

Second Regular Session  
Sixty-fourth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 04-0660.02 Michele Hanigsberg

SENATE BILL 04-189

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SENATE SPONSORSHIP

Anderson

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Senate Committees  
Education

House Committees

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A BILL FOR AN ACT

101 CONCERNING INSTITUTIONS OF HIGHER EDUCATION.

Bill Summary

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Establishes the college opportunity fund program ("program") in the department of higher education ("department"), which shall be administered by the Colorado student loan program ("CSLP"). Requires each state institution of higher education and participating private institution of higher education that does not receive loan services through the CSLP to pay an implementation fee and an on-going disbursement fee. Establishes the college opportunity fund ("fund") and specifies that the fund shall be a trust fund for the benefit of eligible undergraduate students ("students") and shall consist of a stipend for each student.

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.*

Requires the general assembly, beginning with the state fiscal year commencing July 1, 2005, and for each state fiscal year thereafter, to make an annual appropriation to the CSLP, in trust for students, to the fund. Specifies that any unexpended and unencumbered moneys in the fund at the end of a fiscal year are the property of the trust and shall remain in the fund.

Requires a student to apply for the program, and requires the CSLP to determine the student's eligibility for the stipend. Specifies that, if a student does not apply for or is determined ineligible for the program, the student shall be responsible for paying the student's total in-state tuition amount. Sets out the process for an institution to receive the stipend on behalf of a student. Prohibits an institution from billing a student for any additional amount to make up for a reduction in the stipend amount or issues relating to the timing of stipend payments.

Requires a private institution of higher education to enter into a performance contract with the department if the institution wants to receive stipends paid on behalf of students. Specifies that a student who attends a private institution of higher education may receive 50% of the stipend amount and that the amount of the stipend for the student may increase in proportion to the percentage of unfunded enrollment growth that is appropriated to the governing boards.

For the state fiscal year commencing July 1, 2005, and for each state fiscal year thereafter, requires the Colorado commission on higher education ("commission"), in consultation with the governing boards and participating private institutions, to annually estimate the number of undergraduate full-time equivalent students who are eligible for stipends at each institution of higher education and to report the numbers during the annual budget cycle.

Specifies that, for the state fiscal year commencing July 1, 2005, and for state fiscal years thereafter, for a student attending a state institution of higher education, the specified amount of the stipend per credit hour shall be an amount set annually by the general assembly, which in no case shall exceed the student's total in-state tuition. Specifies that the student shall be responsible for paying the student's share of total in-state tuition, if any.

Limits the number of credit hours for which a student can receive a stipend to 140 credit hours, but allows the commission to grant a waiver of the limitation under specified circumstances. Requires the commission to establish a system to prorate the number of credit hours for which a student may receive a stipend from the fund if the student is a continuing student as of July 1, 2005. Specifies courses for which a student may not receive a stipend.

For the state fiscal year commencing July 1, 2005, and for each state fiscal year thereafter, requires the general assembly to appropriate spending authority to each governing board for the amount of cash funds

exempt estimated to be received by the governing board as stipends. Specifies that the spending authority for the stipends estimated to be received shall be calculated by multiplying the applicable per-credit-hour stipend by the number of undergraduate students eligible for a stipend who are estimated to be enrolled in the institution of higher education under the direction and control of the governing board. Requires the general assembly to make annual appropriations of general fund moneys, of cash funds received from tuition income, and of cash funds exempt that are estimated to be received by the governing board as stipends, as a single line item to each governing board for the operation of its campuses.

Specifies that the tuition increases from which the general assembly derived the total cash spending authority for each governing board shall be noted in a footnote to the general appropriations bill. Requires the commission and the state treasurer, in consultation with the governing boards, to cooperatively establish a disbursement schedule for stipends awarded to insure the most beneficial cash flow for the state and to minimize the cost to and effects on the state general fund.

Beginning July 1, 2004, requires a governing board of a state institution of higher education or a private institution of higher education that would like to receive stipends on behalf of students to negotiate a performance contract with the department that shall specify the performance goals the institution shall achieve during the period that it operates under the performance contract. Allows a state institution of higher education that enters into a performance contract with the department to request an exemption from the procurement code and the central motor vehicle fleet system.

Specifies that the governing board of a state institution of higher education, while operating under a performance contract, need not consult with nor obtain approval from the commission to create, modify, or eliminate academic and vocational programs offered by the institution, so long as such creations, modifications, and eliminations are consistent with the institution's statutory role and mission. Allows the commission to override the creation or modification of an academic or vocational program if the change is inconsistent with the institution's statutory role and mission.

Requires the commission, in consultation with the governing boards, to calculate the amount of enrollment growth that has not been funded for each governing board from state fiscal year 2000-01 through 2004-05. Specifies that, during the period that a governing board is operating pursuant to a performance contract, the commission may request, as part of the annual budget cycle, a general fund appropriation for each governing board for the amount of unfunded enrollment growth to the extent that there remains an amount of enrollment growth that is unfunded for the governing board.

Specifies that while a state institution of higher education is operating pursuant to a performance contract, the general assembly retains the authority to approve tuition spending authority for the governing board of the institution.

Requires the commission to be responsible for ensuring the provision of specific postsecondary educational services in the state. Authorizes the department on behalf of the commission to enter into fee-for-service contracts with a governing board of an institution of higher education to provide the specified higher education services. Specifies that the department may only contract with the governing board of an institution of higher education to the extent that the contract remains consistent with the governing board's performance contract.

Beginning July 1, 2005, authorizes the governing board of a state institution of higher education to negotiate a fee-for-service contract with the department for the delivery of higher education services by the institution to the residents of the state of Colorado. Specifies the higher education services that may be the subject of the fee-for-service agreement. Requires the commission to make annual funding recommendations to the general assembly and the governor regarding the funding necessary for the department to contract on the commission's behalf for the provision of higher education services in the state. Requires the general assembly to annually appropriate to the commission an amount of general fund moneys to carry out the purposes the fee-for-service contracts.

Authorizes an institution of higher education or a group of institutions of higher education to be designated as an enterprise by resolution of the governing board of the institution or group of institutions for the purposes of section 20 of article X of the state constitution. Specifies that an institution of higher education or group of institutions of higher education may be designated as an enterprise only so long as the governing board of the institution or group of institutions retains authority to issue revenue bonds on behalf of the institution or group of institutions and the institution or group of institutions receives less than 10% of total annual revenues in grants from all Colorado state and local governments combined. Specifies that the term "grant" for the purposes of section 20 of article X of the state constitution does not include: Fees received by an institution pursuant to a fee-for-service contract between the department and the institution or the institution's governing board; or revenues received by an institution or group of institutions that have been paid on behalf of an eligible undergraduate student as stipends from the fund.

Makes conforming changes.

1           **SECTION 1. Legislative findings and declarations.** (1) The  
2 general assembly finds that:

3           (a) For the future of the state of Colorado and its citizens, it is  
4 imperative that an increased number of Coloradans pursue education  
5 beyond high school;

6           (b) A postsecondary educational experience for Coloradans is  
7 essential for the state to compete in the new global economy and to  
8 develop a new generation of leaders and active participants in state and  
9 local civic affairs;

10          (c) In particular, it is critical that the rate of postsecondary  
11 participation by low-income Coloradans, males, and minorities, who are  
12 currently under-represented, be increased at every Colorado state  
13 institution of higher education; and

14          (d) It is appropriate to support programs that are designed to  
15 encourage participation in postsecondary education, that increase citizens'  
16 awareness of the value of and need for a postsecondary education, and  
17 that make citizens aware of the financial support provided by the general  
18 assembly to students and institutions of higher education.

19          (2) The general assembly further finds that without increased  
20 resources, Colorado's system of public higher education will be  
21 challenged in meeting the need for postsecondary education.

22          (3) The general assembly also finds that the governor created a  
23 blue ribbon panel on higher education consisting of prominent Colorado  
24 citizens, and the blue ribbon panel found that:

25          (a) Colorado is a paradox in terms of its citizens' overall  
26 educational attainment level and the participation of its high school  
27 students in higher education immediately following high school;

1 (b) During the past two decades, Colorado has been at the top or  
2 near the top of all states for the highest percentage of its adult population  
3 holding at least a bachelor's degree;

4 (c) According to a national report, Colorado was tied for  
5 twenty-seventh among all states with only thirty-nine percent of its high  
6 school freshmen going on within four years to attend a postsecondary  
7 institution;

8 (d) A substantial number of Coloradans are not participating in  
9 higher education, and, as a result, Colorado's citizens are not benefitting  
10 from the current system or the current funding of higher education;

11 (e) Based on these findings, the blue ribbon panel set as a goal  
12 increased access and opportunities for Coloradans by encouraging  
13 participation of groups who are currently under-represented, specifically  
14 low-income individuals, males, and minority groups, at every Colorado  
15 state institution of higher education and increased participation of recent  
16 high school graduates at those institutions; and

17 (f) The blue ribbon panel further recommended that the state  
18 fundamentally change the process by which postsecondary education is  
19 financed from that of funding institutions to funding individual students.

20 (4) The general assembly further finds that:

21 (a) Funding students can have the impact of strengthening  
22 competition among institutions which in turn can lead to improved quality  
23 and greater differentiation; and

24 (b) Greater resource flexibility for institutions can enhance more  
25 educational opportunities for low-income and other under-represented  
26 students, as well as increase educational excellence.

27 (5) Therefore, it is the intent of the general assembly that:

1 (a) This new funding system should encourage access and student  
2 enrollment for undergraduate students while maintaining distinctive  
3 missions of universities and colleges and encouraging geographical  
4 access;

5 (b) All Colorado residents should have access to the college  
6 opportunity fund; and

7 (c) Performance contracts should provide for greater flexibility  
8 and a more focused accountability for institutions to students and the  
9 people of Colorado.

10 (6) It is the intent of the general assembly in enacting this act to  
11 fundamentally change the process by which the state finances  
12 postsecondary education from funding institutions to funding individuals.

13 (7) It is the further intent of the general assembly that:

14 (a) The state, through the Colorado commission on higher  
15 education, shall acquire from institutions of higher education specified  
16 educational services and facilities required for the full development of  
17 Colorado's educational and economic opportunities; and

18 (b) Such services shall be acquired under an agreement negotiated  
19 between the commission and the institutional governing boards pursuant  
20 to which the governing boards agree to provide specified educational  
21 services and facilities in exchange for the commission's payment, on  
22 behalf of the state, of agreed-upon charges.

23 (8) It is not the intent of the general assembly in enacting this act  
24 to cause the closure of any institution of higher education.

25 (9) While it is the general assembly's intent to change the process  
26 of funding for postsecondary education, funding for postsecondary  
27 education is not an entitlement. During periods of revenue shortfalls, the

1 general assembly may use a variety of mechanisms to balance the state's  
2 budget, including reducing appropriations to institutions of higher  
3 education, decreasing the value of the stipend, or placing a limit on the  
4 number of stipends funded under this act based upon the overall  
5 budgetary needs of the state.

6 **SECTION 2.** Title 23, Colorado Revised Statutes, is amended  
7 BY THE ADDITION OF A NEW ARTICLE to read:

8 **ARTICLE 18**

9 **College Opportunity Fund**

10 **PART 1**

11 **GENERAL PROVISIONS**

12 **23-18-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND MAY  
13 BE CITED AS THE "COLLEGE OPPORTUNITY FUND ACT".

14 **23-18-102. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE  
15 CONTEXT OTHERWISE REQUIRES:

16 (1) "CASH FUNDS" MEANS FUNDS RECEIVED FROM TUITION INCOME,  
17 FEES, INDIRECT COST RECOVERIES, AND OTHER SOURCES OF FUNDS THAT  
18 MAY BE APPROPRIATED AS CASH FUNDS FOR STATE INSTITUTIONS OF  
19 HIGHER EDUCATION; EXCEPT THAT "CASH FUNDS" SHALL NOT INCLUDE  
20 FUNDS DERIVED FROM GIFTS, FEDERAL FUNDS, OR OTHER SOURCES FROM  
21 WHICH AN EXPENDITURE OR RESERVE INCREASE IS NOT SUBJECT TO THE  
22 PROVISIONS OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.

23 (2) "CASH FUNDS EXEMPT" MEANS FUNDS DERIVED FROM GIFTS,  
24 FEDERAL FUNDS, OR OTHER SOURCES FROM WHICH AN EXPENDITURE OR  
25 RESERVE INCREASE IS NOT SUBJECT TO THE PROVISIONS OF SECTION 20 OF  
26 ARTICLE X OF THE STATE CONSTITUTION.

27 (3) "COLLEGE OPPORTUNITY FUND" OR "FUND" MEANS THE



1 COLLEGE OPPORTUNITY FUND CREATED IN SECTION 23-18-202.

2 (4) "COLLEGE OPPORTUNITY FUND PROGRAM" OR "PROGRAM"  
3 MEANS THE COLLEGE OPPORTUNITY FUND PROGRAM CREATED IN THE  
4 DEPARTMENT OF HIGHER EDUCATION PURSUANT TO SECTION 23-18-201 (1).

5 (5) "COMMISSION" MEANS THE COLORADO COMMISSION ON  
6 HIGHER EDUCATION ESTABLISHED PURSUANT TO SECTION 23-1-102.

7 (6) "DEPARTMENT" MEANS THE COLORADO DEPARTMENT OF  
8 HIGHER EDUCATION ESTABLISHED PURSUANT TO SECTION 24-1-114, C.R.S.

9 (7) (a) "ELIGIBLE UNDERGRADUATE STUDENT" MEANS:

10 (I) A STUDENT WHO IS ENROLLED AT A STATE INSTITUTION OF  
11 HIGHER EDUCATION AND WHO IS CLASSIFIED AS AN IN-STATE STUDENT FOR  
12 TUITION PURPOSES; OR

13 (II) A STUDENT WHO IS ENROLLED AT A PARTICIPATING PRIVATE  
14 INSTITUTION OF HIGHER EDUCATION AND WHO:

15 (A) IS CLASSIFIED AS AN IN-STATE STUDENT FOR TUITION  
16 PURPOSES;

17 (B) IS A GRADUATE OF A COLORADO HIGH SCHOOL;

18 (C) DEMONSTRATES FINANCIAL NEED THROUGH THE STUDENT'S  
19 ELIGIBILITY FOR THE FEDERAL PELL GRANT, OR ITS SUCCESSOR PROGRAM;

20 AND

21 (D) MEETS ANY OTHER ELIGIBILITY REQUIREMENTS ESTABLISHED  
22 BY THE COMMISSION.

23 (b) "ELIGIBLE UNDERGRADUATE STUDENT" SHALL NOT MEAN A  
24 STUDENT ENROLLED IN AN OFF-CAMPUS, EXTENDED CAMPUS, OR  
25 CONTINUING EDUCATION CLASS, THAT IS NOT SUPPORTED BY STATE  
26 GENERAL FUND MONEYS, EXCEPT AS APPROVED BY THE COMMISSION.

27 (8) "GOVERNING BOARD" MEANS THE GOVERNING BODY OF A

1 STATE INSTITUTION OF HIGHER EDUCATION.

2 (9) "INSTITUTION OF HIGHER EDUCATION" MEANS A PARTICIPATING  
3 PRIVATE INSTITUTION OF HIGHER EDUCATION OR A STATE INSTITUTION OF  
4 HIGHER EDUCATION.

5 (10) "PARTICIPATING PRIVATE INSTITUTION OF HIGHER  
6 EDUCATION" MEANS A PRIVATE INSTITUTION OF HIGHER EDUCATION THAT  
7 ENTERS INTO A PERFORMANCE CONTRACT WITH THE DEPARTMENT  
8 PURSUANT TO SECTION 23-5-128 AND AGREES TO PARTICIPATE IN THE  
9 PROGRAM.

10 (11) "PRIVATE INSTITUTION OF HIGHER EDUCATION" MEANS A  
11 NOT-FOR-PROFIT COLLEGE OR UNIVERSITY THAT MAINTAINS ITS PRIMARY  
12 PLACE OF BUSINESS IN THE STATE OF COLORADO, THAT OFFERS COURSES  
13 OF INSTRUCTION OR STUDY WHEREIN CREDITS MAY BE EARNED TOWARD A  
14 DEGREE IN A FIELD OF ENDEAVOR, AND THAT IS ACCREDITED ON THE BASIS  
15 OF AN ON-SITE REVIEW IN COLORADO BY ONE OF THE SIX NATIONALLY  
16 RECOGNIZED REGIONAL ACCREDITING ASSOCIATIONS OR BY AN  
17 ACCREDITING AGENCY DETERMINED BY THE COMMISSION TO BE  
18 APPROPRIATE TO ITS EDUCATIONAL PURPOSES AND PROGRAMS.

19 (12) (a) "STATE INSTITUTION OF HIGHER EDUCATION" MEANS A  
20 PUBLIC POSTSECONDARY INSTITUTION THAT IS GOVERNED BY:

21 (I) THE BOARD OF GOVERNORS OF THE COLORADO STATE  
22 UNIVERSITY SYSTEM;

23 (II) THE BOARD OF REGENTS OF THE UNIVERSITY OF COLORADO;

24 (III) THE BOARD OF TRUSTEES OF THE COLORADO SCHOOL OF  
25 MINES;

26 (IV) THE BOARD OF TRUSTEES OF THE UNIVERSITY OF NORTHERN  
27 COLORADO;

- 1 (V) THE BOARD OF TRUSTEES OF ADAMS STATE COLLEGE;  
2 (VI) THE BOARD OF TRUSTEES OF WESTERN STATE COLLEGE OF  
3 COLORADO;  
4 (VII) THE BOARD OF TRUSTEES OF MESA STATE COLLEGE;  
5 (VIII) THE BOARD OF TRUSTEES FOR FORT LEWIS COLLEGE;  
6 (IX) THE BOARD OF TRUSTEES FOR METROPOLITAN STATE  
7 COLLEGE OF DENVER; OR  
8 (X) THE STATE BOARD FOR COMMUNITY COLLEGES AND  
9 OCCUPATIONAL EDUCATION.

10 (b) "STATE INSTITUTION OF HIGHER EDUCATION" ALSO MEANS THE  
11 FOLLOWING PUBLIC AREA VOCATIONAL SCHOOLS:

- 12 (I) EMILY GRIFFITH OPPORTUNITY SCHOOL;  
13 (II) DELTA-MONTROSE AREA VOCATIONAL SCHOOL;  
14 (III) SAN JUAN BASIN AREA VOCATIONAL SCHOOL; AND  
15 (IV) AURORA TECH CENTER.

16 (c) "STATE INSTITUTION OF HIGHER EDUCATION" DOES NOT  
17 INCLUDE A JUNIOR COLLEGE THAT IS PART OF A JUNIOR COLLEGE DISTRICT  
18 ORGANIZED PURSUANT TO ARTICLE 71 OF THIS TITLE.

19 (13) "STIPEND" MEANS THE AMOUNT OF MONEY PER CREDIT HOUR  
20 SPECIFIED PURSUANT TO SECTION 23-18-202 (2) (b) HELD IN TRUST FOR  
21 AND PAID ON BEHALF OF AN ELIGIBLE UNDERGRADUATE STUDENT  
22 PURSUANT TO SECTION 23-18-202 (5).

23 (14) "STUDENT'S SHARE OF IN-STATE TUITION" MEANS THE AMOUNT  
24 OF TOTAL IN-STATE TUITION, LESS ANY AMOUNT PAID ON BEHALF OF THE  
25 STUDENT AS A STIPEND.

26 (15) "TOTAL IN-STATE TUITION" MEANS THE TOTAL AMOUNT OF  
27 TUITION THAT IS PAID TO A STATE INSTITUTION OF HIGHER EDUCATION BY

1 OR ON BEHALF OF A STUDENT WHO IS ELIGIBLE TO PAY IN-STATE TUITION,  
2 INCLUDING BUT NOT LIMITED TO THE AMOUNT OF THE STIPEND PAID ON  
3 BEHALF OF THE STUDENT.

4 PART 2

5 COLLEGE OPPORTUNITY FUND PROGRAM

6 **23-18-201. College opportunity fund program - creation -**  
7 **eligibility - guidelines.** (1) THERE IS HEREBY CREATED IN THE  
8 DEPARTMENT OF HIGHER EDUCATION THE COLLEGE OPPORTUNITY FUND  
9 PROGRAM, WHICH SHALL BE ADMINISTERED BY THE COLORADO STUDENT  
10 LOAN PROGRAM. THE COLLEGE OPPORTUNITY FUND, CREATED IN SECTION  
11 23-18-202, SHALL BE A TRUST FUND FOR THE BENEFIT OF ELIGIBLE  
12 UNDERGRADUATE STUDENTS. IT SHALL CONSIST OF A STIPEND FOR EACH  
13 UNDERGRADUATE STUDENT IN COLORADO WHO APPLIES FOR THE STIPEND  
14 AND WHO IS ADMITTED AND REGISTERS TO ATTEND A STATE OR  
15 PARTICIPATING PRIVATE INSTITUTION OF HIGHER EDUCATION AND IS  
16 DETERMINED TO BE ELIGIBLE BY THE COLORADO STUDENT LOAN PROGRAM  
17 TO RECEIVE A STIPEND. AN ELIGIBLE UNDERGRADUATE STUDENT MAY USE  
18 THE STIPEND FOR UNDERGRADUATE COURSES TAKEN AT A STATE OR  
19 PARTICIPATING PRIVATE INSTITUTION OF HIGHER EDUCATION AT A FIXED  
20 RATE PER CREDIT HOUR, SET ANNUALLY BY THE GENERAL ASSEMBLY.

21 (2) A STUDENT OF A PRIVATE INSTITUTION OF HIGHER EDUCATION  
22 SHALL BE A BENEFICIARY OF THE COLLEGE OPPORTUNITY FUND AND  
23 ELIGIBLE TO PARTICIPATE IN THE COLLEGE OPPORTUNITY FUND PROGRAM  
24 ONLY IF THE PRIVATE INSTITUTION OF HIGHER EDUCATION THAT THE  
25 STUDENT ATTENDS HAS AGREED TO PARTICIPATE IN THE PROGRAM BY  
26 ESTABLISHING A PERFORMANCE CONTRACT WITH THE DEPARTMENT  
27 PURSUANT TO SECTION 23-5-128. THE DEPARTMENT SHALL INCLUDE EACH

1 PARTICIPATING PRIVATE INSTITUTION OF HIGHER EDUCATION AND ITS  
2 STUDENTS IN THE STUDENT UNIT REPORTING DATA SYSTEM, IN ORDER TO  
3 ENABLE THE STUDENTS OF THE PARTICIPATING PRIVATE INSTITUTION OF  
4 HIGHER EDUCATION TO PARTICIPATE IN THE PROGRAM. THE PARTICIPATING  
5 PRIVATE INSTITUTION OF HIGHER EDUCATION SHALL REIMBURSE THE  
6 DEPARTMENT FOR THE ACTUAL EXPENSES ASSOCIATED WITH INCLUDING  
7 THE INSTITUTION IN THE STUDENT UNIT REPORTING DATA SYSTEM.

8 (3) THE COLORADO STUDENT LOAN PROGRAM, IN CONSULTATION  
9 WITH THE GOVERNING BOARDS, SHALL ADOPT THE NECESSARY POLICIES  
10 FOR THE IMPLEMENTATION OF THIS PART 2, WHICH AT A MINIMUM SHALL  
11 INCLUDE PROCEDURES FOR REQUESTING FUNDS FOR THE PROGRAM WHICH  
12 ADHERE TO COMMISSION BUDGET GUIDELINES AND THE ANNUAL  
13 BUDGETING CYCLE OF THE EXECUTIVE AND LEGISLATIVE BRANCHES.

14 (4) THE COLORADO STUDENT LOAN PROGRAM SHALL DIRECT ALL  
15 STATE AND PARTICIPATING PRIVATE INSTITUTIONS OF HIGHER EDUCATION  
16 TO REQUIRE RESIDENT UNDERGRADUATE STUDENTS TO APPLY FOR THE  
17 PROGRAM. IF A STUDENT IS CLASSIFIED AS AN IN-STATE STUDENT FOR  
18 TUITION PURPOSES AND DOES NOT APPLY FOR THE PROGRAM OR IS NOT  
19 ELIGIBLE FOR THE PROGRAM, THE STUDENT SHALL BE RESPONSIBLE FOR  
20 PAYING THE STUDENT'S TOTAL IN-STATE TUITION AMOUNT.

21 **23-18-202. College opportunity fund - appropriations -**  
22 **payment of stipends - reimbursement.** (1) (a) BEGINNING WITH THE  
23 STATE FISCAL YEAR COMMENCING JULY 1, 2005, AND FOR EACH STATE  
24 FISCAL YEAR THEREAFTER, THE GENERAL ASSEMBLY SHALL MAKE AN  
25 ANNUAL APPROPRIATION TO THE COLORADO STUDENT LOAN PROGRAM, IN  
26 TRUST FOR ELIGIBLE UNDERGRADUATE STUDENTS, FOR DEPOSIT IN THE  
27 COLLEGE OPPORTUNITY FUND, WHICH IS HEREBY ESTABLISHED AS A TRUST

1 FUND ACCOUNT WITH THE COLORADO STUDENT LOAN PROGRAM. ANY  
2 UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE COLLEGE  
3 OPPORTUNITY FUND AT THE END OF A FISCAL YEAR ARE THE PROPERTY OF  
4 THE TRUST FUND AND SHALL REMAIN IN THE FUND AND SHALL NOT BE  
5 CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND.

6 (b) THE COLORADO STUDENT LOAN PROGRAM SHALL ADMINISTER  
7 AND DISBURSE THE FUNDS IN THE COLLEGE OPPORTUNITY FUND ON BEHALF  
8 OF ELIGIBLE UNDERGRADUATE STUDENTS AS PROVIDED IN THIS PART 2.  
9 EACH STATE INSTITUTION OF HIGHER EDUCATION AND PARTICIPATING  
10 PRIVATE INSTITUTION OF HIGHER EDUCATION THAT DOES NOT RECEIVE  
11 LOAN SERVICES THROUGH THE COLORADO STUDENT LOAN PROGRAM  
12 SHALL PAY AN IMPLEMENTATION FEE AND AN ON-GOING DISBURSEMENT  
13 FEE, THE AMOUNTS OF WHICH SHALL BE DETERMINED BY THE COLORADO  
14 STUDENT LOAN PROGRAM.

15 (2) (a) FOR THE STATE FISCAL YEAR COMMENCING JULY 1, 2005,  
16 AND FOR EACH STATE FISCAL YEAR THEREAFTER, THE COMMISSION, IN  
17 CONSULTATION WITH THE GOVERNING BOARDS AND PARTICIPATING  
18 PRIVATE INSTITUTIONS, SHALL ANNUALLY ESTIMATE THE NUMBER OF  
19 UNDERGRADUATE FULL-TIME EQUIVALENT STUDENTS WHO ARE ELIGIBLE  
20 FOR STIPENDS UNDER THIS PART 2 AT EACH STATE INSTITUTION OF HIGHER  
21 EDUCATION AND EACH PARTICIPATING PRIVATE INSTITUTION OF HIGHER  
22 EDUCATION. THE COMMISSION SHALL REPORT THE NUMBERS DURING THE  
23 ANNUAL BUDGET CYCLE TO THE GOVERNOR AND TO THE JOINT BUDGET  
24 COMMITTEE OF THE GENERAL ASSEMBLY FOR INCLUSION IN THE ANNUAL  
25 GENERAL APPROPRIATIONS ACT.

26 (b) FOR THE STATE FISCAL YEAR COMMENCING JULY 1, 2005, AND  
27 FOR STATE FISCAL YEARS THEREAFTER, FOR AN ELIGIBLE UNDERGRADUATE

1 STUDENT ATTENDING A STATE INSTITUTION OF HIGHER EDUCATION, THE  
2 SPECIFIED AMOUNT OF THE STIPEND PER CREDIT HOUR SHALL BE AN  
3 AMOUNT SET ANNUALLY BY THE GENERAL ASSEMBLY, WHICH IN NO CASE  
4 SHALL EXCEED THE STUDENT'S TOTAL IN-STATE TUITION. THE STUDENT  
5 SHALL BE RESPONSIBLE FOR PAYING THE STUDENT'S SHARE OF TOTAL  
6 IN-STATE TUITION, IF ANY.

7 (c) THE COMMISSION SHALL FORWARD TO THE GENERAL ASSEMBLY  
8 AND GOVERNOR, BY NOVEMBER 1 OF EACH YEAR, A LIST OF INSTITUTIONS  
9 ELIGIBLE TO RECEIVE STIPENDS ON BEHALF OF ELIGIBLE UNDERGRADUATE  
10 STUDENTS UNDER THE PROGRAM. THE COMMISSION SHALL ANNUALLY  
11 REQUEST THAT THE GENERAL ASSEMBLY ADJUST THE AMOUNT  
12 APPROPRIATED TO THE COLORADO STUDENT LOAN PROGRAM FOR THE  
13 STIPENDS TO REFLECT AT LEAST INFLATION AND ENROLLMENT GROWTH IN  
14 THE STATE INSTITUTIONS OF HIGHER EDUCATION, CONSISTENT WITH THE  
15 LEGISLATIVE INTENT SET FORTH IN PARAGRAPH (d) OF THIS SUBSECTION  
16 (2).

17 (d) BEGINNING WITH THE STATE FISCAL YEAR COMMENCING JULY  
18 1, 2006, THE COMMISSION, IN CONSULTATION WITH THE GOVERNING  
19 BOARDS AND ANY PARTICIPATING PRIVATE INSTITUTIONS OF HIGHER  
20 EDUCATION, SHALL REVIEW ANNUALLY THE AMOUNT OF THE STIPEND PER  
21 CREDIT HOUR ESTABLISHED PURSUANT TO PARAGRAPH (b) OF THIS  
22 SUBSECTION (2). FOLLOWING THE REVIEW, THE COMMISSION, IN  
23 CONSULTATION WITH THE GOVERNING BOARDS AND PARTICIPATING  
24 PRIVATE INSTITUTIONS, SHALL ANNUALLY MAKE RECOMMENDATIONS  
25 REGARDING POSSIBLE ADJUSTMENTS TO THE AMOUNT OF THE STIPEND PER  
26 CREDIT HOUR TO THE GOVERNOR AND THE JOINT BUDGET COMMITTEE OF  
27 THE GENERAL ASSEMBLY FOR CONSIDERATION IN PREPARING THE ANNUAL

1 GENERAL APPROPRIATIONS ACT. IT IS THE INTENT OF THE GENERAL  
2 ASSEMBLY THAT THE AMOUNT APPROPRIATED FOR STIPENDS INCREASE AT  
3 LEAST AT THE RATE OF INFLATION AND ENROLLMENT GROWTH.

4 (e) AN ELIGIBLE UNDERGRADUATE STUDENT WHO ATTENDS A  
5 PARTICIPATING PRIVATE INSTITUTION OF HIGHER EDUCATION MAY RECEIVE  
6 FINANCIAL ASSISTANCE UNDER THIS PART 2 IN THE AMOUNT OF FIFTY  
7 PERCENT OF THE STIPEND AMOUNT; EXCEPT THAT THE AMOUNT OF THE  
8 STIPEND UNDER THIS PARAGRAPH (e) MAY INCREASE IN PROPORTION TO  
9 THE PERCENT OF UNFUNDED ENROLLMENT GROWTH THAT IS APPROPRIATED  
10 TO THE GOVERNING BOARDS PURSUANT TO SECTION 23-5-128 (8).

11 (3) (a) FOR THE STATE FISCAL YEAR COMMENCING JULY 1, 2005,  
12 AND FOR EACH STATE FISCAL YEAR THEREAFTER, THE GENERAL ASSEMBLY  
13 SHALL APPROPRIATE SPENDING AUTHORITY TO EACH GOVERNING BOARD  
14 FOR THE CASH FUNDS EXEMPT ESTIMATED TO BE RECEIVED BY THE  
15 GOVERNING BOARD AS STIPENDS, CONSISTENT WITH THE PROVISIONS OF  
16 SECTION 23-1-104. THE SPENDING AUTHORITY FOR THE STIPENDS  
17 ESTIMATED TO BE RECEIVED SHALL BE CALCULATED BY MULTIPLYING THE  
18 AMOUNT OF THE APPLICABLE PER-CREDIT-HOUR STIPEND BY THE NUMBER  
19 OF UNDERGRADUATE STUDENTS ELIGIBLE FOR A STIPEND PURSUANT TO  
20 THIS PART 2 WHO ARE ESTIMATED TO BE ENROLLED IN THE INSTITUTION OF  
21 HIGHER EDUCATION UNDER THE DIRECTION AND CONTROL OF THE  
22 GOVERNING BOARD.

23 (b) THE TUITION INCREASES FROM WHICH THE GENERAL ASSEMBLY  
24 DERIVED THE TOTAL CASH SPENDING AUTHORITY FOR EACH GOVERNING  
25 BOARD SHALL BE NOTED IN A FOOTNOTE IN THE ANNUAL GENERAL  
26 APPROPRIATIONS ACT.

27 (4) REGARDLESS OF WHEN AN INSTITUTION RECEIVES MONEYS IN



1 THE FORM OF A STIPEND ON BEHALF OF A STUDENT, OR IF THE STIPEND  
2 AMOUNT IS REDUCED BY THE GENERAL ASSEMBLY, AN INSTITUTION SHALL  
3 NOT INCREASE THE STUDENT'S SHARE OF IN-STATE TUITION TO MAKE UP  
4 FOR AN ACTUAL OR EFFECTIVE REDUCTION IN THE STIPEND AMOUNT FROM  
5 WHICH THE TOTAL IN-STATE TUITION AMOUNT WAS CALCULATED OR FOR  
6 ISSUES RELATING TO THE TIMING OF STIPEND PAYMENTS.

7 (5) (a) AFTER AN UNDERGRADUATE STUDENT HAS APPLIED FOR THE  
8 PROGRAM, BEEN APPROVED FOR THE PROGRAM, AND ENROLLED IN A STATE  
9 OR PARTICIPATING PRIVATE INSTITUTION OF HIGHER EDUCATION, THE  
10 INSTITUTION SHALL REQUEST THAT THE COLORADO STUDENT LOAN  
11 PROGRAM MAKE A STIPEND PAYMENT FROM THE COLLEGE OPPORTUNITY  
12 FUND TO THE INSTITUTION ON BEHALF OF THE ELIGIBLE UNDERGRADUATE  
13 STUDENT. THE STIPEND PAYMENT SHALL BE PAID TO THE INSTITUTION  
14 UPON RECEIPT BY THE INSTITUTION OF THE ELIGIBLE UNDERGRADUATE  
15 STUDENT'S AUTHORIZING SIGNATURE. THE AMOUNT OF THE STIPEND PAID  
16 ON BEHALF OF AN ELIGIBLE UNDERGRADUATE STUDENT SHALL BE APPLIED  
17 AGAINST THE STUDENT'S TOTAL IN-STATE TUITION.

18 (b) THE STIPEND PAID BY THE COLORADO STUDENT LOAN  
19 PROGRAM ON BEHALF OF THE ELIGIBLE UNDERGRADUATE STUDENT SHALL  
20 BE NOTED ON THE STUDENT'S RECEIPT OF PAYMENT FROM THE STATE OR  
21 PRIVATE INSTITUTION OF HIGHER EDUCATION AS THE "PAYMENT BY THE  
22 STATE OF COLORADO, FROM THE COLLEGE OPPORTUNITY FUND".

23 (c) (I) AN ELIGIBLE UNDERGRADUATE STUDENT SHALL NOT  
24 RECEIVE A STIPEND FROM THE COLLEGE OPPORTUNITY FUND FOR MORE  
25 THAN ONE HUNDRED FORTY CREDIT HOURS DURING THE ELIGIBLE  
26 UNDERGRADUATE STUDENT'S LIFETIME; EXCEPT THAT, IF AN ELIGIBLE  
27 UNDERGRADUATE STUDENT HAS RECEIVED PAYMENT FOR A STIPEND FOR

1 ONE HUNDRED FORTY CREDIT HOURS AND THE STUDENT HAS RECEIVED A  
2 BACHELOR'S DEGREE, THE ELIGIBLE UNDERGRADUATE STUDENT IS ELIGIBLE  
3 TO RECEIVE STIPEND PAYMENTS FOR AN ADDITIONAL THIRTY  
4 UNDERGRADUATE CREDIT HOURS.

5 (II) FOR AN ELIGIBLE UNDERGRADUATE STUDENT WHO IS  
6 ENROLLED AS A CONTINUING STUDENT AS OF JULY 1, 2005, THE  
7 COMMISSION SHALL DETERMINE THE NUMBER OF CREDIT HOURS FOR  
8 WHICH THE STUDENT MAY RECEIVE A STIPEND FROM THE COLLEGE  
9 OPPORTUNITY FUND, BASED ON THE LENGTH OF TIME THE ELIGIBLE  
10 UNDERGRADUATE STUDENT HAS BEEN ENROLLED, BY PRORATING THE  
11 LIFETIME-CREDIT-HOUR LIMITATION OVER FOUR YEARS.

12 (d) (I) AN INSTITUTION OF HIGHER EDUCATION SHALL NOT RECEIVE  
13 THE PAYMENT OF A STIPEND ON BEHALF OF AN ELIGIBLE UNDERGRADUATE  
14 STUDENT FOR:

15 (A) BASIC SKILLS COURSES, AS DEFINED IN SECTION 23-1-113 (1)

16 (b) (II) (A.7);

17 (B) COURSES TAKEN PURSUANT TO THE "POSTSECONDARY  
18 ENROLLMENT OPTIONS ACT", ARTICLE 35 OF TITLE 22, C.R.S.;

19 (C) HIGH SCHOOL FAST-TRACK COURSES TAKEN PURSUANT TO  
20 SECTION 22-34-101, C.R.S.;

21 (D) INTERNATIONAL BACCALAUREATE COURSES; OR

22 (E) ADVANCED PLACEMENT COURSES.

23 (II) THE INSTITUTION OF HIGHER EDUCATION IN WHICH AN ELIGIBLE  
24 UNDERGRADUATE STUDENT ENROLLS MAY CONTRACT WITH THE  
25 DEPARTMENT PURSUANT TO SECTION 23-5-129 TO PROVIDE THE COURSES  
26 SPECIFIED IN SUB-SUBPARAGRAPHS (A) TO (C) OF SUBPARAGRAPH (I) OF  
27 THIS PARAGRAPH (d) FOR A FEE.

1 (e) NOTWITHSTANDING THE LIFETIME-CREDIT-HOUR LIMITATION  
2 ESTABLISHED PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (5), AN  
3 ELIGIBLE UNDERGRADUATE STUDENT MAY APPLY TO THE COMMISSION FOR  
4 A WAIVER OF THE LIMITATION. THE COMMISSION MAY GRANT A WAIVER  
5 OF THE LIFETIME-CREDIT-HOUR LIMITATION IF IT FINDS:

6 (I) THAT EXTENUATING CIRCUMSTANCES EXIST RELATED TO THE  
7 STUDENT'S HEALTH OR PHYSICAL ABILITY TO COMPLETE THE DEGREE  
8 PROGRAM WITHIN THE LIFETIME-CREDIT-HOUR LIMIT;

9 (II) THAT THE DEGREE PROGRAM, AS APPROVED BY THE  
10 COMMISSION, REQUIRES MORE THAN ONE HUNDRED TWENTY HOURS TO  
11 COMPLETE;

12 (III) THAT, WHILE THE ELIGIBLE UNDERGRADUATE STUDENT WAS  
13 ENROLLED IN A SPECIFIC DEGREE PROGRAM, THE COMMISSION APPROVED  
14 AND THE INSTITUTION IMPLEMENTED AN ALTERATION OF DEGREE  
15 REQUIREMENTS OR STANDARDS FOR THE SPECIFIC DEGREE; OR

16 (IV) THAT REQUIRING THE ELIGIBLE UNDERGRADUATE STUDENT TO  
17 PAY THE FULL AMOUNT OF TOTAL IN-STATE TUITION FOR CREDIT HOURS  
18 THAT EXCEED THE LIMITATION WOULD CAUSE A SUBSTANTIAL ECONOMIC  
19 HARDSHIP ON THE STUDENT AND THE STUDENT'S FAMILY.

20 (6) IF AN ELIGIBLE UNDERGRADUATE STUDENT ENROLLS IN A CLASS  
21 FOR WHICH THE STATE OR PARTICIPATING PRIVATE INSTITUTION OF HIGHER  
22 EDUCATION RECEIVES A STIPEND PAYMENT PURSUANT TO SUBSECTION (5)  
23 OF THIS SECTION AND THE ELIGIBLE UNDERGRADUATE STUDENT  
24 SUBSEQUENTLY WITHDRAWS FROM THE CLASS ON OR PRIOR TO THE FINAL  
25 DATE ON WHICH THE INSTITUTION PERMITS A STUDENT TO WITHDRAW  
26 WITHOUT THE PAYMENT OF TUITION, THE INSTITUTION SHALL REIMBURSE  
27 THE COLLEGE OPPORTUNITY FUND FOR THE PROPORTIONAL AMOUNT OF

1 THE STIPEND RECEIVED THAT CONFORMS TO THE GOVERNING BOARD'S  
2 REFUND POLICY FOR THE CLASS FROM WHICH THE STUDENT WITHDREW.  
3 THE CREDITS FOR WHICH THE STIPEND IS REFUNDED SHALL NOT COUNT  
4 AGAINST THE ELIGIBLE UNDERGRADUATE STUDENT'S  
5 LIFETIME-CREDIT-HOUR LIMITATION ESTABLISHED PURSUANT TO  
6 PARAGRAPH (c) OF SUBSECTION (5) OF THIS SECTION.

7 (7) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE  
8 AMOUNT OF A STIPEND RECEIVED BY A STATE INSTITUTION OF HIGHER  
9 EDUCATION ON BEHALF OF AN ELIGIBLE UNDERGRADUATE STUDENT  
10 PURSUANT TO THIS PART 2 SHALL NOT CONSTITUTE A GRANT FROM THE  
11 STATE OF COLORADO PURSUANT TO SECTION 20 (2) (d) OF ARTICLE X OF  
12 THE STATE CONSTITUTION.

13 **23-18-203. College opportunity fund - data retention.** (1) THE  
14 COMMISSION, IN COOPERATION WITH THE STATE AND PARTICIPATING  
15 PRIVATE INSTITUTIONS OF HIGHER EDUCATION, SHALL MAINTAIN A RECORD  
16 OF THE NUMBER OF CREDIT HOURS FOR WHICH EACH ELIGIBLE  
17 UNDERGRADUATE STUDENT RECEIVES A STIPEND FROM THE COLLEGE  
18 OPPORTUNITY FUND. THE COMMISSION SHALL ALSO MAINTAIN ANY  
19 CONFIDENTIAL INFORMATION CONCERNING ELIGIBLE UNDERGRADUATE  
20 STUDENTS PARTICIPATING IN THE PROGRAM.

21 (2) THE COMMISSION, IN CONSULTATION WITH THE GOVERNING  
22 BOARDS, SHALL DETERMINE BY POLICY WHEN TO FORWARD TO EACH STATE  
23 AND PARTICIPATING PRIVATE INSTITUTION OF HIGHER EDUCATION A  
24 REPORT ON THE NUMBER OF CREDIT HOURS ACCUMULATED BY EACH  
25 ELIGIBLE UNDERGRADUATE STUDENT AGAINST THE LIFETIME-CREDIT-HOUR  
26 LIMITATION ESTABLISHED PURSUANT TO SECTION 23-18-202 (5) (c). EACH  
27 INSTITUTION SHALL MAKE THE INFORMATION ON THE NUMBER OF CREDIT

1 HOURS ACCUMULATED AGAINST THE LIMITATIONS AVAILABLE TO THE  
2 STUDENT UPON REQUEST.

3 **23-18-204. College opportunity fund - directive.** THE  
4 COLORADO STUDENT LOAN PROGRAM AND THE STATE TREASURER, IN  
5 CONSULTATION WITH THE GOVERNING BOARDS, SHALL COOPERATIVELY  
6 ESTABLISH A DISBURSEMENT SCHEDULE FOR STIPENDS AWARDED  
7 PURSUANT TO THIS PART 2.

8 **23-18-205. College opportunity fund - legislative declaration**  
9 **- commission report.** (1) THE GENERAL ASSEMBLY FINDS THAT:

10 (a) NO OTHER STATE HAS TRIED TO CHANGE THE FUNDING OF  
11 INSTITUTIONS OF HIGHER EDUCATION FROM THE INSTITUTION TO THE  
12 STUDENT AS PROVIDED FOR IN THIS PART 2;

13 (b) BECAUSE THIS PART 2 CREATES A NEW AND UNTRIED PROGRAM,  
14 IT IS ANTICIPATED THAT DURING THE EARLY YEARS OF ITS  
15 IMPLEMENTATION, THERE MAY BE SOME UNANTICIPATED EFFECTS  
16 REQUIRING ADDITIONAL STATUTORY CHANGES.

17 (2) (a) BEGINNING JULY 1, 2006, AND CONTINUING THROUGH JULY  
18 1, 2009, THE COMMISSION SHALL SUBMIT TO THE EDUCATION COMMITTEES  
19 OF THE SENATE AND HOUSE OF REPRESENTATIVES AND TO THE JOINT  
20 BUDGET COMMITTEE OF THE GENERAL ASSEMBLY ANNUAL REPORTS ON THE  
21 STATUS OF THE PROGRAM ESTABLISHED PURSUANT TO THIS PART 2. THE  
22 ANNUAL REPORTS MAY INCLUDE, BUT ARE NOT LIMITED TO,  
23 RECOMMENDED STATUTORY CHANGES.

24 (b) ON OR BEFORE JULY 1, 2010, THE COMMISSION SHALL SUBMIT  
25 A FINAL REPORT TO THE EDUCATION COMMITTEES OF THE SENATE AND  
26 HOUSE OF REPRESENTATIVES AND TO THE JOINT BUDGET COMMITTEE OF  
27 THE GENERAL ASSEMBLY ON THE IMPLEMENTATION OF THE PROGRAM

1 ESTABLISHED PURSUANT TO THIS PART 2.

2 **SECTION 3.** Article 5 of title 23, Colorado Revised Statutes, is  
3 amended BY THE ADDITION OF THE FOLLOWING NEW  
4 SECTIONS to read:

5 **23-5-128. Governing boards - performance contract -**  
6 **authorization - operations.** (1) AS USED IN THIS SECTION, UNLESS THE  
7 CONTEXT OTHERWISE REQUIRES:

8 (a) "PRIVATE INSTITUTION OF HIGHER EDUCATION" SHALL HAVE  
9 THE SAME MEANING AS PROVIDED IN SECTION 23-18-102 (11).

10 (b) "STATE INSTITUTION OF HIGHER EDUCATION" SHALL HAVE THE  
11 SAME MEANING AS PROVIDED IN SECTION 23-18-102 (12).

12 (c) "UNFUNDED ENROLLMENT GROWTH" MEANS THE AMOUNT OF  
13 ENROLLMENT GROWTH CALCULATED PURSUANT TO SUBSECTION (8) OF  
14 THIS SECTION THAT HAS NOT BEEN FUNDED FOR EACH GOVERNING BOARD  
15 FROM STATE FISCAL YEAR 2000-01 THROUGH 2004-05.

16 (2) (a) BEGINNING JULY 1, 2004, EACH GOVERNING BOARD OF A  
17 STATE INSTITUTION OF HIGHER EDUCATION SHALL NEGOTIATE A  
18 PERFORMANCE CONTRACT WITH THE DEPARTMENT OF HIGHER EDUCATION  
19 THAT SHALL SPECIFY THE PERFORMANCE GOALS THE INSTITUTION SHALL  
20 ACHIEVE DURING THE PERIOD THAT IT OPERATES UNDER THE  
21 PERFORMANCE CONTRACT. A STATE INSTITUTION OF HIGHER EDUCATION'S  
22 COMPLIANCE WITH THE GOALS SPECIFIED IN THE PERFORMANCE CONTRACT  
23 MAY BE IN LIEU OF THE REQUIREMENTS OF ARTICLE 1 OF THIS TITLE AND  
24 THE "HIGHER EDUCATION QUALITY ASSURANCE ACT", ARTICLE 13 OF THIS  
25 TITLE, FOR THE PERIOD OF THE PERFORMANCE CONTRACT.

26 (b) IF A PRIVATE INSTITUTION OF HIGHER EDUCATION PLANS TO  
27 ACCEPT STIPENDS PAID ON BEHALF OF ELIGIBLE UNDERGRADUATE

1 STUDENTS PURSUANT TO ARTICLE 18 OF THIS TITLE, THE PRIVATE  
2 INSTITUTION OF HIGHER EDUCATION SHALL NEGOTIATE A PERFORMANCE  
3 CONTRACT WITH THE DEPARTMENT OF HIGHER EDUCATION, WHICH SHALL  
4 SPECIFY THE PERFORMANCE GOALS THE INSTITUTION SHALL ACHIEVE  
5 DURING THE PERIOD THAT IT OPERATES UNDER THE PERFORMANCE  
6 CONTRACT.

7 (c) THE SPECIFIED PROCEDURES AND GOALS SET FORTH IN THE  
8 PERFORMANCE CONTRACT SHALL BE MEASURABLE AND TAILORED TO THE  
9 ROLE AND MISSION OF EACH INSTITUTION THAT IS UNDER THE DIRECTION  
10 AND CONTROL OF THE GOVERNING BOARD, AND MAY INCLUDE, BUT SHALL  
11 NOT BE LIMITED TO:

12 (I) COLORADO RESIDENTS' ACCESS TO HIGHER EDUCATION;

13 (II) QUALITY;

14 (III) EFFICIENCY OF OPERATIONS; AND

15 (IV) THE NEEDS OF THE STATE.

16 (d) TO MEASURE PROGRESS TOWARD THE GOALS SPECIFIED IN THE  
17 PERFORMANCE CONTRACT, THE FOLLOWING ISSUES MAY BE ADDRESSED:

18 (I) APPROPRIATE LEVELS OF STUDENT ENROLLMENT, TRANSFER,  
19 RETENTION, AND GRADUATION RATES AND INSTITUTIONAL PROGRAMS  
20 SPECIFICALLY DESIGNED TO ASSIST STUDENTS IN ACHIEVING THEIR  
21 ACADEMIC AND, IN THE CASE OF COMMUNITY COLLEGES AND AREA  
22 VOCATIONAL SCHOOLS, VOCATIONAL GOALS;

23 (II) STUDENT SATISFACTION AND STUDENT PERFORMANCE AFTER  
24 GRADUATION, MEASURED BY INDICATORS APPROPRIATE TO THE  
25 INSTITUTIONAL ROLE AND MISSION, SUCH AS EMPLOYMENT OR  
26 ENROLLMENT IN GRADUATE PROGRAMS;

27 (III) COMPARATIVE COST AND PRODUCTIVITY DATA IN RELATION

1 TO PEER INSTITUTIONS;

2 (IV) ASSESSMENT OF THE QUALITY OF THE INSTITUTION'S  
3 ACADEMIC AND, WHERE RELEVANT, VOCATIONAL PROGRAMS, INCLUDING  
4 ASSESSMENT BY EXTERNAL REVIEWERS, SUCH AS ACCREDITATION BOARDS  
5 AND EMPLOYERS, AND CONSIDERATION OF STUDENT PERFORMANCE ON  
6 NATIONAL EXAMINATIONS; AND

7 (V) INCREASING FINANCIAL SUPPORT TO SUSTAIN AND ENHANCE  
8 ESSENTIAL FUNCTIONS THAT MAY BE PARTIALLY STATE FUNDED,  
9 INCLUDING BUT NOT LIMITED TO:

10 (A) THE PROVISION OF STUDENT FINANCIAL AID;

11 (B) IN THE CASE OF A STATE INSTITUTION OF HIGHER EDUCATION,  
12 CAPITAL CONSTRUCTION;

13 (C) ASSESSMENT OF FINANCIAL INDICATORS COMPARED TO  
14 NATIONAL BENCHMARKS COMMONLY USED TO MEASURE FINANCIAL  
15 PERFORMANCE IN HIGHER EDUCATION ACCORDING TO THE TYPE OF  
16 INSTITUTION; AND

17 (D) INCREASING FINANCIAL SUPPORT TO SUSTAIN AND ENHANCE  
18 THE EDUCATIONAL MISSION OF THE INSTITUTION AND, IN THE CASE OF  
19 INSTITUTIONS WITH A RESEARCH MISSION, INCREASING PUBLIC AND  
20 PRIVATE RESEARCH CAPABILITIES AND COMPETITIVENESS.

21 (e) NOTWITHSTANDING ANY PROVISION OF THIS SUBSECTION (2) TO  
22 THE CONTRARY, THE PROVISIONS OF THIS SUBSECTION (2) SHALL NOT  
23 APPLY TO THE PERFORMANCE CONTRACT WITH THE COLORADO SCHOOL OF  
24 MINES, AUTHORIZED BY SECTION 23-41-104.6, THAT IS IN PLACE ON JULY  
25 1, 2004, UNTIL THE DEPARTMENT OF HIGHER EDUCATION RENEGOTIATES  
26 THE PERFORMANCE CONTRACT WITH THE SCHOOL OF MINES, TO TAKE  
27 EFFECT JULY 1, 2011.



1           (3) ALL PERFORMANCE CONTRACTS BETWEEN THE DEPARTMENT OF  
2 HIGHER EDUCATION AND ANY STATE OR PRIVATE INSTITUTION OF HIGHER  
3 EDUCATION SHALL BE REVIEWED AND APPROVED BY THE COLORADO  
4 COMMISSION ON HIGHER EDUCATION BEFORE THE CONTRACT MAY BECOME  
5 EFFECTIVE.

6           (4) NOTWITHSTANDING THE REQUIREMENTS OF ARTICLE 101 OF  
7 TITLE 24, C.R.S., AND PART 11 OF ARTICLE 30 OF TITLE 24, C.R.S., A  
8 GOVERNING BOARD OF A STATE INSTITUTION OF HIGHER EDUCATION THAT  
9 OPERATES PURSUANT TO A PERFORMANCE CONTRACT NEGOTIATED  
10 PURSUANT TO THIS SECTION MAY NEGOTIATE WITH THE DEPARTMENT OF  
11 HIGHER EDUCATION, AFTER APPROVAL FROM THE COLORADO COMMISSION  
12 ON HIGHER EDUCATION, A PROVISION IN THE PERFORMANCE CONTRACT TO  
13 ALLOW AN EXEMPTION FROM THE PROCUREMENT CODE, ARTICLE 101 OF  
14 TITLE 24, C.R.S., OR THE CENTRAL STATE MOTOR VEHICLE FLEET SYSTEM,  
15 PART 11 OF ARTICLE 30 OF TITLE 24, C.R.S. THE EXECUTIVE DIRECTOR OF  
16 THE DEPARTMENT OF HIGHER EDUCATION SHALL COMMUNICATE IN  
17 WRITING WITH THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF  
18 PERSONNEL REGARDING ANY EXEMPTIONS GRANTED PURSUANT TO THIS  
19 SUBSECTION (4).

20           (5) BEGINNING JANUARY 2006, AND EACH JANUARY THEREAFTER,  
21 THE DEPARTMENT OF HIGHER EDUCATION SHALL REPORT TO THE MEMBERS  
22 OF THE EDUCATION COMMITTEES OF THE SENATE AND THE HOUSE OF  
23 REPRESENTATIVES AND THE MEMBERS OF THE JOINT BUDGET COMMITTEE  
24 OF THE GENERAL ASSEMBLY THE FINANCIAL EFFECT OF THE PROVISIONS OF  
25 EACH PERFORMANCE CONTRACT WITH REGARD TO FUNDING FOR THE  
26 AFFECTED GOVERNING BOARD OF A STATE INSTITUTION OF HIGHER  
27 EDUCATION AND OVERALL FUNDING FOR THE STATEWIDE SYSTEM OF

1 HIGHER EDUCATION, ANY EXEMPTIONS GRANTED PURSUANT TO  
2 SUBSECTION (4) OF THIS SECTION, AND A REVIEW OF EACH STATE OR  
3 PRIVATE INSTITUTION'S OPERATIONS UNDER THE INSTITUTION'S  
4 PERFORMANCE CONTRACT. THE TERM OF A PERFORMANCE CONTRACT MAY  
5 BE UP TO TEN YEARS. THE DEPARTMENT OF HIGHER EDUCATION MAY  
6 RENEW A PERFORMANCE CONTRACT AT ITS DISCRETION, WITH THE  
7 AGREEMENT OF THE GOVERNING BOARD.

8 (6) WHILE OPERATING PURSUANT TO A PERFORMANCE CONTRACT  
9 NEGOTIATED PURSUANT TO THIS SECTION, THE GOVERNING BOARD OF A  
10 STATE INSTITUTION OF HIGHER EDUCATION:

11 (a) SHALL CONTINUE TO OPERATE AS THE GOVERNING BOARD FOR  
12 THE INSTITUTION. IN ADDITION, AT THE REQUEST OF THE GOVERNING  
13 BOARD, THE GOVERNOR MAY APPOINT ADDITIONAL ADVISORY MEMBERS  
14 TO THE GOVERNING BOARD TO SUSTAIN AND ENHANCE THE ROLE AND  
15 MISSION OF THE INSTITUTION. ADDITIONAL MEMBERS OF THE GOVERNING  
16 BOARD SHALL SERVE AS NONVOTING MEMBERS OF THE BOARD. THE ROLE  
17 OF THE ADVISORY MEMBERS SHALL BE TO IMPROVE THE GOVERNING  
18 BOARD'S OPPORTUNITIES TO DEVELOP AND ENRICH THE ACADEMIC AND  
19 RESEARCH PROGRAMS AT THE INSTITUTION.

20 (b) NEED NOT CONSULT WITH NOR OBTAIN APPROVAL FROM THE  
21 COLORADO COMMISSION ON HIGHER EDUCATION TO CREATE, MODIFY, OR  
22 ELIMINATE ACADEMIC AND VOCATIONAL PROGRAMS OFFERED BY THE  
23 INSTITUTION, SO LONG AS SUCH CREATIONS, MODIFICATIONS, AND  
24 ELIMINATIONS ARE CONSISTENT WITH THE INSTITUTION'S STATUTORY ROLE  
25 AND MISSION. THE COLORADO COMMISSION ON HIGHER EDUCATION SHALL  
26 HAVE THE AUTHORITY TO OVERRIDE ANY CREATION OR MODIFICATION OF  
27 AN ACADEMIC OR VOCATIONAL PROGRAM IF THE CHANGE MADE BY THE

1 GOVERNING BOARD IS INCONSISTENT WITH THE INSTITUTION'S STATUTORY  
2 ROLE AND MISSION.

3 (c) CONSISTENT WITH THE PROVISIONS OF SECTION 23-1-105,  
4 SHALL REPORT TO THE COLORADO COMMISSION ON HIGHER EDUCATION ITS  
5 PLANS FOR ANY TUITION INCREASES FOR THE FOLLOWING ACADEMIC YEAR  
6 FOR CONSIDERATION BY THE COMMISSION.

7 (7) WHILE OPERATING PURSUANT TO A PERFORMANCE CONTRACT  
8 NEGOTIATED PURSUANT TO THIS SECTION, A STATE INSTITUTION OF HIGHER  
9 EDUCATION SHALL:

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

13 (b) CONTINUE TO ADMIT COLORADO RESIDENT APPLICANTS WITHIN  
14 THE REQUIREMENTS OF SECTION 23-1-113.5 WHO MEET THE ADMISSIONS  
15 CRITERIA OF THE INSTITUTION.

16 (8) THE COLORADO COMMISSION ON HIGHER EDUCATION, IN  
17 CONSULTATION WITH THE GOVERNING BOARDS, SHALL CALCULATE THE  
18 AMOUNT OF UNFUNDED ENROLLMENT GROWTH. DURING THE PERIOD THAT  
19 A GOVERNING BOARD IS OPERATING PURSUANT TO A PERFORMANCE  
20 CONTRACT NEGOTIATED PURSUANT TO THIS SECTION, THE COLORADO  
21 COMMISSION ON HIGHER EDUCATION MAY REQUEST, AS PART OF THE  
22 ANNUAL BUDGET CYCLE, A GENERAL FUND APPROPRIATION FOR EACH  
23 GOVERNING BOARD FOR THE AMOUNT OF UNFUNDED ENROLLMENT  
24 GROWTH, TO THE EXTENT THAT THERE REMAINS AN AMOUNT OF  
25 ENROLLMENT GROWTH THAT IS UNFUNDED FOR THE GOVERNING BOARD.

26 (9) THE COLORADO SCHOOL OF MINES, WHILE OPERATING UNDER  
27 A PERFORMANCE CONTRACT PURSUANT TO SECTION 23-41-104.6, MAY

1 NEGOTIATE WITH THE COLORADO COMMISSION ON HIGHER EDUCATION FOR  
2 EXEMPTIONS CONSISTENT WITH THE PROVISIONS OF SUBSECTION (4) OF  
3 THIS SECTION.

4 (10) WHILE A STATE INSTITUTION OF HIGHER EDUCATION IS  
5 OPERATING PURSUANT TO A PERFORMANCE CONTRACT NEGOTIATED  
6 PURSUANT TO THIS SECTION, THE GENERAL ASSEMBLY RETAINS THE  
7 AUTHORITY TO APPROVE TUITION SPENDING AUTHORITY FOR THE  
8 GOVERNING BOARD OF THE INSTITUTION.

9 **23-5-129. Governing boards - fee-for-service contracts -**  
10 **authorization.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT  
11 OTHERWISE REQUIRES:

12 (a) "COMMISSION" SHALL HAVE THE SAME MEANING AS PROVIDED  
13 IN SECTION 23-18-102 (5).

14 (b) "DEPARTMENT" SHALL HAVE THE SAME MEANING AS PROVIDED  
15 IN SECTION 23-18-102 (6).

16 (c) "STATE INSTITUTION OF HIGHER EDUCATION" SHALL HAVE THE  
17 SAME MEANING AS PROVIDED IN SECTION 23-18-102 (12).

18 (2) BEGINNING JULY 1, 2005, THE GOVERNING BOARD OF A STATE  
19 INSTITUTION OF HIGHER EDUCATION MAY ANNUALLY NEGOTIATE A  
20 FEE-FOR-SERVICE CONTRACT WITH THE DEPARTMENT FOR THE DELIVERY  
21 OF HIGHER EDUCATION SERVICES BY THE INSTITUTION TO THE RESIDENTS  
22 OF THE STATE OF COLORADO. THESE SERVICES MAY INCLUDE, BUT NEED  
23 NOT BE LIMITED TO:

24 (a) EDUCATIONAL SERVICES IN RURAL AREAS OR COMMUNITIES IN  
25 WHICH THE COST OF DELIVERING THE EDUCATIONAL SERVICES IS NOT  
26 SUSTAINED BY THE AMOUNT RECEIVED IN STUDENT TUITION;

27 (b) BASIC SKILLS COURSES, AS DEFINED IN SECTION 23-1-113 (1)

1 (b) (II) (A.7);

2 (c) EDUCATIONAL SERVICES ASSOCIATED WITH THE  
3 "POSTSECONDARY ENROLLMENT OPTIONS ACT", ARTICLE 35 OF TITLE 22,  
4 C.R.S.;

5 (d) EDUCATIONAL SERVICES ASSOCIATED WITH THE HIGH SCHOOL  
6 FAST TRACK PROGRAM PURSUANT TO SECTION 22-34-101, C.R.S.;

7 (e) EDUCATIONAL SERVICES REQUIRED OF THE COMMISSION TO  
8 MEET ITS OBLIGATIONS UNDER RECIPROCAL AGREEMENTS PURSUANT TO  
9 SECTION 23-1-112;

10 (f) GRADUATE SCHOOL SERVICES;

11 (g) EDUCATIONAL SERVICES THAT MAY INCREASE ECONOMIC  
12 DEVELOPMENT OPPORTUNITIES IN THE STATE; AND

13 (h) SPECIALIZED EDUCATIONAL SERVICES AND PROFESSIONAL  
14 DEGREES, INCLUDING BUT NOT LIMITED TO THE AREAS OF DENTISTRY,  
15 MEDICINE, VETERINARY MEDICINE, NURSING, LAW, FORESTRY, AND  
16 ENGINEERING.

17 **SECTION 4.** Article 1 of title 23, Colorado Revised Statutes, is  
18 amended BY THE ADDITION OF A NEW SECTION to read:

19 **23-1-109.7. Duties and powers of the commission with regard**  
20 **to the provision of educational services.** (1) THE COMMISSION SHALL  
21 BE RESPONSIBLE FOR ENSURING THE PROVISION OF SPECIFIC  
22 POSTSECONDARY EDUCATIONAL SERVICES IN THE STATE. THESE  
23 EDUCATIONAL SERVICES SHALL INCLUDE BUT NEED NOT BE LIMITED TO:

24 (a) EDUCATIONAL SERVICES IN RURAL AREAS OR COMMUNITIES IN  
25 WHICH THE COST OF DELIVERING SUCH SERVICES IS NOT SUSTAINED BY THE  
26 AMOUNT RECEIVED IN STUDENT TUITION;

27 (b) BASIC SKILLS COURSES, AS DEFINED IN SECTION 23-1-113 (1)

1 (b) (II) (A.7);

2 (c) EDUCATIONAL SERVICES ASSOCIATED WITH THE  
3 "POSTSECONDARY ENROLLMENT OPTIONS ACT", ARTICLE 35 OF TITLE 22,  
4 C.R.S.;

5 (d) EDUCATIONAL SERVICES ASSOCIATED WITH THE HIGH SCHOOL  
6 FAST TRACK PROGRAM PURSUANT TO SECTION 22-34-101, C.R.S.;

7 (e) EDUCATIONAL SERVICES REQUIRED OF THE COMMISSION TO  
8 MEET ITS OBLIGATIONS UNDER RECIPROCAL AGREEMENTS PURSUANT TO  
9 SECTION 23-1-112;

10 (f) GRADUATE SCHOOL SERVICES;

11 (g) EDUCATIONAL SERVICES THAT MAY INCREASE ECONOMIC  
12 DEVELOPMENT OPPORTUNITIES IN THE STATE; AND

13 (h) SPECIALIZED EDUCATIONAL SERVICES AND PROFESSIONAL  
14 DEGREES, INCLUDING BUT NOT LIMITED TO THE AREAS OF DENTISTRY,  
15 MEDICINE, VETERINARY MEDICINE, NURSING, LAW, FORESTRY, AND  
16 ENGINEERING.

17 (2) THE DEPARTMENT OF HIGHER EDUCATION ON BEHALF OF THE  
18 COMMISSION MAY ANNUALLY ENTER INTO FEE-FOR-SERVICE CONTRACTS  
19 WITH ONE OR MORE GOVERNING BOARDS OF INSTITUTIONS OF HIGHER  
20 EDUCATION TO PROVIDE THE HIGHER EDUCATION SERVICES SPECIFIED IN  
21 SUBSECTION (1) OF THIS SECTION. THE DEPARTMENT OF HIGHER  
22 EDUCATION MAY CONTRACT WITH A GOVERNING BOARD OF AN  
23 INSTITUTION OF HIGHER EDUCATION ONLY TO THE EXTENT THAT THE  
24 CONTRACT REMAINS CONSISTENT WITH ANY CONTRACT ENTERED INTO  
25 PURSUANT TO SECTION 23-5-128 WITH THE GOVERNING BOARD.

26 (3) THE COMMISSION SHALL MAKE ANNUAL FUNDING  
27 RECOMMENDATIONS TO THE GENERAL ASSEMBLY AND THE GOVERNOR

1 REGARDING THE FUNDING NECESSARY FOR THE DEPARTMENT OF HIGHER  
2 EDUCATION TO CONTRACT ON THE COMMISSION'S BEHALF FOR THE  
3 PROVISION OF HIGHER EDUCATION SERVICES IN THE STATE, INCLUDING BUT  
4 NOT LIMITED TO THE SERVICES SPECIFIED IN SUBSECTION (1) OF THIS  
5 SECTION. THE GENERAL ASSEMBLY SHALL ANNUALLY APPROPRIATE TO  
6 THE COMMISSION AN AMOUNT OF GENERAL FUND MONEYS TO CARRY OUT  
7 THE PURPOSES OF THIS SECTION.

8 **SECTION 5.** 23-1-113.3 (2) (a), Colorado Revised Statutes, is  
9 amended to read:

10 **23-1-113.3. Commission directive - basic skills courses.**

11 (2) (a) Adams state college, Mesa state college, any local community  
12 college, and any community college governed by the state board for  
13 community colleges and occupational education may offer and receive  
14 ~~course-reimbursement~~ FEE-FOR-SERVICE CONTRACT payments from the  
15 state for basic skills courses, as defined in section 23-1-113 (1) (b) (II)  
16 (A.7).

17 **SECTION 6.** 24-1-114 (5) (b), Colorado Revised Statutes, is  
18 amended to read:

19 **24-1-114. Department of higher education - creation.**

20 (5) (b) With respect to the Colorado commission on higher education and  
21 the universities, colleges, and boards specified in subsection (4) of this  
22 section, the executive director shall have only those powers, duties, and  
23 functions prescribed in article 1 of title 23, C.R.S.; EXCEPT THAT THE  
24 EXECUTIVE DIRECTOR OF THE COLORADO COMMISSION ON HIGHER  
25 EDUCATION IS AUTHORIZED TO NEGOTIATE, IMPLEMENT, AND MONITOR  
26 CONTRACTS, AS DESCRIBED IN SECTIONS 23-5-128 AND 23-5-129, C.R.S.,  
27 WITH UNIVERSITIES, COLLEGES, AND BOARDS, IN CONSULTATION WITH THE

1 COLORADO COMMISSION ON HIGHER EDUCATION.

2 **SECTION 7.** 23-1-104 (1) (a) (I) and (1) (d), Colorado Revised  
3 Statutes, are amended to read:

4 **23-1-104. Financing the system of postsecondary education -**  
5 **repeal.** (1) (a) (I) The general assembly shall make annual  
6 appropriations of general fund moneys, ~~and~~ of cash funds received from  
7 tuition income, ~~pursuant to the provisions of section 23-1-103.5~~ AND OF  
8 CASH FUNDS EXEMPT THAT ARE ESTIMATED TO BE RECEIVED BY THE  
9 GOVERNING BOARD AS STIPENDS, AS DEFINED IN SECTION 23-18-102, as a  
10 single line item to each governing board for the operation of its campuses.  
11 ~~consistent with the distribution percentages developed by the commission~~  
12 ~~pursuant to section 23-1-105 (3). Except as otherwise provided in~~  
13 ~~subsection (1.5) of this section, each governing board shall allocate said~~  
14 ~~appropriations to the institutions under its control in the manner deemed~~  
15 ~~most appropriate by such governing board.~~

16 (d) ~~The formulas established pursuant to this section shall exclude~~  
17 ~~consideration of the programs authorized pursuant to article 15 of title 26,~~  
18 ~~C.R.S.~~

19 **SECTION 8.** Article 5 of title 23, Colorado Revised Statutes, is  
20 amended BY THE ADDITION OF A NEW SECTION to read:

21 **23-5-101.7. Enterprise status of institutions of higher**  
22 **education.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT  
23 OTHERWISE REQUIRES, "INSTITUTION OF HIGHER EDUCATION" OR  
24 "INSTITUTION" MEANS THE COLORADO STATE UNIVERSITY - PUEBLO,  
25 ADAMS STATE COLLEGE, MESA STATE COLLEGE, METROPOLITAN STATE  
26 COLLEGE OF DENVER, FORT LEWIS COLLEGE, WESTERN STATE COLLEGE  
27 OF COLORADO, THE UNIVERSITY OF NORTHERN COLORADO, COLORADO



1 SCHOOL OF MINES, THE UNIVERSITY OF COLORADO, COLORADO STATE  
2 UNIVERSITY, AND ALL COMMUNITY COLLEGES GOVERNED BY THE STATE  
3 BOARD FOR COMMUNITY COLLEGES AND OCCUPATIONAL EDUCATION.

4 (2) AN INSTITUTION OF HIGHER EDUCATION, OR A GROUP OF  
5 INSTITUTIONS OF HIGHER EDUCATION THAT IS MANAGED BY A SINGLE  
6 GOVERNING BOARD, MAY BE DESIGNATED AS AN ENTERPRISE FOR THE  
7 PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION SO  
8 LONG AS THE GOVERNING BOARD OF THE INSTITUTION OR GROUP OF  
9 INSTITUTIONS RETAINS AUTHORITY TO ISSUE REVENUE BONDS ON BEHALF  
10 OF THE INSTITUTION OR GROUP OF INSTITUTIONS AND THE INSTITUTION OR  
11 GROUP OF INSTITUTIONS RECEIVES LESS THAN TEN PERCENT OF ITS TOTAL  
12 ANNUAL REVENUES IN GRANTS FROM ALL COLORADO STATE AND LOCAL  
13 GOVERNMENTS COMBINED. SO LONG AS IT IS DESIGNATED AS AN  
14 ENTERPRISE PURSUANT TO THE PROVISIONS OF THIS SECTION, AN  
15 INSTITUTION OR GROUP OF INSTITUTIONS SHALL NOT BE SUBJECT TO ANY  
16 OF THE PROVISIONS OF SECTION 20 OF ARTICLE X OF THE STATE  
17 CONSTITUTION.

18 (3) IN PLEDGING REVENUES FOR THE REPAYMENT OF REVENUE  
19 BONDS ISSUED ON BEHALF OF AN INSTITUTION OF HIGHER EDUCATION OR  
20 GROUP OF INSTITUTIONS OF HIGHER EDUCATION THAT IS DESIGNATED AS AN  
21 ENTERPRISE, THE INSTITUTION OR GROUP OF INSTITUTIONS MAY PLEDGE  
22 INTERNAL REVENUES ONLY IF THE INSTITUTION OR GROUP OF  
23 INSTITUTIONS:

24 (a) IS ACCOUNTED FOR SEPARATELY IN INSTITUTIONAL FINANCIAL  
25 RECORDS; AND

26 (b) ENGAGES IN THE TYPE OF ACTIVITIES THAT ARE COMMONLY  
27 CARRIED ON FOR PROFIT OUTSIDE THE PUBLIC SECTOR.

1           (4) (a) THE GOVERNING BOARD OF AN INSTITUTION OF HIGHER  
2 EDUCATION MAY, BY RESOLUTION, DESIGNATE AN INSTITUTION OF HIGHER  
3 EDUCATION OR GROUP OF INSTITUTIONS OF HIGHER EDUCATION MANAGED  
4 BY THE GOVERNING BOARD AS AN ENTERPRISE SO LONG AS THE  
5 INSTITUTION OR GROUP OF INSTITUTIONS MEETS THE REQUIREMENTS FOR  
6 AN ENTERPRISE STATED IN SUBSECTION (2) OF THIS SECTION. EXCEPT AS  
7 PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (4), ANY SUCH  
8 ENTERPRISE DESIGNATION SHALL NOT TERMINATE, EXPIRE, OR BE  
9 RESCINDED AS LONG AS THE INSTITUTION OR GROUP OF INSTITUTIONS  
10 MEETS THE REQUIREMENTS FOR AN ENTERPRISE.

11           (b) ALL RESOLUTIONS ADOPTED PURSUANT TO PARAGRAPH (a) OF  
12 THIS SUBSECTION (4) SHALL BE SUBMITTED BY THE ADOPTING GOVERNING  
13 BOARD TO THE OFFICE OF THE STATE AUDITOR IN THE FORM AND MANNER  
14 PRESCRIBED BY THE LEGISLATIVE AUDIT COMMITTEE. THE DESIGNATIONS  
15 SHALL BE REVIEWED BY THE OFFICE OF THE STATE AUDITOR TO DETERMINE  
16 WHETHER THE DESIGNATIONS ARE WITHIN THE AUTHORITY OF THE  
17 ADOPTING GOVERNING BOARD PURSUANT TO THE PROVISIONS OF THIS  
18 SECTION AND FOR LATER REVIEW BY THE LEGISLATIVE AUDIT COMMITTEE  
19 FOR ITS OPINION AS TO WHETHER THE DESIGNATIONS CONFORM WITH THE  
20 PROVISIONS OF THIS SECTION. THE OFFICIAL CERTIFICATE OF THE STATE  
21 AUDITOR AS TO THE FACT OF SUBMISSION OR THE DATE OF SUBMISSION OF  
22 A DESIGNATION AS SHOWN BY THE RECORDS OF THE OFFICE OF THE STATE  
23 AUDITOR, AS WELL AS TO THE FACT OF NONSUBMISSION AS SHOWN BY THE  
24 NONEXISTENCE OF SUCH RECORDS, SHALL BE RECEIVED AND HELD IN ALL  
25 CIVIL CASES AS COMPETENT EVIDENCE OF THE FACTS CONTAINED THEREIN.  
26 A DESIGNATION ADOPTED BY A GOVERNING BOARD OF AN INSTITUTION OR  
27 GROUP OF INSTITUTIONS OF HIGHER EDUCATION WITHOUT BEING

1 SUBMITTED WITHIN TWENTY DAYS AFTER ADOPTION TO THE OFFICE OF THE  
2 STATE AUDITOR FOR REVIEW BY THE OFFICE AND BY THE LEGISLATIVE  
3 AUDIT COMMITTEE SHALL BE VOID.

4 (5) NOTWITHSTANDING ANY PROVISION OF SECTION 23-1-106 OR  
5 SECTION 24-75-303 (3), C.R.S., TO THE CONTRARY, THE GOVERNING  
6 BOARD OF AN INSTITUTION OF HIGHER EDUCATION OR GROUP OF  
7 INSTITUTIONS OF HIGHER EDUCATION THAT HAS BEEN DESIGNATED AS AN  
8 ENTERPRISE PURSUANT TO SUBSECTION (2) OF THIS SECTION SHALL HAVE  
9 THE EXCLUSIVE AUTHORITY TO APPROVE CASH FUNDED CAPITAL  
10 EXPENDITURES WITHIN THE INSTITUTION OR GROUP OF INSTITUTIONS FOR  
11 PROJECTS THAT ARE TO BE CONSTRUCTED, OPERATED, AND MAINTAINED  
12 SOLELY FROM STUDENT FEES, WHOLLY ENDOWED GIFTS AND BEQUESTS,  
13 RESEARCH BUILDING REVOLVING FUNDS, OR A COMBINATION OF SUCH  
14 SOURCES.

15 **SECTION 9.** 23-5-101.5 (2) (b) (II), Colorado Revised Statutes,  
16 is amended to read:

17 **23-5-101.5. Enterprise status of auxiliary facilities.** (2) As  
18 used in this ~~article~~ SECTION AND SECTIONS 23-5-102 TO 23-5-105.5:

19 (b) (II) "Grant" does not include:

20 (A) Any indirect benefit conferred upon an auxiliary facility, OR  
21 GROUP OF AUXILIARY FACILITIES OR AN INSTITUTION OR GROUP OF  
22 INSTITUTIONS from the state or any local government in Colorado,  
23 INCLUDING ANY INTEREST IN OR USE OF EXISTING FACILITIES OWNED,  
24 FUNDED, OR FINANCED BY THE GOVERNING BOARD OF AN INSTITUTION, THE  
25 STATE, OR ANY LOCAL GOVERNMENT IN COLORADO;

26 (B) Any revenues resulting from MARKET EXCHANGES SUCH AS  
27 rates, fees, assessments, TUITIONS, or other charges imposed by an

1 auxiliary facility, OR GROUP OF AUXILIARY FACILITIES OR BY AN  
2 INSTITUTION OR GROUP OF INSTITUTIONS for the provision of goods or  
3 services by such auxiliary facility, GROUP OF AUXILIARY FACILITIES,  
4 INSTITUTION OR GROUP OF INSTITUTIONS, including SERVICES TO THE  
5 STATE OR A LOCAL GOVERNMENT IN COLORADO AND fees paid to the  
6 auxiliary facility OR GROUP OF AUXILIARY FACILITIES for internal services  
7 provided to the institution of higher education with which the auxiliary  
8 facility is associated;

9 (C) Any federal funds, regardless of whether such federal funds  
10 pass through the state or any local government in Colorado prior to  
11 receipt by an auxiliary facility, GROUP OF AUXILIARY FACILITIES,  
12 INSTITUTION, OR GROUP OF INSTITUTIONS;

13 (D) FEES RECEIVED BY AN INSTITUTION PURSUANT TO A  
14 FEE-FOR-SERVICE CONTRACT BETWEEN THE DEPARTMENT OF HIGHER  
15 EDUCATION AND THE INSTITUTION OR THE INSTITUTION'S GOVERNING  
16 BOARD;

17 (E) REVENUES RECEIVED BY AN INSTITUTION OR GROUP OF  
18 INSTITUTIONS THAT HAVE BEEN PAID ON BEHALF OF AN ELIGIBLE  
19 UNDERGRADUATE STUDENT FROM THE COLLEGE OPPORTUNITY FUND  
20 PURSUANT TO ARTICLE 18 OF THIS TITLE.

21 **SECTION 10.** 23-5-102, Colorado Revised Statutes, is amended  
22 to read:

23 **23-5-102. Funding for auxiliary facilities - institutions of higher**  
24 **education - loans - bonds.** (1) For the purpose of obtaining funds for  
25 constructing, otherwise acquiring, and equipping auxiliary facilities for  
26 the use of students and employees at any state educational institution or  
27 any branch thereof OR FACILITIES FOR USE BY ANY INSTITUTION OR GROUP

1 OF INSTITUTIONS THAT ARE DESIGNATED AS AN ENTERPRISE PURSUANT TO  
2 SECTION 23-5-101.7 and for the acquisition of land for such purposes, the  
3 governing board of any state educational institution is authorized, after  
4 notification to the commission on higher education, to enter into contracts  
5 with any person, corporation, or state or federal government agency for  
6 the advancement of money for such purposes and providing for the  
7 repayment of such advancements with interest at a specified net effective  
8 interest rate.

9 (2) The governing ~~body~~ BOARD of any institution of higher  
10 education by resolution may issue revenue bonds on behalf of any  
11 auxiliary facility or group of auxiliary facilities OR ON BEHALF OF ANY  
12 INSTITUTION OR GROUP OF INSTITUTIONS managed by such governing ~~body~~  
13 BOARD for the purpose of obtaining funds for constructing, otherwise  
14 acquiring, equipping, or operating such auxiliary facility or group of  
15 auxiliary facilities OR FOR FACILITIES FOR SUCH INSTITUTION OR GROUP OF  
16 INSTITUTIONS. Any bonds issued on behalf of any auxiliary facility or  
17 group of auxiliary facilities, other than housing facilities, dining facilities,  
18 recreational facilities, health facilities, parking facilities, research  
19 facilities ~~which~~ THAT are funded from a revolving fund, or designated  
20 enterprise auxiliary facilities listed in section 23-5-101.5 (4) may be  
21 issued only after approval by both houses of the general assembly either  
22 by bill or by joint resolution and after approval by the governor in  
23 accordance with section 39 of article V of the state constitution. THE  
24 GOVERNING BOARD OF AN INSTITUTION OR GROUP OF INSTITUTIONS THAT  
25 ISSUES BONDS ON BEHALF OF THE INSTITUTION OR GROUP OF INSTITUTIONS,  
26 WHICH IS DESIGNATED AS AN ENTERPRISE PURSUANT TO SECTION  
27 23-5-101.7, SHALL FILE NOTICE OF SUCH ISSUANCE WITH THE COLORADO

1 COMMISSION ON HIGHER EDUCATION. Bonds issued pursuant to this  
2 subsection (2) shall be payable only from revenues generated by the  
3 auxiliary facility or group of auxiliary facilities OR BY THE INSTITUTION  
4 OR GROUP OF INSTITUTIONS on behalf of which such bonds are issued;  
5 except that, subject to section 23-1-123 (5) (a) (III) and (5) (b) (II),  
6 revenues generated by a designated enterprise ~~auxiliary facility~~ that is  
7 associated with the university of Colorado may be pledged for the  
8 repayment of bonds issued by another designated enterprise auxiliary  
9 facility ~~which~~ THAT is not part of the same enterprise. Such bonds shall  
10 be issued in accordance with the provisions of section 23-5-103 (2). The  
11 termination, rescission, or expiration of the enterprise designation of any  
12 auxiliary facility or group of auxiliary facilities pursuant to section  
13 23-5-101.5 (3) OR OF ANY INSTITUTION OR GROUP OF INSTITUTIONS shall  
14 not adversely affect the validity of or security for any revenue bonds  
15 issued on behalf of ~~such~~ ANY auxiliary facility or group of auxiliary  
16 facilities OR ON BEHALF OF ANY INSTITUTION OR GROUP OF INSTITUTIONS.

17 **SECTION 11.** 23-5-103 (1), Colorado Revised Statutes, is  
18 amended to read:

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

1 connection therewith; and, for the same purpose, any such governing  
2 board is also authorized, subject to the limitations specified in section  
3 23-1-123 (5), to pledge the net income derived or to be derived from  
4 other ~~auxiliary facilities which are not individually designated as~~  
5 ~~enterprises and which~~ FACILITIES THAT ARE INCLUDED IN A DESIGNATED  
6 ENTERPRISE OR, IF NOT INCLUDED, OTHER FACILITIES THAT are not  
7 acquired and not to be acquired with moneys appropriated to the  
8 institution by the state of Colorado, and to pledge the net income, fees,  
9 and revenues derived from such sources, if unpledged, or, if pledged, the  
10 net income, fees, and revenues currently in excess of the amount required  
11 to meet principal, interest, and reserve requirements in connection with  
12 outstanding obligations to which such net income, fees, and revenues  
13 have theretofore been pledged. If the contract for the advancement of  
14 moneys is entered into by the university of Colorado on behalf of a  
15 designated enterprise auxiliary facility that is associated with the  
16 university of Colorado, the board of regents is authorized to pledge only  
17 the net income, including fees and revenues derived or to be derived from  
18 the designated enterprise auxiliary facility and any other designated  
19 enterprise auxiliary facilities.

20 **SECTION 12.** 24-77-102 (16) (b), Colorado Revised Statutes, is  
21 amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

22 **24-77-102. Definitions - repeal.** As used in this article, unless  
23 the context otherwise requires:

24 (16) (b) "State" does not include:

25 (I.5) AN INSTITUTION OR GROUP OF INSTITUTIONS OF HIGHER  
26 EDUCATION THAT HAS BEEN DESIGNATED AS AN ENTERPRISE PURSUANT TO  
27 SECTION 23-5-101.7, C.R.S.;

1           **SECTION 13. Repeal.** 23-1-104 (1.5) and (2) and 23-1-105 (2)  
2 and (3), Colorado Revised Statutes, are repealed.

3           **SECTION 14. Effective date.** This act shall take effect July 1,  
4 2004.

5           **SECTION 15. Safety clause.** The general assembly hereby  
6 finds, determines, and declares that this act is necessary for the immediate  
7 preservation of the public peace, health, and safety.