27 501 (c) (3) of the federal "Internal Revenue Code of 1986", as amended,

1 if the institution has been issued a license pursuant to article 46, 47, or 48
2 of this title, may receive financial or in-kind assistance, directly or
3 indirectly, from the persons or parties described and referred to in
4 paragraph (a) of subsection (1) of this section.

5 **SECTION 7.** 23-1-108 (12) (a), Colorado Revised Statutes, is
6 amended to read:

7 **23-1-108. Duties and powers of the commission with regard to**
8 **systemwide planning.** (12) (a) The commission shall establish fee
9 policies based on institutional role and mission, and the governing boards
10 shall set fees consistent with such policies. ~~The commission shall follow~~
11 ~~the requirements of section 23-1-123 in establishing fee policies pursuant~~
12 ~~to this subsection (12).~~

13 **SECTION 8.** 23-5-102 (2), Colorado Revised Statutes, is
14 amended to read:

15 **23-5-102. Funding for auxiliary facilities - institutions of**
16 **higher education - loans - bonds.** (2) The governing board of any
17 institution of higher education by resolution may issue revenue bonds on
18 behalf of any auxiliary facility or group of auxiliary facilities or on behalf
19 of any institution or group of institutions managed by such governing
20 board for the purpose of obtaining funds for constructing, otherwise
21 acquiring, equipping, or operating such auxiliary facility or group of
22 auxiliary facilities or for facilities for such institution or group of
23 institutions. Any bonds issued on behalf of any auxiliary facility or group
24 of auxiliary facilities, other than housing facilities, dining facilities,
25 recreational facilities, health facilities, parking facilities, alternative or
26 renewable energy producing facilities including but not limited to, solar,
27 wind, biomass, geothermal, or hydroelectric facilities, research facilities

1 that are funded from a revolving fund, or designated enterprise auxiliary
2 facilities listed in section 23-5-101.5 (4) may be issued only after
3 approval by both houses of the general assembly either by bill or by joint
4 resolution and after approval by the governor in accordance with section
5 39 of article V of the state constitution. The governing board of an
6 institution or group of institutions that issues bonds on behalf of the
7 institution or group of institutions, which is designated as an enterprise
8 pursuant to section 23-5-101.7, shall file notice of such issuance with the
9 Colorado commission on higher education. Bonds issued pursuant to this
10 subsection (2) shall be payable only from revenues generated by the
11 auxiliary facility or group of auxiliary facilities or by the institution or
12 group of institutions on behalf of which such bonds are issued; except
13 that, subject to ~~section 23-1-123~~ SECTION 23-5-119.5 (5) (a) (III) and (5)
14 (b) (II), revenues generated by a designated enterprise that is associated
15 with the university of Colorado may be pledged for the repayment of
16 bonds issued by another designated enterprise auxiliary facility that is not
17 part of the same enterprise. Such bonds shall be issued in accordance
18 with the provisions of section 23-5-103 (2). The termination, rescission,
19 or expiration of the enterprise designation of any auxiliary facility or
20 group of auxiliary facilities pursuant to section 23-5-101.5 (3) or of any
21 institution or group of institutions shall not adversely affect the validity
22 of or security for any revenue bonds issued on behalf of any auxiliary
23 facility or group of auxiliary facilities or on behalf of any institution or
24 group of institutions.

25 **SECTION 9.** 23-5-103 (1), Colorado Revised Statutes, is
26 amended to read:

27 **23-5-103. Pledge of income.** (1) The governing board of any one

1 or more state educational institutions, including, but not limited to, the
2 state colleges under the control and operation of their respective boards
3 of trustees, that enters into such a contract for the advancement of moneys
4 is authorized, in connection with or as a part of such contract, to pledge
5 the net income derived or to be derived from such land or facilities so
6 constructed, acquired, and equipped as security for the repayment of the
7 moneys advanced therefor, together with interest thereon, and for the
8 establishment and maintenance of reserves in connection therewith; and,
9 for the same purpose, any such governing board is also authorized,
10 subject to the limitations specified in ~~section 23-1-123 (5)~~ SECTION
11 23-5-119.5 (5), to pledge the net income derived or to be derived from
12 other facilities that are included in a designated enterprise or, if not
13 included, other facilities that are not acquired and not to be acquired with
14 moneys appropriated to the institution by the state of Colorado, and to
15 pledge the net income, fees, and revenues derived from such sources, if
16 unpledged, or, if pledged, the net income, fees, and revenues currently in
17 excess of the amount required to meet principal, interest, and reserve
18 requirements in connection with outstanding obligations to which such
19 net income, fees, and revenues have theretofore been pledged. A
20 governing board of an institution or group of institutions designated as an
21 enterprise pursuant to section 23-5-101.7 that has entered into a contract
22 for the advancement of money on behalf of such an institution or group
23 of institutions may pledge up to ten percent of tuition revenues of such an
24 enterprise, except for general fund moneys appropriated by the general
25 assembly, and all or a portion of a facility construction fee that may be
26 imposed as security for the repayment of the moneys advanced pursuant
27 to said contract. The pledge of tuition revenues or the imposition of a

1 facility construction fee shall include a process for student input
2 consistent with the ~~provisions of section 23-1-123~~ INSTITUTIONAL PLAN
3 FOR STUDENT FEES ADOPTED BY THE GOVERNING BOARD OF THE
4 APPLICABLE INSTITUTION PURSUANT TO SECTION 23-5-119.5.

5 **SECTION 10.** 24-1-107.5 (3), Colorado Revised Statutes, is
6 amended to read:

7 **24-1-107.5. Nonprofit entities created or supported by state**
8 **agencies and state-level authorities - requirements - legislative**
9 **declaration.** (3) ~~Commencing July 1, 1999,~~ A state-supported
10 institution of higher education ~~intending to~~ MAY establish a nonprofit
11 entity that would otherwise require specific statutory authority under
12 paragraph (a) of subsection (2) of this section ~~may seek, in lieu of~~
13 ~~obtaining such authority, approval for the establishment of the nonprofit~~
14 ~~entity from the Colorado commission on higher education~~ UPON A
15 FINDING BY THE GOVERNING BOARD OF THE INSTITUTION THAT
16 ESTABLISHING THE NONPROFIT ENTITY WOULD BE IN THE BEST INTERESTS
17 OF THE INSTITUTION.

18 **SECTION 11.** 23-5-106, Colorado Revised Statutes, is amended
19 BY THE ADDITION OF A NEW SUBSECTION to read:

20 **23-5-106. Authority of governing boards - general - health**
21 **care insurance - contracts of indemnity.** (4) THE GOVERNING BOARD
22 OF A STATE INSTITUTION OF HIGHER EDUCATION MAY CONTRACT TO
23 INDEMNIFY AND HOLD HARMLESS A CONTRACTOR IF THE GOVERNING
24 BOARD DETERMINES THAT THE CONTRACT SERVES A VALID PUBLIC
25 PURPOSE AND ANY RISKS TO THE INSTITUTION THAT MAY ARISE FROM
26 ENTERING INTO THE CONTRACT ARE SUFFICIENTLY LIMITED AND
27 OUTWEIGHED BY THE BENEFITS OF THE CONTRACT. NOTWITHSTANDING

1 ANY OTHER PROVISION OF LAW TO THE CONTRARY, A LIABILITY CLAIM OR
2 EXPENSE THAT ARISES FROM A CONTRACT TO INDEMNIFY OR HOLD
3 HARMLESS ENTERED INTO BY A GOVERNING BOARD PURSUANT TO THIS
4 SUBSECTION (4) SHALL NOT BE PAYABLE FROM THE RISK MANAGEMENT
5 FUND CREATED IN SECTION 24-30-1510, C.R.S.

6 **SECTION 12.** 24-37.5-404.5, Colorado Revised Statutes, is
7 amended to read:

8 **24-37.5-404.5. Institutions of higher education - information**
9 **security programs.** (1) ~~On or before July 1, 2007, the department of~~
10 ~~higher education and~~ Each institution of higher education, in coordination
11 with the department OF HIGHER EDUCATION, shall develop an information
12 security ~~plan~~ PROGRAM. The information security ~~plan~~ PROGRAM shall
13 provide information security for the communication and information
14 resources that support the operations and assets of the department OF
15 HIGHER EDUCATION and the institution of higher education.

16 (2) The information security ~~plan~~ PROGRAM shall include:

17 (a) Periodic assessments of the risk and magnitude of the harm
18 that could result from a security incident;

19 (b) A process for providing adequate information security for the
20 communication and information resources of the institution of higher
21 education;

22 (c) Information security awareness training ~~for employees of the~~
23 ~~institution of higher education~~ TO INFORM THE EMPLOYEES,
24 ADMINISTRATORS, AND USERS AT THE INSTITUTION OF HIGHER EDUCATION
25 ABOUT THE INFORMATION SECURITY RISKS AND THE RESPONSIBILITY OF
26 EMPLOYEES, ADMINISTRATORS, AND USERS TO COMPLY WITH THE
27 INSTITUTION'S INFORMATION SECURITY PROGRAM AND THE POLICIES,

1 STANDARDS, AND PROCEDURES DESIGNED TO REDUCE THE SECURITY
2 RISKS;

3 (d) Periodic testing and evaluation of the effectiveness of
4 information security for the institution of higher education, which shall
5 be performed not less than annually;

6 (e) A process for detecting, reporting, and responding to security
7 incidents consistent with the information security policy of the institution
8 of higher education. The institutions of higher education, the Colorado
9 commission on higher education, and the chief information security
10 officer shall establish the terms and conditions by which the institutions
11 of higher education ~~and the department of higher education~~ shall report
12 information security incidents to the chief information security officer.

13 (f) Plans and procedures to ensure the continuity of operations for
14 information resources that support the operations and assets of the
15 institution of higher education in the event of a security incident.

16 (3) ~~On or before July 15, 2007, each institution of higher~~
17 ~~education shall submit the information security plan developed pursuant~~
18 ~~to this section to the Colorado commission on higher education for review~~
19 ~~and comment. The commission shall submit such plans to the chief~~
20 ~~information security officer.~~ ON OR BEFORE JULY 1, 2011, AND ON OR
21 BEFORE JULY 1 EACH YEAR THEREAFTER, EACH INSTITUTION OF HIGHER
22 EDUCATION SHALL REPORT TO THE EXECUTIVE DIRECTOR OF THE
23 DEPARTMENT OF HIGHER EDUCATION CONCERNING THE DEVELOPMENT
24 AND IMPLEMENTATION OF THE INSTITUTION'S INFORMATION SECURITY
25 PROGRAM AND COMPLIANCE WITH THE REQUIREMENTS SPECIFIED IN
26 SUBSECTION (2) OF THIS SECTION. UPON RECEIPT OF THE REPORTS, THE
27 DEPARTMENT OF HIGHER EDUCATION SHALL SUBMIT A STATEMENT OF

1 COMPLIANCE TO THE CHIEF INFORMATION SECURITY OFFICER.

2 (4) Nothing in this section shall be construed to require any
3 institution of higher education or the department of higher education to
4 adopt policies or standards that conflict with federal law, rules, or
5 regulations or with contractual arrangements governed by federal laws,
6 rules, or regulations.

7 ~~(5) An information security plan may provide for a phase-in~~
8 ~~period not to exceed three years. An implementation schedule for the~~
9 ~~phase-in period shall be included in such a plan. Any phase-in period~~
10 ~~pursuant to this subsection (5) shall be completed by July 1, 2009.~~

11 ~~(6) On or before July 1, 2008, and on or before July 1 of each~~
12 ~~subsequent year, the executive director of the department of higher~~
13 ~~education shall report to the chief information security officer on the~~
14 ~~development, implementation, and, if applicable, compliance with the~~
15 ~~phase-in schedule of the information security plan for each institution of~~
16 ~~higher education.~~

17 ~~(7) The Colorado commission on higher education shall require~~
18 ~~the institutions of higher education to provide regularized security~~
19 ~~awareness training to inform the employees, administrators, and users in~~
20 ~~those institutions about the information security risks and the~~
21 ~~responsibility of employees, administrators, and users to comply with the~~
22 ~~institution's information security plan and the policies, standards, and~~
23 ~~procedures designed to reduce those risks.~~

24 **SECTION 13.** 12-48-102 (1), Colorado Revised Statutes, is
25 amended to read:

26 **12-48-102. Qualifications of organizations for permit -**
27 **qualifications of municipalities or municipalities owning arts facilities**

1 **- qualifications of candidates.** (1) A special event permit issued under
2 this article may be issued to an organization, whether or not presently
3 licensed under articles 46 and 47 of this title, which has been incorporated
4 under the laws of this state for purposes of a social, fraternal, patriotic,
5 political, or athletic nature, and not for pecuniary gain, or which is a
6 regularly chartered branch, lodge, or chapter of a national organization or
7 society organized for such purposes and being nonprofit in nature, or
8 which is a regularly established religious or philanthropic institution, OR
9 WHICH IS A STATE INSTITUTION OF HIGHER EDUCATION, and to any political
10 candidate who has filed the necessary reports and statements with the
11 secretary of state pursuant to article 45 of title 1, C.R.S. FOR PURPOSES
12 OF THIS ARTICLE, A STATE INSTITUTION OF HIGHER EDUCATION INCLUDES
13 EACH PRINCIPAL CAMPUS OF A STATE SYSTEM OF HIGHER EDUCATION.

14 **SECTION 14.** 12-48-108, Colorado Revised Statutes, is amended
15 to read:

16 **12-48-108. Exemptions.** An organization otherwise qualifying
17 under section 12-48-102 shall be exempt from the provisions of this
18 article and shall be deemed to be dispensing gratuitously and not to be
19 selling fermented malt beverages or malt, spirituous, or vinous liquors
20 when it serves, by the drink, fermented malt beverages or malt, spirituous,
21 or vinous liquors to its members and their guests at a private function held
22 by such organization on unlicensed premises so long as any admission or
23 other charge, if any, required to be paid or given by any such member as
24 a condition to entry or participation in the event is uniform as to all
25 without regard to whether or not a member or such member's guest
26 consumes or does not consume such beverages or liquors. FOR PURPOSES
27 OF THIS SECTION, ALL INVITED ATTENDEES AT A PRIVATE FUNCTION HELD

1 BY A STATE INSTITUTION OF HIGHER EDUCATION SHALL BE CONSIDERED
2 MEMBERS OR GUESTS OF THE INSTITUTION.

3 **SECTION 15.** 17-24-106.6 (1) (b) and (2), Colorado Revised
4 Statutes, are amended to read:

5 **17-24-106.6. Surplus state property.** (1) As used in this
6 section, unless the context otherwise requires:

7 (b) "State agency" means this state or any department ~~institution,~~
8 or other agency of the state, ~~including institutions of higher education,~~ but
9 not including the department of transportation.

10 (2) The director shall promulgate rules to be utilized by the
11 division in governing:

12 (a) The sale or disposal of surplus state property by public auction,
13 competitive sealed bidding, or daily warehouse sales; AND

14 (b) (Deleted by amendment, L. 2002, p. 218, § 1, effective April
15 3, 2002.)

16 (c) The circumstances under which a public employee may
17 purchase surplus state property. ~~and~~

18 (d) ~~The implementation of the waiver process for unique property~~
19 ~~items of interest to institutions of higher education, as described in~~
20 ~~section 17-24-104 (6).~~

21 **SECTION 16. Repeal.** 17-24-104 (6), Colorado Revised
22 Statutes, is repealed as follows:

23 **17-24-104. Creation of division of correctional industries and**
24 **advisory committee - enterprise status of division - duties of**
25 **committee - sunset review of committee - rules.** (6) (a) ~~The advisory~~
26 ~~committee and the department of higher education shall, no later than~~
27 ~~September 1, 2006, complete the joint development of a process~~

1 governing the waiver of institutions of higher education, by campus, from
2 the surplus state property procedures described in section 17-24-106.6
3 concerning property items that the advisory committee and department of
4 higher education jointly determine are unique and of interest to
5 institutions of higher education.

6 (b) The director of the division of correctional industries shall, in
7 accordance with section 17-24-106.6 (2), promulgate rules that implement
8 the waiver process developed pursuant to this subsection (6).

9 **SECTION 17.** 17-24-111, Colorado Revised Statutes, is amended
10 BY THE ADDITION OF A NEW SUBSECTION to read:

11 **17-24-111. Purchasing requirement.** (6) NOTWITHSTANDING
12 ANY PROVISION OF THIS SECTION TO THE CONTRARY, A STATE INSTITUTION
13 OF HIGHER EDUCATION MAY, BUT IS NOT REQUIRED TO, PURCHASE GOODS
14 AND SERVICES FROM THE DIVISION PURSUANT TO THIS SECTION.

15 **SECTION 18.** 24-50-135 (1), (2) (a), and (2) (c), Colorado
16 Revised Statutes, are amended to read:

17 **24-50-135. Exemptions from personnel system.**
18 (1) Administrators employed in educational institutions and departments
19 not charitable or reformatory in character shall be exempt from the state
20 personnel system. For purposes of this section, "administrators employed
21 in educational institutions and departments" means:

22 (a) Officers of an educational institution and their executive
23 assistants; employees in professional positions, including deans, directors,
24 chairpersons, and professionals in academic and academic support
25 positions; heads of administrative or academic departments or divisions
26 and their principal professional subordinates; and professional employees
27 of a governing board or educational institution having responsibility for

1 ~~or control of program operations or for the formulation, planning, and~~
2 ~~direction of the policies of the governing board or educational institution~~
3 THE PROFESSIONAL EMPLOYEES OF A GOVERNING BOARD; AND ANY OTHER
4 EMPLOYEES INVOLVED IN THE DIRECT DELIVERY OF ACADEMIC
5 CURRICULUM;

6 (b) and (c) (Deleted by amendment, L. 2004, p. 419, § 1, effective
7 August 4, 2004.)

8 (d) ~~Heads of those functions of an educational institution that are~~
9 ~~supported primarily by student fees and charges, including heads of~~
10 ~~residence halls and their professional staff;~~

11 (e) ~~Heads and professional staff of departments of intercollegiate~~
12 ~~athletics;~~

13 (f) Professional officers and professional staff of the department
14 of higher education; ~~including the professional staff of any governing~~
15 ~~board of an institution of higher education; and~~

16 (g) (Deleted by amendment, L. 2004, p. 419, § 1, effective August
17 4, 2004.)

18 (h) ~~Heads of and professional staff involved in research and grant~~
19 ~~projects; and, for the duration of their initial appointment, individuals~~
20 EMPLOYEES in ~~grant-funded positions where funding is limited by a~~
21 ~~known expiration date of the research project or grant~~ FUNDED BY
22 GRANTS, GIFTS, OR REVENUES GENERATED THROUGH AUXILIARY
23 ACTIVITIES. FOR PURPOSES OF THIS PARAGRAPH (h), "AUXILIARY
24 ACTIVITIES" MEANS INSTITUTIONAL ACTIVITIES MANAGED AND
25 ACCOUNTED FOR AS SELF-SUPPORTING ACTIVITIES.

26 (2) (a) The president of each educational institution or a person
27 designated by the president shall determine which administrative

1 positions in that institution are exempt from the state personnel system
2 under subsection (1) of this section, subject to an appeal to the board;
3 EXCEPT THAT A POSITION SHALL NOT BE DETERMINED TO BE EXEMPT
4 WHILE IT IS HELD BY AN EXISTING EMPLOYEE IN THE STATE PERSONNEL
5 SYSTEM. THE PRESIDENT OF AN EDUCATIONAL INSTITUTION MAY DECIDE
6 NOT TO EXEMPT A POSITION FUNDED THROUGH AUXILIARY ACTIVITIES IF
7 THE PRESIDENT DETERMINES THAT EXEMPTING THE POSITION IS NOT IN THE
8 BEST INTERESTS OF THE INSTITUTION.

9 (c) ~~No later than December 31 of each year, the president of each~~
10 ~~educational institution shall submit a report to the state personnel director,~~
11 ~~in the form prescribed by the director, listing all positions at the~~
12 ~~educational institution that are exempt from the state personnel system in~~
13 ~~accordance with this section.~~

14 **SECTION 19.** 24-50-508, Colorado Revised Statutes, is amended
15 to read:

16 **24-50-508. Intergovernmental agreements - agreements by**
17 **state institutions of higher education - excluded.** (1) THE FOLLOWING
18 CONTRACTS ARE NOT SUBJECT TO THE PROVISIONS OF THIS PART 5:

19 (a) In accordance with section 18 (2) of article XIV of the state
20 constitution, contracts between the state and its political subdivisions or
21 the government of the United States, or any combination thereof; ~~shall not~~
22 ~~be subject to the provisions of this part 5.~~ AND

23 (b) CONTRACTS ENTERED INTO BY A STATE INSTITUTION OF HIGHER
24 EDUCATION, SO LONG AS THE CHIEF EXECUTIVE OFFICER OF THE
25 INSTITUTION, OR HIS OR HER DESIGNEE, HAS DETERMINED THAT THE
26 CONDITIONS SET FORTH IN SECTION 24-50-503 ARE MET FOR THOSE
27 CONTRACTS THAT IMPLICATE THE STATE PERSONNEL SYSTEM.

1 **SECTION 20.** 24-50-902 (1) (b) and (6), Colorado Revised
2 Statutes, are amended to read:

3 **24-50-902. Definitions.** As used in this part 9, unless the context
4 otherwise requires:

5 (1) (b) "Employee" does not include:

6 (I) An employee of the office of state planning and budgeting, the
7 office of the state auditor, the joint budget committee, or the department
8 of personnel;

9 (II) An elected official or member of the general assembly; ~~or~~

10 (III) The executive director, program manager, division director,
11 or budget officer of a principal department; ~~the president of a college or~~
12 ~~university, or a deputy of such director, officer, or president~~ OR

13 (IV) AN EMPLOYEE OF A GOVERNING BOARD OF AN INSTITUTION OF
14 HIGHER EDUCATION OR A HIGHER EDUCATION INSTITUTIONAL SYSTEM, AN
15 EMPLOYEE OF AN INSTITUTION OF HIGHER EDUCATION OR OF A HIGHER
16 EDUCATION INSTITUTIONAL SYSTEM, OR AN EMPLOYEE OF THE AURARIA
17 HIGHER EDUCATION CENTER CREATED IN ARTICLE 70 OF TITLE 23, C.R.S.

18 (6) "State agency" means any department, board, bureau,
19 commission, division, institution, office, or other agency of the
20 executive, legislative, and judicial branch of the state government.
21 ~~including institutions~~ "STATE AGENCY" SHALL NOT INCLUDE AN
22 INSTITUTION of higher education.

23 **SECTION 21.** 24-51-1101 (1.8), Colorado Revised Statutes, is
24 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

25 **24-51-1101. Employment after service retirement.**

26 (1.8) (f) NOTWITHSTANDING ANY PROVISION OF THIS SUBSECTION (1.8) TO
27 THE CONTRARY, A SERVICE RETIREE WHO IS HIRED BY A STATE COLLEGE OR

1 UNIVERSITY PURSUANT TO THIS SUBSECTION (1.8) INTO A POSITION THAT
2 IS ELIGIBLE FOR AN OPTIONAL RETIREMENT PLAN ESTABLISHED BY THE
3 GOVERNING BOARD OF THE STATE COLLEGE OR UNIVERSITY PURSUANT TO
4 SECTION 23-20-139, C.R.S., OR ARTICLE 54.5 OF THIS TITLE MAY RECEIVE
5 A SALARY FOR UP TO FIVE CALENDAR YEARS WITHOUT A REDUCTION IN
6 BENEFITS AND WITHOUT LIMITATION ON THE NUMBER OF HOURS OR DAYS
7 OF EMPLOYMENT; EXCEPT THAT, IF THE SERVICE RETIREE WORKS DURING
8 THE MONTH OF THE EFFECTIVE DATE OF RETIREMENT, HE OR SHE SHALL BE
9 SUBJECT TO A REDUCTION IN BENEFITS AS PROVIDED IN SECTION
10 24-51-1102 (2).

11 **SECTION 22.** 24-50-618, Colorado Revised Statutes, is amended
12 to read:

13 **24-50-618. Group benefit plans - institutions of higher**
14 **education.** ~~A state institution of higher education that has, in the plan~~
15 ~~year immediately preceding June 10, 2010, offered one or more group~~
16 ~~benefit plans other than a plan contracted for by the director pursuant to~~
17 ~~this part 6 to employees of the institution who are in the state personnel~~
18 ~~system may continue to offer group benefit plans to such employees.~~

19 Nothing in this part 6 shall be construed to otherwise limit or expand the
20 authority of ~~any~~ A STATE institution of higher education OR A GROUP OF
21 SAID INSTITUTIONS to establish and offer ONE OR MORE GROUP benefit
22 plans, IN ADDITION TO OR IN LIEU OF A PLAN CONTRACTED FOR BY THE
23 DIRECTOR PURSUANT TO THIS PART 6, to ~~its~~ employees OF THE
24 INSTITUTION OR INSTITUTIONS WHO ARE IN THE STATE PERSONNEL SYSTEM.

25 **SECTION 23.** Part 8 of article 50 of title 24, Colorado Revised
26 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
27 read:

1 **24-50-805. Institutions of higher education - alternative**
2 **employee incentive programs.** NOTWITHSTANDING ANY PROVISION OF
3 THIS PART 8 TO THE CONTRARY, THE CHIEF EXECUTIVE OFFICER OF A STATE
4 INSTITUTION OF HIGHER EDUCATION MAY ESTABLISH AND IMPLEMENT AN
5 INCENTIVE PROGRAM FOR EMPLOYEES, INCLUDING CLASSIFIED EMPLOYEES,
6 OF THE INSTITUTION. AT A MINIMUM, THE INCENTIVE PROGRAM SHALL
7 INCLUDE THE ELEMENTS DESCRIBED IN SECTION 24-50-804 (2) (a) TO (2)
8 (e). AN INCENTIVE PROGRAM IMPLEMENTED PURSUANT TO THIS SECTION
9 SHALL NOT BE SUBJECT TO APPROVAL BY THE STATE PERSONNEL
10 DIRECTOR.

11 **SECTION 24.** 23-5-117, Colorado Revised Statutes, is amended
12 to read:

13 **23-5-117. Governing boards - delegation of personnel**
14 **power.** (1) The governing board of any state-supported institution of
15 higher education may delegate all or part of its power over personnel
16 matters, including the power to hire or to fire employees exempt from the
17 personnel system, to the chief executive officer of the institution
18 governed by such board. The governing board may ~~expressly~~ authorize
19 the chief executive officer to delegate to other officers of the institution
20 ~~specified by the board~~ any power so delegated pursuant to this section.
21 The governing board of each state supported institution of higher
22 education, except the university of Colorado, Colorado state university,
23 the university of northern Colorado, the Colorado school of mines,
24 Adams state college, Mesa state college, Western state college of
25 Colorado, or Metropolitan state college of Denver, after consultation with
26 faculty representatives chosen by the faculty, shall prepare, enact,
27 promulgate, administer, and maintain in place policies and practices

1 which afford due process procedures for those faculty members exempt
2 from the state personnel system who are terminated, including
3 terminations resulting from reductions in force.

4 (2) NOTWITHSTANDING ANY PROVISION OF SECTION 24-50-104,
5 C.R.S., TO THE CONTRARY, THE GOVERNING BOARD OF A
6 STATE-SUPPORTED INSTITUTION OF HIGHER EDUCATION MAY DELEGATE TO
7 THE CHIEF EXECUTIVE OFFICER OF THE INSTITUTION THE AUTHORITY TO
8 ESTABLISH CRITERIA AND PROCEDURES FOR AWARDING PAID OR UNPAID
9 ADMINISTRATIVE LEAVE TO EMPLOYEES, INCLUDING CLASSIFIED
10 EMPLOYEES, OF THE INSTITUTION. AT A MINIMUM, THE PROCEDURES
11 SHALL REQUIRE THE EMPLOYEE'S SUPERVISOR TO REPORT TO THE CHIEF
12 EXECUTIVE OFFICER ANY GRANT OF ADMINISTRATIVE LEAVE THAT
13 EXCEEDS TWENTY CONSECUTIVE WORK DAYS.

14 **SECTION 25.** 23-1-106 (9), Colorado Revised Statutes, is
15 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

16 **23-1-106. Duties and powers of the commission with respect**
17 **to capital construction and long-range planning.** (9) (e) A CAPITAL
18 CONSTRUCTION OR ACQUISITION PROJECT THAT MEETS THE PROVISIONS OF
19 THIS SUBSECTION (9) SHALL NOT BE SUBJECT TO ADDITIONAL REVIEW OR
20 APPROVAL BY THE COMMISSION, THE OFFICE OF STATE PLANNING AND
21 BUDGETING, THE CAPITAL DEVELOPMENT COMMITTEE, OR THE JOINT
22 BUDGET COMMITTEE DUE TO A SUPPLEMENTAL CASH FUND APPROPRIATION
23 REQUEST FOR THE PROJECT MADE ON OR AFTER JANUARY 1, 2010,
24 REGARDLESS OF WHETHER THE PROJECT WAS INITIALLY APPROVED
25 PURSUANT TO THIS SUBSECTION (9).

26 **SECTION 26.** 23-1-106 (10), Colorado Revised Statutes, is
27 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

1 **23-1-106. Duties and powers of the commission with respect**
2 **to capital construction and long-range planning.** (10) (c) THE
3 PROVISIONS OF THIS SUBSECTION (10) SHALL APPLY TO A CAPITAL
4 CONSTRUCTION OR ACQUISITION PROJECT THAT MEETS THE PROVISIONS OF
5 THIS SUBSECTION (10) AND FOR WHICH THE GOVERNING BOARD SEEKS A
6 SUPPLEMENTAL CASH FUND APPROPRIATION FOR THE PROJECT ON OR
7 AFTER JANUARY 1, 2010, REGARDLESS OF WHETHER THE PROJECT WAS
8 INITIALLY APPROVED PURSUANT TO THIS SUBSECTION (10).

9 **SECTION 27.** 23-1-106 (10.5), Colorado Revised Statutes, is
10 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

11 **23-1-106. Duties and powers of the commission with respect**
12 **to capital construction and long-range planning.** (10.5) (c) FOR ANY
13 PROJECT COMMENCED PURSUANT TO SUBSECTION (9) OR (10) OF THIS
14 SECTION, THE GOVERNING BOARD OF THE INSTITUTION IMPLEMENTING THE
15 PROJECT IS NOT REQUIRED TO SUBMIT FOR THE PROJECT QUARTERLY
16 EXPENDITURE REPORTS AS DESCRIBED IN SECTION 24-30-204 (2), C.R.S.
17 THE GOVERNING BOARD SHALL SUBMIT FOR THE PROJECT ANNUAL
18 EXPENDITURE REPORTS AS REQUIRED IN SECTION 24-30-204 (1), C.R.S.

19 **SECTION 28.** 24-30-204 (2), Colorado Revised Statutes, is
20 amended to read:

21 **24-30-204. Fiscal year.** (2) (a) For fiscal years commencing on
22 or after July 1, 1992, in addition to the financial statements required
23 pursuant to subsection (1) of this section, all departments, institutions,
24 and agencies in the state government shall submit a quarterly report of
25 financial information to the controller no later than thirty days after the
26 last day of each fiscal year quarter. Such report shall include such
27 financial information as deemed reasonable and necessary by the

1 controller. Such report shall include, but shall not be limited to, sufficient
2 financial information for the controller to determine if such department,
3 institution, or agency is properly crediting monthly revenues and accruals
4 and is properly billing the federal government, in a timely manner, for
5 reimbursement of state moneys expended for federal programs. The
6 controller shall work with all departments to develop a format for such
7 quarterly report of each department, institution, and agency.

8 (b) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF
9 THIS SUBSECTION (2), A GOVERNING BOARD THAT IMPLEMENTS A CAPITAL
10 CONSTRUCTION OR ACQUISITION PROJECT AS DESCRIBED IN SECTION
11 23-1-106 (9) OR (10), C.R.S., IS NOT REQUIRED TO SUBMIT FOR THE
12 PROJECT QUARTERLY REPORTS AS DESCRIBED IN PARAGRAPH (a) OF THIS
13 SUBSECTION (2).

14 **SECTION 29.** 24-75-303, Colorado Revised Statutes, is amended
15 BY THE ADDITION OF A NEW SUBSECTION to read:

16 **24-75-303. Appropriation for capital construction.** (3.5) IF A
17 CAPITAL CONSTRUCTION PROJECT FOR A STATE-SUPPORTED INSTITUTION
18 OF HIGHER EDUCATION IS TO BE COMPLETED USING A COMBINATION OF
19 CAPITAL CONSTRUCTION APPROPRIATIONS PURSUANT TO THIS SECTION
20 AND CASH FUNDS OR OTHER NONSTATE MONEYS HELD BY THE
21 INSTITUTION, THE INSTITUTION MAY, AT ANY TIME PRIOR TO OR AFTER
22 RECEIVING THE CASH FUNDS OR OTHER NONSTATE MONEYS, EARN THE
23 MONEYS APPROPRIATED FROM THE STATE CAPITAL CONSTRUCTION FUND.
24 FOR ANY PROJECT FUNDED IN PART BY CAPITAL CONSTRUCTION
25 APPROPRIATIONS PURSUANT TO THIS SECTION, IF THERE ARE CASH FUNDS
26 OR OTHER NONSTATE MONEYS REMAINING AFTER THE PROJECT IS
27 COMPLETED, THE INSTITUTION SHALL REFUND MONEYS TO THE STATE

1 CAPITAL CONSTRUCTION FUND IN PROPORTION TO THE AMOUNT OF STATE
2 CAPITAL CONSTRUCTION MONEYS APPROPRIATED FOR THE PROJECT.

3 **SECTION 30.** 24-30-1301 (1) (a) and (1) (f), Colorado Revised
4 Statutes, are amended to read:

5 **24-30-1301. Definitions.** As used in this part 13, unless the
6 context otherwise requires:

7 (1) "Capital construction" means:

8 (a) Purchase of land, regardless of the value thereof; EXCEPT THAT
9 "CAPITAL CONSTRUCTION" INCLUDES THE PURCHASE OF LAND BY A STATE
10 INSTITUTION OF HIGHER EDUCATION ONLY IF THE INSTITUTION USES
11 MONEYS APPROPRIATED PURSUANT TO SECTION 24-75-303 TO PURCHASE
12 THE LAND;

13 (f) Any item of instructional or scientific equipment if the cost
14 will exceed fifty thousand dollars; EXCEPT THAT "CAPITAL
15 CONSTRUCTION" INCLUDES THE PURCHASE OF INSTRUCTIONAL OR
16 SCIENTIFIC EQUIPMENT BY A STATE INSTITUTION OF HIGHER EDUCATION
17 ONLY IF THE INSTITUTION USES MONEYS APPROPRIATED PURSUANT TO
18 SECTION 24-75-303 TO PURCHASE THE INSTRUCTIONAL OR SCIENTIFIC
19 EQUIPMENT.

20 **SECTION 31. Repeal.** 23-1-106 (12), Colorado Revised
21 Statutes, is repealed as follows:

22 **23-1-106. Duties and powers of the commission with respect**
23 **to capital construction and long-range planning.** (12) ~~Each institution~~
24 ~~shall submit to the commission a facility management plan or update~~
25 ~~required by section 24-30-1303.5 (3.5), C.R.S. The commission shall~~
26 ~~review the facility management plan or update and make~~
27 ~~recommendations regarding it to the department of personnel.~~

1 **SECTION 32.** 24-30-1303.5 (3.5), Colorado Revised Statutes, is
2 amended to read:

3 **24-30-1303.5. Department to prepare and maintain inventory**
4 **of state property - vacant facilities.** (3.5) (a) With respect to all real
5 property owned by or held in trust for the state of Colorado or any state
6 department OR agency, ~~or institution, including state institutions of higher~~
7 ~~education,~~ each state department OR agency ~~or institution~~ shall identify
8 any vacant facility under its control. As used in this section, "vacant"
9 means:

10 (I) Unoccupied;

11 (II) Unused in whole or in part for the purposes for which the
12 improvement was designed, intended, or remodeled; or

13 (III) Without current defined plans by the state department OR
14 agency ~~or institution~~ for the next fiscal year.

15 (b) For any facility that becomes vacant after July 1, 2003, the
16 state department OR agency ~~or institution~~ shall be required to submit for
17 the approval of the department a facility management plan consistent with
18 the procedures established by the department. The state department OR
19 agency ~~or institution~~ shall submit the facility management plan to the
20 department within thirty days after the facility becomes vacant. In
21 addition to any other information required by the department, the facility
22 management plan shall include the following:

23 (I) A financial analysis of the possible uses of the facility;

24 (II) Any plans for the disposal of the facility through sale, lease,
25 demolition, or otherwise;

26 (III) If the state department OR agency ~~or institution~~ does not
27 intend to dispose of the facility during the next fiscal year, a plan for the

1 proposed controlled maintenance, if any, necessary to avoid the
2 deterioration of the vacant facility; and

3 (IV) Whether the facility has or is eligible to receive a national,
4 state, or local historic designation or listing.

5 (c) (I) For each year after the department approves a facility
6 management plan, the state department OR agency ~~or institution~~ shall
7 submit an annual facility management plan update consistent with the
8 procedures established by the department. The update shall be submitted
9 on or before November 1 of the year following the approval of a facility
10 management plan and each November 1 thereafter until such time that the
11 facility is no longer vacant. In addition to any other information required
12 by the department, the update shall identify all actions taken by the state
13 department OR agency ~~or institution~~ within the last year consistent with
14 the facility management plan. If based on the update or on any other
15 information known by the department, the department determines that the
16 state department OR agency ~~or institution~~ has failed to comply with the
17 provisions of an approved facility management plan, the department may
18 revoke the approval of the facility management plan. If the department
19 revokes approval of the facility management plan, a state department OR
20 agency ~~or institution~~ shall be required to submit a new facility
21 management plan for the vacant facility subject to the provisions of this
22 subsection (3.5).

23 (II) In addition to any other requirements of subparagraph (I) of
24 this paragraph (c), the facility management plan update shall describe any
25 changes proposed by the state department OR agency ~~or institution~~ to the
26 facility management plan. Any proposed changes to the facility
27 management plan shall be subject to the approval of the department, and

1 any approved changes shall become part of the facility management plan
2 for purposes of future updates.

3 (d) ~~Any facility management plan or update required to be~~
4 ~~submitted by a state institution of higher education pursuant to this~~
5 ~~subsection (3.5) shall be submitted to the Colorado commission on higher~~
6 ~~education instead of the department. The commission shall submit a copy~~
7 ~~of the facility management plan or update and the commission's~~
8 ~~recommendations regarding it to the department.~~

9 (e) Repealed.

10 (f) ~~No~~ A state department OR agency ~~or institution~~ shall NOT be
11 eligible for any capital construction appropriations until the department
12 approves a facility management plan for all vacant facilities controlled by
13 the state department OR agency; ~~or institution~~; except that the capital
14 development committee may exempt a state department OR agency ~~or~~
15 ~~institution~~ from the provisions of this paragraph (f).

16 **SECTION 33.** 23-5-103 (1) and (3), Colorado Revised Statutes,
17 are amended to read:

18 **23-5-103. Pledge of income.** (1) The governing board of any one
19 or more state educational institutions, including, but not limited to, the
20 state colleges under the control and operation of their respective boards
21 of trustees, that enters into such a contract for the advancement of moneys
22 is authorized, in connection with or as a part of such contract, to pledge
23 the net income derived or to be derived from such land or facilities so
24 constructed, acquired, and equipped as security for the repayment of the
25 moneys advanced therefor, together with interest thereon, and for the
26 establishment and maintenance of reserves in connection therewith; and,
27 for the same purpose, any such governing board is also authorized,

1 subject to the limitations specified in section 23-1-123 (5), to pledge the
2 net income derived or to be derived from other facilities that are included
3 in a designated enterprise or, if not included, other facilities that are not
4 acquired and not to be acquired with moneys appropriated to the
5 institution by the state of Colorado, and to pledge the net income, fees,
6 and revenues derived from such sources, if unpledged, or, if pledged, the
7 net income, fees, and revenues currently in excess of the amount required
8 to meet principal, interest, and reserve requirements in connection with
9 outstanding obligations to which such net income, fees, and revenues
10 have theretofore been pledged. A governing board of an institution or
11 group of institutions designated as an enterprise pursuant to section
12 23-5-101.7 that has entered into a contract for the advancement of money
13 on behalf of such an institution or group of institutions may pledge up to
14 ten percent of tuition revenues of such an enterprise, except for general
15 fund moneys appropriated by the general assembly, and all or a portion
16 of a facility construction fee that may be imposed as security for the
17 repayment of the moneys advanced pursuant to said contract. The ~~pledge~~
18 ~~of tuition revenues or the~~ imposition of a facility construction fee shall
19 include a process for student input consistent with the provisions of
20 section 23-1-123.

21 (3) If the pledged net income, fees, and revenues exceed the
22 amount required to meet principal, interest, and reserve requirements in
23 connection with revenue bonds of the institution to which such income
24 has been pledged and exceed the amount necessary for the maintenance
25 and operation of the auxiliary facility plus any amount set aside in a
26 reserve fund for repair and replacement of the facility, the governing
27 board may retain such surplus and utilize the same in such manner as in

1 its judgment is for the best interests of the educational institution. ~~Such~~
2 ~~surplus shall be used by the governing board for the purposes of~~
3 ~~rehabilitating, altering, adding to, or equipping any existing auxiliary~~
4 ~~facilities acquired pursuant to the provisions of this article and for the~~
5 ~~acquisition of sites for constructing, acquiring, and equipping additional~~
6 ~~auxiliary facilities pursuant to such provisions or for prior redemption of~~
7 ~~outstanding bonds. Use of such surplus shall be reviewed in advance by~~
8 ~~representatives of the student government at the institution with which the~~
9 ~~auxiliary facility is associated.~~

10 **SECTION 34. Act subject to petition - effective date.** This act
11 shall take effect at 12:01 a.m. on the day following the expiration of the
12 ninety-day period after final adjournment of the general assembly (August
13 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a
14 referendum petition is filed pursuant to section 1 (3) of article V of the
15 state constitution against this act or an item, section, or part of this act
16 within such period, then the act, item, section, or part shall not take effect
17 unless approved by the people at the general election to be held in
18 November 2012 and shall take effect on the date of the official
19 declaration of the vote thereon by the governor.