

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

ENGROSSED

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

LLS NO. 11-0387.02 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.*

HOUSE
Amended 2nd Reading
May 3, 2011

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 SHALL TAKE INTO ACCOUNT THE FACTORS REQUIRED TO BE
6 SPECIFIED IN THE FIVE-YEAR FINANCIAL ACCOUNTABILITY PLAN, IF ANY,
7 SUBMITTED PURSUANT TO SECTION 23-5-130.5 BY THE STATE-SUPPORTED
8 INSTITUTION OF HIGHER EDUCATION OFFERING THE FIXED-RATE
9 CONTRACT.

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

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


1 IN THIS SECTION, WHICH GOVERNING BOARD POLICIES SHALL BE IN
2 ACCORDANCE WITH THE POLICIES ADOPTED BY THE COMMISSION
3 PURSUANT TO SECTION 23-1-105.5.

4 (2) FOR PURPOSES OF THIS SECTION:

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

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

9 (c) "STATE INSTITUTION OF HIGHER EDUCATION" OR "INSTITUTION"
10 MEANS A STATE-SUPPORTED INSTITUTION OF HIGHER EDUCATION IN
11 COLORADO.

12 

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

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

23 (b) COSTS THAT ARE UNIQUE TO SPECIFIC COURSES OR PROGRAMS
24 AND BENEFIT THE STUDENTS WHO CHOOSE TO ENROLL IN THE COURSE OR
25 PROGRAM;

26 (c) COSTS RELATED TO STUDENT-CENTERED FACILITIES, SERVICES,
27 OR ACTIVITIES SUCH AS STUDENT CENTERS, RECREATION FACILITIES,

1 TECHNOLOGY, PARKING LOTS, CHILDCARE, HEALTH CLINICS, MANDATORY
2 INSURANCE, STUDENT GOVERNMENT, AND OTHER STUDENT
3 ORGANIZATIONS OR ACTIVITIES;

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

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

16 (I) THE TYPES AND PURPOSES OF STUDENT FEES COLLECTED BY THE
17 INSTITUTION;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (C) APPROVAL OF THE STUDENT BODY IS NOT REQUIRED TO
27 INCREASE ANY FEE THAT IS APPLIED TO THE REPAYMENT OF SAID BONDS OR

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

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

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

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

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

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

26 (C) THE REVENUES RECEIVED PURSUANT TO THIS SUBPARAGRAPH
27 (III), EITHER THROUGH A USER FEE OR THROUGH A SPECIFIED PORTION OF

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

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

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

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

25 (III) A GOVERNING BOARD MAY NOT PLEDGE A USER FEE ASSESSED
26 AGAINST PERSONS USING AN AUXILIARY FACILITY THAT IS NOT
27 DESIGNATED AS AN ENTERPRISE FOR REPAYMENT OF BONDS OR OTHER

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

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

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

25 (b) AS SOON AS PRACTICABLE FOLLOWING THE EFFECTIVE DATE OF
26 THIS SECTION, EACH GOVERNING BOARD SHALL MAKE REASONABLE
27 EFFORTS TO PROVIDE A FUNCTION FOR CALCULATING TUITION AND FEES ON

1 THE WEB SITE OF EACH INSTITUTION OR CAMPUS IT GOVERNS TO ASSIST
2 STUDENTS IN ESTIMATING THEIR ANNUAL AND TOTAL COST OF
3 ATTENDANCE AT THE INSTITUTION OR CAMPUS.

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

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

- 15 (a) THE AMOUNT OF THE NEW FEE OR OF THE FEE INCREASE;
- 16 (b) THE REASON FOR THE NEW FEE OR FEE INCREASE;
- 17 (c) THE PURPOSE FOR WHICH THE INSTITUTION WILL USE THE
18 REVENUES RECEIVED FROM THE NEW FEE OR FEE INCREASE; AND
- 19 (d) WHETHER THE NEW FEE OR FEE INCREASE IS TEMPORARY OR
20 PERMANENT AND, IF TEMPORARY, THE EXPECTED DATE ON WHICH THE NEW
21 FEE OR FEE INCREASE WILL BE DISCONTINUED.

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

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

3 **23-1-105.5. Duties and powers of the commission with respect**
4 **to student fees.** (1) THE COMMISSION SHALL ADOPT POLICIES
5 CONCERNING THE COLLECTION AND USE OF STUDENT FEES BY THE
6 GOVERNING BOARDS OF THE STATE INSTITUTIONS OF HIGHER EDUCATION,
7 AS DEFINED IN SECTION 23-5-119.5. THE POLICIES MAY ADDRESS, BUT
8 NEED NOT BE LIMITED TO, THE PURPOSES FOR STUDENT FEES, CATEGORIES
9 OF STUDENT FEES, THE DISTINCTIONS BETWEEN TUITION REVENUE AND
10 STUDENT FEE REVENUE, ACCOUNTING FOR STUDENT FEE REVENUE,
11 STUDENT FEE FUND BALANCES, AND THE MINIMUM LEVEL OF STUDENT
12 INVOLVEMENT IN THE PROCESSES FOR ESTABLISHING, REVIEWING,
13 CHANGING THE AMOUNT OF, AND DISCONTINUING STUDENT FEES. IN
14 PREPARING THE POLICIES, THE COMMISSION SHALL SEEK INPUT FROM THE
15 GOVERNING BOARDS, THE STATE INSTITUTIONS OF HIGHER EDUCATION,
16 AND THE STUDENT REPRESENTATIVE TO THE ADVISORY COMMITTEE
17 CREATED PURSUANT TO SECTION 23-1-103 AND REPRESENTATIVES OF THE
18 STUDENT GOVERNMENTS AT THE STATE INSTITUTIONS OF HIGHER
19 EDUCATION.

20 (2) ON OR BEFORE JANUARY 15, 2012, AND ON OR BEFORE
21 JANUARY 15 EACH YEAR THEREAFTER, THE DEPARTMENT SHALL REPORT
22 TO THE EDUCATION COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND
23 THE SENATE, OR ANY SUCCESSOR COMMITTEES, CONCERNING THE
24 GOVERNING BOARD'S FEE POLICIES AND THE COLLECTION AND USE OF
25 STUDENT FEES.

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

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

9 **SECTION 5. Repeal.** 23-1-123, Colorado Revised Statutes, is
10 repealed.

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

13 **12-47-308. Unlawful financial assistance.**

14 (1) (b) Notwithstanding the provisions of paragraph (a) of this
15 subsection (1), any person or party described in said paragraph (a) may
16 provide financial or in-kind assistance, directly or indirectly, to a
17 nonprofit arts organization that has been issued an arts license pursuant
18 to section 12-47-417 or to a ~~state~~ STATE-SUPPORTED institution of higher
19 education ~~as defined in section 23-1-123 (7) (d), C.R.S.~~ IN COLORADO,
20 INCLUDING JUNIOR COLLEGES, AREA VOCATIONAL SCHOOLS, AND THE
21 AURARIA HIGHER EDUCATION CENTER, or the governing board of ~~such~~ A
22 STATE-SUPPORTED institution OF HIGHER EDUCATION, or to ~~an~~ A
23 NONPUBLIC institution of higher education as defined in section
24 23-3.7-102, C.R.S., that is operating pursuant to 26 U.S.C. sec. 501 (c)
25 (3) of the federal "Internal Revenue Code of 1986", as amended, if the
26 institution has been issued a license pursuant to article 46, 47, or 48 of
27 this title.

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

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

17 **23-1-108. Duties and powers of the commission with regard**
18 **to systemwide planning.** (12) (a) The commission shall establish fee
19 policies based on institutional role and mission, and the governing boards
20 shall set fees consistent with such policies. ~~The commission shall follow~~
21 ~~the requirements of section 23-1-123 in establishing fee policies pursuant~~
22 ~~to this subsection (12).~~

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

25 **23-5-102. Funding for auxiliary facilities - institutions of**
26 **higher education - loans - bonds.** (2) The governing board of any
27 institution of higher education by resolution may issue revenue bonds on

1 behalf of any auxiliary facility or group of auxiliary facilities or on behalf
2 of any institution or group of institutions managed by such governing
3 board for the purpose of obtaining funds for constructing, otherwise
4 acquiring, equipping, or operating such auxiliary facility or group of
5 auxiliary facilities or for facilities for such institution or group of
6 institutions. Any bonds issued on behalf of any auxiliary facility or group
7 of auxiliary facilities, other than housing facilities, dining facilities,
8 recreational facilities, health facilities, parking facilities, alternative or
9 renewable energy producing facilities including but not limited to, solar,
10 wind, biomass, geothermal, or hydroelectric facilities, research facilities
11 that are funded from a revolving fund, or designated enterprise auxiliary
12 facilities listed in section 23-5-101.5 (4) may be issued only after
13 approval by both houses of the general assembly either by bill or by joint
14 resolution and after approval by the governor in accordance with section
15 39 of article V of the state constitution. The governing board of an
16 institution or group of institutions that issues bonds on behalf of the
17 institution or group of institutions, which is designated as an enterprise
18 pursuant to section 23-5-101.7, shall file notice of such issuance with the
19 Colorado commission on higher education. Bonds issued pursuant to this
20 subsection (2) shall be payable only from revenues generated by the
21 auxiliary facility or group of auxiliary facilities or by the institution or
22 group of institutions on behalf of which such bonds are issued; except
23 that, subject to ~~section 23-1-123~~ SECTION 23-5-119.5 (5) (a) (III) and (5)
24 (b) (II), revenues generated by a designated enterprise that is associated
25 with the university of Colorado may be pledged for the repayment of
26 bonds issued by another designated enterprise auxiliary facility that is not
27 part of the same enterprise. Such bonds shall be issued in accordance

1 with the provisions of section 23-5-103 (2). The termination, rescission,
2 or expiration of the enterprise designation of any auxiliary facility or
3 group of auxiliary facilities pursuant to section 23-5-101.5 (3) or of any
4 institution or group of institutions shall not adversely affect the validity
5 of or security for any revenue bonds issued on behalf of any auxiliary
6 facility or group of auxiliary facilities or on behalf of any institution or
7 group of institutions.

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

10 **23-5-103. Pledge of income.** (1) The governing board of any
11 one or more state educational institutions, including, but not limited to,
12 the state colleges under the control and operation of their respective
13 boards of trustees, that enters into such a contract for the advancement of
14 moneys is authorized, in connection with or as a part of such contract, to
15 pledge the net income derived or to be derived from such land or
16 facilities so constructed, acquired, and equipped as security for the
17 repayment of the moneys advanced therefor, together with interest
18 thereon, and for the establishment and maintenance of reserves in
19 connection therewith; and, for the same purpose, any such governing
20 board is also authorized, subject to the limitations specified in ~~section~~
21 ~~23-1-123 (5)~~ SECTION 23-5-119.5 (5), to pledge the net income derived
22 or to be derived from other facilities that are included in a designated
23 enterprise or, if not included, other facilities that are not acquired and not
24 to be acquired with moneys appropriated to the institution by the state of
25 Colorado, and to pledge the net income, fees, and revenues derived from
26 such sources, if unpledged, or, if pledged, the net income, fees, and
27 revenues currently in excess of the amount required to meet principal,

1 interest, and reserve requirements in connection with outstanding
2 obligations to which such net income, fees, and revenues have theretofore
3 been pledged. A governing board of an institution or group of institutions
4 designated as an enterprise pursuant to section 23-5-101.7 that has
5 entered into a contract for the advancement of money on behalf of such
6 an institution or group of institutions may pledge up to ten percent of
7 tuition revenues of such an enterprise, except for general fund moneys
8 appropriated by the general assembly, and all or a portion of a facility
9 construction fee that may be imposed as security for the repayment of the
10 moneys advanced pursuant to said contract. The pledge of tuition
11 revenues or the imposition of a facility construction fee shall include a
12 process for student input consistent with the ~~provisions of section~~
13 ~~23-1-123~~ INSTITUTIONAL PLAN FOR STUDENT FEES ADOPTED BY THE
14 GOVERNING BOARD OF THE APPLICABLE INSTITUTION PURSUANT TO
15 SECTION 23-5-119.5.

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

18 **24-1-107.5. Nonprofit entities created or supported by state**
19 **agencies and state-level authorities - requirements - legislative**
20 **declaration.** (3) ~~Commencing July 1, 1999,~~ A state-supported
21 institution of higher education ~~intending to~~ MAY establish a nonprofit
22 entity that would otherwise require specific statutory authority under
23 paragraph (a) of subsection (2) of this section ~~may seek, in lieu of~~
24 ~~obtaining such authority, approval for the establishment of the nonprofit~~
25 ~~entity from the Colorado commission on higher education~~ UPON A
26 FINDING BY THE GOVERNING BOARD OF THE INSTITUTION THAT
27 ESTABLISHING THE NONPROFIT ENTITY WOULD BE IN THE BEST INTERESTS

1 OF THE INSTITUTION.

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

4 **23-5-106. Authority of governing boards - general - health**
5 **care insurance - contracts of indemnity.** (4) THE GOVERNING BOARD
6 OF A STATE INSTITUTION OF HIGHER EDUCATION THAT IS DESIGNATED AS
7 AN ENTERPRISE PURSUANT TO SECTION 23-5-101.7 MAY CONTRACT TO
8 INDEMNIFY AND HOLD HARMLESS A CONTRACTOR IF THE GOVERNING
9 BOARD DETERMINES THAT THE CONTRACT SERVES A VALID PUBLIC
10 PURPOSE AND ANY RISKS TO THE INSTITUTION THAT MAY ARISE FROM
11 ENTERING INTO THE CONTRACT ARE SUFFICIENTLY LIMITED AND
12 OUTWEIGHED BY THE BENEFITS OF THE CONTRACT. NOTWITHSTANDING
13 ANY OTHER PROVISION OF LAW TO THE CONTRARY, A LIABILITY CLAIM OR
14 EXPENSE THAT ARISES FROM A CONTRACT TO INDEMNIFY OR HOLD
15 HARMLESS ENTERED INTO BY A GOVERNING BOARD PURSUANT TO THIS
16 SUBSECTION (4) SHALL NOT BE PAYABLE FROM THE RISK MANAGEMENT
17 FUND CREATED IN SECTION 24-30-1510, C.R.S., AND SHALL BE PAYABLE
18 SOLELY FROM REVENUES OF THE INSTITUTION.

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

21 **24-37.5-404.5. Institutions of higher education - information**
22 **security programs.** (1) ~~On or before July 1, 2007, the department of~~
23 ~~higher education and~~ Each institution of higher education, in coordination
24 with the department OF HIGHER EDUCATION, shall develop an information
25 security ~~plan~~ PROGRAM. The information security ~~plan~~ PROGRAM shall
26 provide information security for the communication and information
27 resources that support the operations and assets of ~~the department and~~

1 the institution of higher education.

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

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

5 (b) A process for providing adequate information security for the
6 communication and information resources of the institution of higher
7 education;

8 (c) Information security awareness training ~~for employees of the~~
9 ~~institution of higher education~~ TO INFORM THE EMPLOYEES,
10 ADMINISTRATORS, AND USERS AT THE INSTITUTION OF HIGHER EDUCATION
11 ABOUT THE INFORMATION SECURITY RISKS AND THE RESPONSIBILITY OF
12 EMPLOYEES, ADMINISTRATORS, AND USERS TO COMPLY WITH THE
13 INSTITUTION'S INFORMATION SECURITY PROGRAM AND THE POLICIES,
14 STANDARDS, AND PROCEDURES DESIGNED TO REDUCE THE SECURITY
15 RISKS;

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

19 (e) A process for detecting, reporting, and responding to security
20 incidents consistent with the information security policy of the institution
21 of higher education. The institutions of higher education, the Colorado
22 commission on higher education, and the chief information security
23 officer shall establish the terms and conditions by which the institutions
24 of higher education ~~and the department of higher education~~ shall report
25 information security incidents to the chief information security officer.

26 (f) Plans and procedures to ensure the continuity of operations for
27 information resources that support the operations and assets of the

1 institution of higher education in the event of a security incident.

2 (3) ~~On or before July 15, 2007, each institution of higher~~
3 ~~education shall submit the information security plan developed pursuant~~
4 ~~to this section to the Colorado commission on higher education for~~
5 ~~review and comment. The commission shall submit such plans to the~~
6 ~~chief information security officer.~~ ON OR BEFORE JULY 1, 2011, AND ON
7 OR BEFORE JULY 1 EACH YEAR THEREAFTER, EACH INSTITUTION OF HIGHER
8 EDUCATION SHALL **SUBMIT** TO THE [REDACTED] DEPARTMENT OF HIGHER
9 EDUCATION **A REPORT** CONCERNING THE DEVELOPMENT AND
10 IMPLEMENTATION OF THE INSTITUTION'S INFORMATION SECURITY
11 PROGRAM AND COMPLIANCE WITH THE REQUIREMENTS SPECIFIED IN
12 SUBSECTION (2) OF THIS SECTION. UPON RECEIPT OF THE REPORTS, THE
13 DEPARTMENT OF HIGHER EDUCATION SHALL **REVIEW THE REPORTS AND**
14 **SUBSEQUENTLY SUBMIT THE REPORTS TO THE CHIEF INFORMATION**
15 **SECURITY OFFICER.** [REDACTED]

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

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

25 (6) ~~On or before July 1, 2008, and on or before July 1 of each~~
26 ~~subsequent year, the executive director of the department of higher~~
27 ~~education shall report to the chief information security officer on the~~

1 development, implementation, and, if applicable, compliance with the
2 phase-in schedule of the information security plan for each institution of
3 higher education.

4 (7) The Colorado commission on higher education shall require
5 the institutions of higher education to provide regularized security
6 awareness training to inform the employees, administrators, and users in
7 those institutions about the information security risks and the
8 responsibility of employees, administrators, and users to comply with the
9 institution's information security plan and the policies, standards, and
10 procedures designed to reduce those risks.

11 **SECTION 13.** 24-37.5-404.5, Colorado Revised Statutes, as
12 amended by Senate Bill 11-062, is amended to read:

13 **24-37.5-404.5. Institutions of higher education - information**
14 **security plans.** (1) On or before July 1 of each year, Each institution of
15 higher education, in coordination with the department of higher
16 education, shall develop an information security plan PROGRAM. The
17 information security plan PROGRAM shall provide information security for
18 the communication and information resources that support the operations
19 and assets of the institution of higher education.

20 (2) The information security plan PROGRAM shall include:

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

23 (b) A process for providing adequate information security for the
24 communication and information resources of the institution of higher
25 education;

26 (c) Information security awareness training for employees of the
27 institution of higher education TO INFORM THE EMPLOYEES,

1 ADMINISTRATORS, AND USERS AT THE INSTITUTION OF HIGHER EDUCATION
2 ABOUT THE INFORMATION SECURITY RISKS AND THE RESPONSIBILITY OF
3 EMPLOYEES, ADMINISTRATORS, AND USERS TO COMPLY WITH THE
4 INSTITUTION'S INFORMATION SECURITY PROGRAM AND THE POLICIES,
5 STANDARDS, AND PROCEDURES DESIGNED TO REDUCE THE SECURITY
6 RISKS;

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

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

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

20 (3) ~~On or before July 15 of each year, each institution of higher~~
21 ~~education shall submit the information security plan developed pursuant~~
22 ~~to this section to the Colorado commission on higher education for~~
23 ~~review and comment. The commission shall submit such plans to the~~
24 ~~chief information security officer. ON OR BEFORE JULY 1, 2011, AND ON~~
25 ~~OR BEFORE JULY 1 EACH YEAR THEREAFTER, EACH INSTITUTION OF HIGHER~~
26 ~~EDUCATION SHALL SUBMIT TO THE DEPARTMENT OF HIGHER EDUCATION~~
27 ~~A REPORT CONCERNING THE DEVELOPMENT AND IMPLEMENTATION OF THE~~

1 ~~INSTITUTION'S INFORMATION SECURITY PROGRAM AND COMPLIANCE WITH~~
2 ~~THE REQUIREMENTS SPECIFIED IN SUBSECTION (2) OF THIS SECTION. UPON~~
3 ~~RECEIPT OF THE REPORTS, THE DEPARTMENT OF HIGHER EDUCATION SHALL~~
4 ~~REVIEW THE REPORTS AND SUBSEQUENTLY SUBMIT THE REPORTS TO THE~~
5 ~~CHIEF INFORMATION SECURITY OFFICER.~~

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

11 (5) and (6) (Deleted by amendment, L. 2011, (SB 11-062), ch.
12 ____, p. ____, §8, effective ____.)

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

20 **SECTION 14.** 12-48-102 (1), Colorado Revised Statutes, is
21 amended to read:

22 **12-48-102. Qualifications of organizations for permit -**
23 **qualifications of municipalities or municipalities owning arts**
24 **facilities - qualifications of candidates.** (1) A special event permit
25 issued under this article may be issued to an organization, whether or not
26 presently licensed under articles 46 and 47 of this title, which has been
27 incorporated under the laws of this state for purposes of a social,

1 fraternal, patriotic, political, or athletic nature, and not for pecuniary gain,
2 or which is a regularly chartered branch, lodge, or chapter of a national
3 organization or society organized for such purposes and being nonprofit
4 in nature, or which is a regularly established religious or philanthropic
5 institution, OR WHICH IS A STATE INSTITUTION OF HIGHER EDUCATION, and
6 to any political candidate who has filed the necessary reports and
7 statements with the secretary of state pursuant to article 45 of title 1,
8 C.R.S. FOR PURPOSES OF THIS ARTICLE, A STATE INSTITUTION OF HIGHER
9 EDUCATION INCLUDES EACH PRINCIPAL CAMPUS OF A STATE SYSTEM OF
10 HIGHER EDUCATION.

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

13 **12-48-108. Exemptions.** An organization otherwise qualifying
14 under section 12-48-102 shall be exempt from the provisions of this
15 article and shall be deemed to be dispensing gratuitously and not to be
16 selling fermented malt beverages or malt, spirituous, or vinous liquors
17 when it serves, by the drink, fermented malt beverages or malt,
18 spirituous, or vinous liquors to its members and their guests at a private
19 function held by such organization on unlicensed premises so long as any
20 admission or other charge, if any, required to be paid or given by any
21 such member as a condition to entry or participation in the event is
22 uniform as to all without regard to whether or not a member or such
23 member's guest consumes or does not consume such beverages or liquors.

24 FOR PURPOSES OF THIS SECTION, ALL INVITED ATTENDEES AT A PRIVATE
25 FUNCTION HELD BY A STATE INSTITUTION OF HIGHER EDUCATION SHALL
26 BE CONSIDERED MEMBERS OR GUESTS OF THE INSTITUTION.

27 **SECTION 16.** 17-24-106.6 (1) (b) and (2), Colorado Revised

1 Statutes, are amended to read:

2 **17-24-106.6. Surplus state property.** (1) As used in this
3 section, unless the context otherwise requires:

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

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

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

11 (b) (Deleted by amendment, L. 2002, p. 218, § 1, effective April
12 3, 2002.)

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

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

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

20 **17-24-104. Creation of division of correctional industries and**
21 **advisory committee - enterprise status of division - duties of**
22 **committee - sunset review of committee - rules.** (6) ~~(a) The advisory~~
23 ~~committee and the department of higher education shall, no later than~~
24 ~~September 1, 2006, complete the joint development of a process~~
25 ~~governing the waiver of institutions of higher education, by campus, from~~
26 ~~the surplus state property procedures described in section 17-24-106.6~~
27 ~~concerning property items that the advisory committee and department~~

1 of higher education jointly determine are unique and of interest to
2 institutions of higher education.

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

6 **SECTION 18.** 17-24-111, Colorado Revised Statutes, is amended
7 BY THE ADDITION OF A NEW SUBSECTION to read:

8 **17-24-111. Purchasing requirement.**

9 (6) (a) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE
10 CONTRARY, A STATE INSTITUTION OF HIGHER EDUCATION OR THE AURARIA
11 HIGHER EDUCATION CENTER CREATED IN ARTICLE 70 OF TITLE 23, C.R.S.,
12 MAY, BUT IS NOT REQUIRED TO, PURCHASE GOODS AND SERVICES FROM
13 THE DIVISION PURSUANT TO THIS SECTION. IN PURCHASING FURNITURE
14 AND OFFICE SYSTEMS THAT EXCEED THE AMOUNT ESTABLISHED FOR
15 SMALL PURCHASES THAT ARE EXEMPT FROM THE COMPETITIVE SEALED
16 BIDDING REQUIREMENTS OF THE "PROCUREMENT CODE" CONTAINED IN
17 PART 2 OF ARTICLE 103 OF TITLE 24, C.R.S., A STATE INSTITUTION OF
18 HIGHER EDUCATION OR THE AURARIA HIGHER EDUCATION CENTER SHALL
19 REQUEST A BID FROM THE DIVISION FOR THE PURCHASE AND THE
20 INSTITUTION OR THE CENTER SHALL CONSIDER THE BID ON A COMPETITIVE
21 BASIS.

22 (b) NOTHING IN PARAGRAPH (a) OF THIS SUBSECTION (6) SHALL
23 REQUIRE A STATE INSTITUTION OF HIGHER EDUCATION OR THE AURARIA
24 HIGHER EDUCATION CENTER TO ENGAGE IN COMPETITIVE BIDDING FOR AN
25 ITEM OR ITEMS IF THE INSTITUTION OR THE CENTER CHOOSES TO USE THE
26 DIVISION AS THE SOLE SOURCE SUPPLIER FOR THE ITEM OR ITEMS.

27 **SECTION 19.** 24-50-135 (1), (2) (a), and (2) (c), Colorado

1 Revised Statutes, are amended, and the said 24-50-135 is further
2 amended BY THE ADDITION OF A NEW SUBSECTION, to read:

3 **24-50-135. Exemptions from personnel system.**

4 (1) Administrators employed in educational institutions and departments
5 not charitable or reformatory in character shall be exempt from the state
6 personnel system. For purposes of this section, "administrators employed
7 in educational institutions and departments" means:

8 (a) Officers of an educational institution and their executive
9 assistants; employees in professional positions, including ~~deans,~~
10 ~~directors, chairpersons, and professionals in academic and academic~~
11 ~~support positions; heads of administrative or academic departments or~~
12 ~~divisions and their principal professional subordinates; and professional~~
13 ~~employees of a governing board or educational institution having~~
14 ~~responsibility for or control of program operations or for the formulation,~~
15 ~~planning, and direction of the policies of the governing board or~~
16 ~~educational institution~~ THE PROFESSIONAL EMPLOYEES OF A GOVERNING
17 BOARD; AND ANY OTHER EMPLOYEES INVOLVED IN THE DIRECT DELIVERY
18 OF ACADEMIC CURRICULUM;

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

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

24 (e) ~~Heads and professional staff of departments of intercollegiate~~
25 ~~athletics;~~

26 (f) Professional officers and professional staff of the department
27 of higher education; ~~including the professional staff of any governing~~

1 ~~board of an institution of higher education; and~~

2 (g) (Deleted by amendment, L. 2004, p. 419, § 1, effective August
3 4, 2004.)

4 (h) ~~Heads of and professional staff involved in research and grant~~
5 ~~projects; and, for the duration of their initial appointment, individuals~~
6 ~~EMPLOYEES in grant-funded positions where funding is limited by a~~
7 ~~known expiration date of the research project or grant FUNDED BY~~
8 ~~GRANTS, GIFTS, OR REVENUES GENERATED THROUGH AUXILIARY~~
9 ~~ACTIVITIES. FOR PURPOSES OF THIS PARAGRAPH (h), "AUXILIARY~~
10 ~~ACTIVITIES" MEANS INSTITUTIONAL ACTIVITIES MANAGED AND~~
11 ~~ACCOUNTED FOR AS SELF-SUPPORTING ACTIVITIES.~~

12 (2) (a) The president of each educational institution or a person
13 designated by the president shall determine which administrative
14 positions in that institution are exempt from the state personnel system
15 under subsection (1) of this section, subject to an appeal to the board;
16 EXCEPT THAT A POSITION SHALL NOT BE DETERMINED TO BE EXEMPT
17 WHILE IT IS HELD BY AN EXISTING EMPLOYEE IN THE STATE PERSONNEL
18 SYSTEM. THE PRESIDENT OF AN EDUCATIONAL INSTITUTION MAY DECIDE
19 NOT TO EXEMPT A POSITION FUNDED THROUGH AUXILIARY ACTIVITIES IF
20 THE PRESIDENT DETERMINES THAT EXEMPTING THE POSITION IS NOT IN THE
21 BEST INTERESTS OF THE INSTITUTION.

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

27 (3) FOR PURPOSES OF THIS SECTION, A PERSON IS IN A

1 PROFESSIONAL POSITION OR IS A PROFESSIONAL EMPLOYEE OR
2 PROFESSIONAL STAFF IF THE PERSON IS IN A POSITION THAT INVOLVES THE
3 EXERCISE OF DISCRETION, ANALYTICAL SKILL, JUDGMENT, PERSONAL
4 ACCOUNTABILITY, AND RESPONSIBILITY FOR CREATING, DEVELOPING,
5 INTEGRATING, APPLYING, OR SHARING AN ORGANIZED BODY OF
6 KNOWLEDGE THAT CHARACTERISTICALLY IS:

7 (a) ACQUIRED THROUGH EDUCATION OR TRAINING THAT MEETS
8 THE REQUIREMENTS FOR A BACHELOR'S OR GRADUATE DEGREE OR
9 EQUIVALENT SPECIALIZED EXPERIENCE; AND

10 (b) CONTINUOUSLY STUDIED TO EXPLORE, EXTEND, AND USE
11 ADDITIONAL DISCOVERIES, INTERPRETATIONS, AND APPLICATIONS AND TO
12 IMPROVE DATA, MATERIALS, EQUIPMENT, APPLICATIONS, AND METHODS.

13 **SECTION 20.** 24-50-508, Colorado Revised Statutes, is amended
14 to read:

15 **24-50-508. Intergovernmental agreements - agreements by**
16 **state institutions of higher education - excluded.** (1) THE FOLLOWING
17 CONTRACTS ARE NOT SUBJECT TO THE PROVISIONS OF THIS PART 5:

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

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

27 **SECTION 21.** 24-50-902 (1) (b) and (6), Colorado Revised

1 Statutes, are amended to read:

2 **24-50-902. Definitions.** As used in this part 9, unless the context
3 otherwise requires:

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

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

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

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

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

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

22 

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

25 **24-50-618. Group benefit plans - institutions of higher**
26 **education.** ~~A state institution of higher education that has, in the plan~~
27 ~~year immediately preceding June 10, 2010, offered one or more group~~

1 ~~benefit plans other than a plan contracted for by the director pursuant to~~
2 ~~this part 6 to employees of the institution who are in the state personnel~~
3 ~~system may continue to offer group benefit plans to such employees.~~
4 Nothing in this part 6 shall be construed to otherwise limit or expand the
5 authority of any A STATE institution of higher education OR A GROUP OF
6 SAID INSTITUTIONS to establish and offer ONE OR MORE GROUP benefit
7 plans, IN ADDITION TO OR IN LIEU OF A PLAN CONTRACTED FOR BY THE
8 DIRECTOR PURSUANT TO THIS PART 6, to its employees OF THE
9 INSTITUTION OR INSTITUTIONS WHO ARE IN THE STATE PERSONNEL
10 SYSTEM.

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

14 **24-50-805. Institutions of higher education - alternative**
15 **employee incentive programs.** NOTWITHSTANDING ANY PROVISION OF
16 THIS PART 8 TO THE CONTRARY, THE CHIEF EXECUTIVE OFFICER OF A
17 STATE INSTITUTION OF HIGHER EDUCATION MAY ESTABLISH AND
18 IMPLEMENT AN INCENTIVE PROGRAM FOR EMPLOYEES, INCLUDING
19 CLASSIFIED EMPLOYEES, OF THE INSTITUTION. AT A MINIMUM, THE
20 INCENTIVE PROGRAM SHALL INCLUDE THE ELEMENTS DESCRIBED IN
21 SECTION 24-50-804 (2) (a) TO (2) (e). AN INCENTIVE PROGRAM
22 IMPLEMENTED PURSUANT TO THIS SECTION SHALL NOT BE SUBJECT TO
23 APPROVAL BY THE STATE PERSONNEL DIRECTOR.

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

26 **23-5-117. Governing boards - delegation of personnel power.**
27 **█** The governing board of any state-supported institution of higher

1 education may delegate all or part of its power over personnel matters,
2 including the power to hire or to fire employees exempt from the
3 personnel system, to the chief executive officer of the institution
4 governed by such board. The governing board may expressly authorize
5 the chief executive officer to delegate to other officers of the institution
6 specified by the board any power so delegated pursuant to this section.

7 The governing board of each state supported institution of higher
8 education, except the university of Colorado, Colorado state university,
9 the university of northern Colorado, the Colorado school of mines, FORT
10 LEWIS COLLEGE, Adams state college, Mesa state college, Western state
11 college of Colorado, or Metropolitan state college of Denver, after
12 consultation with faculty representatives chosen by the faculty, shall
13 prepare, enact, promulgate, administer, and maintain in place policies and
14 practices which afford due process procedures for those faculty members
15 exempt from the state personnel system who are terminated, including
16 terminations resulting from reductions in force.

17
18 **SECTION 25.** 23-1-106 (9), Colorado Revised Statutes, is
19 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

20 **23-1-106. Duties and powers of the commission with respect**
21 **to capital construction and long-range planning.** (9) (e) A CAPITAL
22 CONSTRUCTION OR ACQUISITION PROJECT APPROVED AND APPROPRIATED
23 PRIOR TO JANUARY 1, 2010, MAY BE CONTAINED IN THE MOST RECENT
24 UNIFIED TWO-YEAR CAPITAL IMPROVEMENTS PROJECT PROJECTION
25 APPROVED PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (C) OF
26 SUBSECTION (7) OF THIS SECTION. THE PROJECTION MAY BE AMENDED
27 FROM TIME TO TIME AND SHALL NOT BE SUBJECT TO ADDITIONAL REVIEW

1 OR APPROVAL BY THE COMMISSION, THE OFFICE OF STATE PLANNING AND
2 BUDGETING, THE CAPITAL DEVELOPMENT COMMITTEE, OR THE JOINT
3 BUDGET COMMITTEE. ■■■

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

6 **23-1-106. Duties and powers of the commission with respect**
7 **to capital construction and long-range planning.** (10) (c) A CAPITAL
8 CONSTRUCTION OR ACQUISITION PROJECT APPROVED AND APPROPRIATED
9 PRIOR TO JANUARY 1, 2010, MAY BE CONTAINED IN THE MOST RECENT
10 UNIFIED TWO-YEAR CAPITAL IMPROVEMENTS PROJECT PROJECTION
11 APPROVED PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (C) OF
12 SUBSECTION (7) OF THIS SECTION, AND THE PROJECTION MAY BE AMENDED
13 FROM TIME TO TIME. ■■■

14 **SECTION 27.** 23-1-106 (10.5), Colorado Revised Statutes, is
15 amended to read:

16 **23-1-106. Duties and powers of the commission with respect**
17 **to capital construction and long-range planning.** (10.5) (a) For any
18 project ~~commenced pursuant~~ SUBJECT to subsection (9) or (10) of this
19 section, if, after commencement of acquisition or construction, the
20 governing board of the institution receives an additional gift, grant, or
21 donation for the project, the governing board may amend the project
22 without the approval of the commission, the office of state planning and
23 budgeting, the capital development committee, or the joint budget
24 committee so long as the governing board notifies the commission, the
25 office of state planning and budgeting, the capital development
26 committee, and the joint budget committee in writing, explaining how the
27 project has been amended and verifying the receipt of the additional gift,

1 grant, or donation.

2 (b) For any project commenced pursuant SUBJECT to subsection
3 (9) or (10) of this section, the governing board may enhance the project
4 in an amount not to exceed fifteen percent of the original estimate of the
5 cost of the project without the approval of the commission, the office of
6 state planning and budgeting, the capital development committee, or the
7 joint budget committee so long as the governing board notifies the
8 commission, the office of state planning and budgeting, the capital
9 development committee, and the joint budget committee in writing,
10 explaining how the project has been enhanced and the source of the
11 moneys for the enhancement.

12 (10.5) (c) FOR ANY PROJECT SUBJECT TO SUBSECTION (9) OR (10)
13 OF THIS SECTION, THE GOVERNING BOARD OF THE INSTITUTION
14 IMPLEMENTING THE PROJECT IS NOT REQUIRED TO SUBMIT FOR THE
15 PROJECT QUARTERLY EXPENDITURE REPORTS AS DESCRIBED IN SECTION
16 24-30-204 (2), C.R.S. THE GOVERNING BOARD SHALL SUBMIT FOR THE
17 PROJECT ANNUAL EXPENDITURE REPORTS AS REQUIRED IN SECTION
18 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,
2 sufficient financial information for the controller to determine if such
3 department, institution, or agency is properly crediting monthly revenues
4 and accruals and is properly billing the federal government, in a timely
5 manner, for reimbursement of state moneys expended for federal
6 programs. The controller shall work with all departments to develop a
7 format for such quarterly report of each department, institution, and
8 agency.

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

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

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

1 COMPLETED, THE INSTITUTION SHALL REFUND MONEYS TO THE STATE
2 CAPITAL CONSTRUCTION FUND IN PROPORTION TO THE AMOUNT OF STATE
3 CAPITAL CONSTRUCTION MONEYS APPROPRIATED FOR THE PROJECT.

4 **SECTION 30.** 24-30-1301 (1) (f), Colorado Revised Statutes,
5 is amended to read:

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

8 (1) "Capital construction" means:

9

10 (f) Any item of instructional or scientific equipment if the cost
11 will exceed fifty thousand dollars; EXCEPT THAT "CAPITAL
12 CONSTRUCTION" INCLUDES THE PURCHASE OF INSTRUCTIONAL OR
13 SCIENTIFIC EQUIPMENT BY A STATE INSTITUTION OF HIGHER EDUCATION
14 OR BY THE AURARIA HIGHER EDUCATION CENTER CREATED IN ARTICLE 70
15 OF TITLE 23, C.R.S., ONLY IF THE INSTITUTION OR THE CENTER USES
16 MONEYS APPROPRIATED PURSUANT TO SECTION 24-75-303 TO PURCHASE
17 THE INSTRUCTIONAL OR SCIENTIFIC EQUIPMENT.

18

19 **SECTION 31.** 23-5-103 (1) and (3), Colorado Revised Statutes,
20 are amended to read:

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

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

24 (3) If the pledged net income, fees, and revenues exceed the
25 amount required to meet principal, interest, and reserve requirements in
26 connection with revenue bonds of the institution to which such income
27 has been pledged and exceed the amount necessary for the maintenance

1 and operation of the auxiliary facility plus any amount set aside in a
2 reserve fund for repair and replacement of the facility, the governing
3 board may retain such surplus and utilize the same in such manner as in
4 its judgment is for the best interests of the educational institution; ~~Such~~
5 ~~surplus shall be used by the governing board for the purposes of~~
6 ~~rehabilitating, altering, adding to, or equipping any existing auxiliary~~
7 ~~facilities acquired pursuant to the provisions of this article and for the~~
8 ~~acquisition of sites for constructing, acquiring, and equipping additional~~
9 ~~auxiliary facilities pursuant to such provisions or for prior redemption of~~
10 ~~outstanding bonds.~~ EXCEPT THAT, IF THE GOVERNING BOARD USES THE
11 SURPLUS MONEYS ON A PROJECT REQUIRING TOTAL PROJECT
12 EXPENDITURES THAT EXCEED TWO MILLION DOLLARS, THE PROJECT SHALL
13 BE SUBJECT TO THE PROVISIONS OF SECTION 23-1-106. Use of such
14 surplus shall be reviewed in advance by representatives of the student
15 government at the institution with which the auxiliary facility is
16 associated.

17 **SECTION 32. Act subject to petition - effective date.**

18 (1) Except as otherwise provided in subsection (2) of this section, this
19 act shall take effect at 12:01 a.m. on the day following the expiration of
20 the ninety-day period after final adjournment of the general assembly
21 (August 10, 2011, if adjournment sine die is on May 11, 2011); except
22 that, if a referendum petition is filed pursuant to section 1 (3) of article
23 V of the state constitution against this act or an item, section, or part of
24 this act within such period, then the act, item, section, or part shall not
25 take effect unless approved by the people at the general election to be
26 held in November 2012 and shall take effect on the date of the official
27 declaration of the vote thereon by the governor.

1 (2) (a) Section 12 of this act shall not take effect if Senate Bill
2 11-062 is enacted and becomes law.

3 (b) Section 13 of this act shall take effect only if Senate Bill
4 11-062 is enacted and becomes law.