

Colorado Legislative Council Staff Fiscal Note

**FINAL
FISCAL NOTE**

Drafting Number: LLS 12-0486	Date: June 4, 2012
Prime Sponsor(s): Sen. Heath; King K. Rep. Massey; Todd	Bill Status: Deemed Lost
	Fiscal Analyst: Josh Abram (303-866-3561)

TITLE: CONCERNING THE OPERATION OF PRIVATE POSTSECONDARY INSTITUTIONS IN COLORADO, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Fiscal Impact Summary	FY 2012-2013	FY 2013-2014
State Revenue		
Cash Funds - Fees	\$96,000	\$96,000
State Expenditures		
State Institutions of Higher Education*	(\$96,000)	(\$96,000)
Department of Higher Education Cash Funds - Fees	\$96,000	\$96,000
FTE Position Change		
Effective Date: The bill was laid over and not heard on second reading in the House of Representatives. As such, the bill was deemed lost on May 8, 2012.		
Appropriation Summary for FY 2012-2013: See State Appropriations section.		
Local Government Impact: None.		

* *Currently, oversight of private colleges by the Department of Higher Education is funded from statewide indirect cost recoveries assessed on state institutions of higher education, and from fees collected from new schools to conduct a course review. This bill refinances the total expenditure with cash funds from fees charged to private colleges. See the State Expenditures section for details.*

Summary of Legislation

This bill modifies and clarifies the way in which the state regulates private institutions of higher education (private colleges), including for-profit proprietary schools, non-profit schools, career and technical colleges, and seminaries and religious training institutions. The bill substitutes the term "religious training institutions" for "bible colleges" where the latter occurs in statute.

The bill clarifies that private colleges that enroll the majority of their students in baccalaureate or postgraduate degree programs are to be regulated by the Colorado Commission on Higher Education (CCHE) and the Department of Higher Education (DHE). Private colleges that enroll the majority of students at the certificate or associate level are regulated by the Division of Private Occupational Schools (DPOS) within the DHE. Senate Bill 12-164 primarily affects the oversight of private colleges offering baccalaureate and postgraduate degrees.

The CCHE is required to establish by rule an application process for private colleges to seek authorization to operate in the state, and the procedures to be used for approving, renewing, and revoking this authorization. The CCHE must establish appropriate fees for private colleges to pay, designed to cover the direct and indirect costs of regulating the schools. Prior to establishing the fee or increasing the amount of an existing fee, the CCHE must give notice to private colleges and hold a public hearing. The CCHE will also adopt policies to require private colleges to submit student enrollment, financial aid, and degree completion data to the DHE, when requested.

The DHE is required to administer the provisions of the bill and the policies adopted by the CCHE. The department's duties include making recommendations concerning private college authorization, operating an appeals process, maintaining a list of private colleges, and establishing a process for accepting, reviewing, investigating, and acting on complaints.

If a private college ceases operation in the state, it must deposit a copy of all educational records with the DHE. If warranted, the CCHE may seek a court order authorizing the DHE to seize and take possession of these records. The DHE must permanently retain any student transcripts contained in the private college's records. Other documents must be maintained for 10 years.

The CCHE is required to evaluate the financial integrity of private colleges using specified criteria. If a private college cannot demonstrate financial integrity, the school is required to file and maintain a surety bond approved by the CCHE. These schools must be covered by surety to remain legally authorized to operate in the state. If a private college violates the provision of the act or ceases operations, students, parents, or legal guardians may file a claim with the CCHE for loss of tuition or fees. If approved, the petitioner may be refunded from the surety, or receive an alternative educational arrangement via the CCHE and another state or authorized private institution. Private institutions that currently participate in the College Opportunity Fund or otherwise meet specified criteria are exempt from this provision.

Finally, this bill changes the length of term of members appointed to the Private Occupational School Policy Advisory Committee. For students attending an institution operating under the DPOS, the bill requires that students first exhaust all complaint and appeals processes available at the private occupational school before bringing the issue to the division for resolution.

Background

Currently, there are 103 private colleges operating in the state. Of these, 22 are non-profit schools, and 30 are for-profit schools. There are also 51 religious training institutions. Based on the most recent self-reporting survey from 70 of these private colleges (68% of schools), there are 138,155 students enrolled; however, the actual number enrolled at all schools is unknown. This bill permits the DHE to collect actual enrollment data from the schools.

State Revenue

Beginning in FY 2012-13, this bill increases state revenue from fees by \$96,000 annually. The bill does not create a separate cash fund to receive the fees.

The CCHE will create a fee structure to fund the direct and indirect cost to authorize, review, and oversee private colleges. Assuming the bill becomes law in FY 2011-12, the CCHE will work with private colleges to create a fee structure beginning in FY 2012-13. It is anticipated that the new fee structure will be similar to the one used by the Division of Private Occupational Schools, which can include the following:

- initial authorization fee;
- authorization fee for additional campuses;
- authorization renewal fee;
- degree program and course review fee;
- agent and owner permit fee; and
- per student fee.

One, or a combination of these fee types, in addition to a per student fee, is anticipated for private colleges offering baccalaureate and master level courses of study. Fees will be set initially to generate an amount sufficient to cover expenses as described in the State Expenditures section. In subsequent fiscal years, if state expenses increase or decrease, the DHE will request variable spending authority during the annual budget setting process.

State Expenditures

Beginning in FY 2012-13, this bill refinances annual costs of approximately \$96,000 cash funds, and 1.2 FTE.

Department of Higher Education. The DHE's role in regulating private colleges is expanded to include conduct of a financial integrity evaluation, verifying and processing required surety, responding to and investigating complaints, collecting additional enrollment and graduation data, and acting as a custodian of records for schools that cease operating in the state. The DHE will also assist the CCHE to adopt necessary rules. Although these are additional duties for the DHE, the department has the existing staff resources necessary to fully implement the act; however, the DHE will require additional cash fund spending authority.

Currently, the DHE spends approximately \$75,000 and 1.0 FTE for the oversight of private schools under the Degree Authorization Act.¹ In addition to existing staff, the department will use a combined \$21,000 and 0.2 FTE to provide data and financial services, assist in adopting rules, managing financial aid information, assist with investigation and response to complaints, and to liaison with private colleges. The DHE also spends existing cash funds to contract with an outside

¹Article 2, Title 23, C.R.S.

vendor to conduct substantive preliminary course reviews for the authorization of new private colleges. Annually, the DHE receives \$31,500 in cash fund spending authority to conduct these preliminary reviews, pursuant to Senate Bill 08-167, but historically collects and spends only \$11,000 of this appropriation, leaving \$20,500 in cash fund spending authority unused.

State Institutions of Higher Education. The CCHE and DHE are primarily funded by statewide indirect cost recoveries from the general operating revenues collected by the individual institutions of higher education. This includes both tuition revenue and the annual appropriation made to the institutions by the General Assembly. Under this bill, a portion of funding (approximately \$96,000 and 1.2 FTE) is refinanced by fees charged directly to private colleges. This results in cost savings for each institution of higher education, but does not change the total appropriation made to the institutions of higher education.

State Appropriations

For FY 2012-13, the DHE requires cash fund spending authority for \$96,000. The DHE has existing cash fund spending authority for \$31,500 (pursuant to SB 08-167). Of this amount, DHE historically uses \$11,000, leaving \$20,500 in unused spending authority. If the General Assembly chooses to re-purpose this unused spending authority for this bill, the DHE will require additional cash fund spending authority of \$75,500 for FY 2012-13.

Departments Contacted

Higher Education

Regulatory Agencies