

**Second Regular Session
Sixty-fourth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 04-0660.02 Michele Hanigsberg

SENATE BILL 04-189

SENATE SPONSORSHIP

Anderson

HOUSE SPONSORSHIP

King

Senate Committees

Education
Appropriations

House Committees

Education
Appropriations

A BILL FOR AN ACT

101 **CONCERNING INSTITUTIONS OF HIGHER EDUCATION, AND MAKING AN**
102 **APPROPRIATION IN CONNECTION THEREWITH.**

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

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.

SENATE
3rd Reading Unamended
April 2, 2004

SENATE
Amended 2nd Reading
April 1, 2004

students ("students") and shall consist of a stipend for each student. 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 *Be it enacted by the General Assembly of the State of Colorado:*

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

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

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

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

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

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

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

26 (a) Colorado is a paradox in terms of its citizens' overall
27 educational attainment level and the participation of its high school

1 students in higher education immediately following high school;

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

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

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

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

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

21 (4) The general assembly further finds that:

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

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

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

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

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

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

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

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

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

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

24 (8) The general assembly finds and declares that:

25 (a) The provision of higher education services is a business; and

26 (b) For the purposes of determining whether an institution or
27 group of institutions may be designated as an enterprise, so long as the

1 institution or group of institutions receives less than ten percent of its
2 total annual revenues in grants from all Colorado state and local
3 governments combined, it is sufficient that the governing board of an
4 institution of higher education has authority to issue revenue bonds on
5 behalf of such institution or group of institutions.

6 (9) It is not the intent of the general assembly in enacting this act
7 to cause the closure of any institution of higher education.

8 (10) While it is the general assembly's intent to change the process
9 of funding for postsecondary education, funding for postsecondary
10 education is not an entitlement. During periods of revenue shortfalls, the
11 general assembly may use a variety of mechanisms to balance the state's
12 budget, including reducing appropriations to institutions of higher
13 education, decreasing the value of the stipend, or placing a limit on the
14 number of stipends funded under this act based upon the overall
15 budgetary needs of the state.

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

18 **ARTICLE 18**

19 **College Opportunity Fund**

20 **PART 1**

21 **GENERAL PROVISIONS**

22 **23-18-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND MAY
23 BE CITED AS THE "COLLEGE OPPORTUNITY FUND ACT".

24 **23-18-102. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
25 CONTEXT OTHERWISE REQUIRES:

26 _____
27 (1) "COLLEGE OPPORTUNITY FUND" OR "FUND" MEANS THE

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

2 (2) "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 (3) "COMMISSION" MEANS THE COLORADO COMMISSION ON

6 HIGHER EDUCATION ESTABLISHED PURSUANT TO SECTION 23-1-102.

7 (4) "DEPARTMENT" MEANS THE COLORADO DEPARTMENT OF

8 HIGHER EDUCATION ESTABLISHED PURSUANT TO SECTION 24-1-114, C.R.S.

9 (5) (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 (6) "GOVERNING BOARD" MEANS THE GOVERNING BODY OF A

1 STATE INSTITUTION OF HIGHER EDUCATION.

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

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

9 (9) "PRIVATE INSTITUTION OF HIGHER EDUCATION" MEANS A
10 NOT-FOR-PROFIT COLLEGE OR UNIVERSITY THAT IS NOT PERVASIVELY
11 SECTARIAN AND THAT MAINTAINS ITS PRIMARY PLACE OF BUSINESS IN THE
12 STATE OF COLORADO, THAT OFFERS GENERAL BACCALAUREATE DEGREES
13 IN ARTS AND SCIENCES, AND THAT IS INSTITUTIONALLY ACCREDITED ON
14 THE BASIS OF AN ON-SITE REVIEW IN COLORADO BY ONE OF THE SIX
15 NATIONALLY RECOGNIZED REGIONAL ACCREDITING ASSOCIATIONS OR BY
16 AN ACCREDITING AGENCY DETERMINED BY THE COMMISSION TO BE
17 APPROPRIATE TO ITS EDUCATIONAL PURPOSES AND PROGRAMS.

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

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

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

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

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

27 (V) THE BOARD OF TRUSTEES OF ADAMS STATE COLLEGE;

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

9
10 (b) "STATE INSTITUTION OF HIGHER EDUCATION" DOES NOT
11 INCLUDE A JUNIOR COLLEGE THAT IS PART OF A JUNIOR COLLEGE DISTRICT
12 ORGANIZED PURSUANT TO ARTICLE 71 OF THIS TITLE, WHICH DISTRICTS
13 SHALL CONTINUE TO BE ELIGIBLE FOR DIRECT GRANT FUNDING FROM THE
14 GENERAL ASSEMBLY PURSUANT TO SECTION 23-71-301.

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

19 (12) "STUDENT'S SHARE OF IN-STATE TUITION" MEANS THE AMOUNT
20 OF TOTAL IN-STATE TUITION, LESS ANY AMOUNT PAID ON BEHALF OF THE
21 STUDENT AS A STIPEND.

22 (13) "TOTAL IN-STATE TUITION" MEANS THE TOTAL AMOUNT OF
23 TUITION THAT IS PAID TO A STATE INSTITUTION OF HIGHER EDUCATION BY
24 OR ON BEHALF OF A STUDENT WHO IS ELIGIBLE TO PAY IN-STATE TUITION,
25 INCLUDING BUT NOT LIMITED TO THE AMOUNT OF THE STIPEND PAID ON
26 BEHALF OF THE STUDENT.

27 PART 2

1 COLLEGE OPPORTUNITY FUND PROGRAM

2 23-18-201. College opportunity fund program - creation -

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

17 (2) A STUDENT OF A PRIVATE INSTITUTION OF HIGHER EDUCATION
18 SHALL BE A BENEFICIARY OF THE COLLEGE OPPORTUNITY FUND AND
19 ELIGIBLE TO PARTICIPATE IN THE COLLEGE OPPORTUNITY FUND PROGRAM
20 ONLY IF THE PRIVATE INSTITUTION OF HIGHER EDUCATION THAT THE
21 STUDENT ATTENDS HAS AGREED TO PARTICIPATE IN THE PROGRAM BY
22 ESTABLISHING A PERFORMANCE CONTRACT WITH THE DEPARTMENT
23 PURSUANT TO SECTION 23-5-128. THE DEPARTMENT SHALL INCLUDE EACH
24 PARTICIPATING PRIVATE INSTITUTION OF HIGHER EDUCATION AND ITS
25 STUDENTS WHO PARTICIPATE IN THE COLLEGE OPPORTUNITY FUND
26 PROGRAM IN THE STUDENT UNIT REPORTING DATA SYSTEM, IN ORDER TO
27 ENABLE THE STUDENTS OF THE PARTICIPATING PRIVATE INSTITUTION OF

1 HIGHER EDUCATION TO PARTICIPATE IN THE PROGRAM. THE PARTICIPATING
2 PRIVATE INSTITUTION OF HIGHER EDUCATION SHALL REIMBURSE THE
3 DEPARTMENT FOR THE ACTUAL EXPENSES ASSOCIATED WITH INCLUDING
4 THE INSTITUTION IN THE STUDENT UNIT REPORTING DATA SYSTEM.

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

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

19 **23-18-202. College opportunity fund - appropriations -**
20 **payment of stipends - reimbursement.** (1) (a) BEGINNING WITH THE
21 STATE FISCAL YEAR COMMENCING JULY 1, 2005, AND FOR EACH STATE
22 FISCAL YEAR THEREAFTER, THE GENERAL ASSEMBLY SHALL MAKE AN
23 ANNUAL APPROPRIATION, IN TRUST FOR ELIGIBLE UNDERGRADUATE
24 STUDENTS, TO THE COLLEGE OPPORTUNITY FUND, WHICH IS HEREBY
25 ESTABLISHED AS A TRUST FUND ACCOUNT WITH THE COLORADO STUDENT
26 LOAN PROGRAM. MONEYS APPROPRIATED TO THE COLLEGE OPPORTUNITY
27 FUND ARE FOR THE SOLE PURPOSE OF DISBURSEMENT ON BEHALF OF

1 ELIGIBLE UNDERGRADUATE STUDENTS IN ACCORDANCE WITH THIS PART 2
2 AND ARE NOT FOR THE GENERAL OPERATION OR ANY OTHER FUNCTION OF
3 THE COLORADO STUDENT LOAN PROGRAM. ANY UNEXPENDED AND
4 UNENCUMBERED MONEYS REMAINING IN THE COLLEGE OPPORTUNITY FUND
5 AT THE END OF A FISCAL YEAR ARE THE PROPERTY OF THE TRUST FUND AND
6 SHALL REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR
7 TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND.

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

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

1 COMMITTEE OF THE GENERAL ASSEMBLY FOR INCLUSION IN THE ANNUAL
2 GENERAL APPROPRIATIONS ACT.

3 (b) FOR THE STATE FISCAL YEAR COMMENCING JULY 1, 2005, AND
4 FOR STATE FISCAL YEARS THEREAFTER, FOR AN ELIGIBLE UNDERGRADUATE
5 STUDENT ATTENDING A STATE INSTITUTION OF HIGHER EDUCATION, THE
6 SPECIFIED AMOUNT OF THE STIPEND PER CREDIT HOUR SHALL BE AN
7 AMOUNT SET ANNUALLY BY THE GENERAL ASSEMBLY, WHICH IN NO CASE
8 SHALL EXCEED THE STUDENT'S TOTAL IN-STATE TUITION. THE VALUE OF
9 THE PER CREDIT HOUR STIPEND SHALL BE THE SAME FOR EACH ELIGIBLE
10 UNDERGRADUATE STUDENT, REGARDLESS OF THE STATE INSTITUTION OF
11 HIGHER EDUCATION THAT THE STUDENT ATTENDS. THE STUDENT SHALL BE
12 RESPONSIBLE FOR PAYING THE STUDENT'S SHARE OF TOTAL IN-STATE
13 TUITION, IF ANY.

14 (c) THE COMMISSION SHALL FORWARD TO THE GENERAL ASSEMBLY
15 AND GOVERNOR, BY NOVEMBER 1 OF EACH YEAR, A LIST OF INSTITUTIONS
16 ELIGIBLE TO RECEIVE STIPENDS ON BEHALF OF ELIGIBLE UNDERGRADUATE
17 STUDENTS UNDER THE PROGRAM. THE COMMISSION SHALL ANNUALLY
18 REQUEST THAT THE GENERAL ASSEMBLY ADJUST THE AMOUNT
19 APPROPRIATED TO THE COLORADO STUDENT LOAN PROGRAM FOR THE
20 STIPENDS TO REFLECT AT LEAST INFLATION AND ENROLLMENT GROWTH IN
21 THE STATE INSTITUTIONS OF HIGHER EDUCATION, CONSISTENT WITH THE
22 LEGISLATIVE INTENT SET FORTH IN PARAGRAPH (d) OF THIS SUBSECTION
23 (2).

24 (d) BEGINNING WITH THE STATE FISCAL YEAR COMMENCING JULY
25 1, 2006, THE COMMISSION, IN CONSULTATION WITH THE GOVERNING
26 BOARDS AND ANY PARTICIPATING PRIVATE INSTITUTIONS OF HIGHER
27 EDUCATION, SHALL REVIEW ANNUALLY THE AMOUNT OF THE STIPEND PER

1 CREDIT HOUR ESTABLISHED PURSUANT TO PARAGRAPH (b) OF THIS
2 SUBSECTION (2). FOLLOWING THE REVIEW, THE COMMISSION, IN
3 CONSULTATION WITH THE GOVERNING BOARDS AND PARTICIPATING
4 PRIVATE INSTITUTIONS, SHALL ANNUALLY MAKE RECOMMENDATIONS
5 REGARDING POSSIBLE ADJUSTMENTS TO THE AMOUNT OF THE STIPEND PER
6 CREDIT HOUR TO THE GOVERNOR AND THE JOINT BUDGET COMMITTEE OF
7 THE GENERAL ASSEMBLY FOR CONSIDERATION IN PREPARING THE ANNUAL
8 GENERAL APPROPRIATIONS ACT.

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

16 (3) (a) FOR THE STATE FISCAL YEAR COMMENCING JULY 1, 2005,
17 AND FOR EACH STATE FISCAL YEAR THEREAFTER, THE GENERAL ASSEMBLY
18 SHALL APPROPRIATE SPENDING AUTHORITY TO EACH GOVERNING BOARD
19 FOR THE CASH FUNDS EXEMPT ESTIMATED TO BE RECEIVED BY AN
20 INSTITUTION, UNDER THE DIRECTION AND CONTROL OF THE GOVERNING
21 BOARD, AS STIPENDS, CONSISTENT WITH THE PROVISIONS OF SECTION
22 23-1-104. THE SPENDING AUTHORITY FOR THE STIPENDS ESTIMATED TO BE
23 RECEIVED SHALL BE CALCULATED BY MULTIPLYING THE AMOUNT OF THE
24 APPLICABLE PER-CREDIT-HOUR STIPEND BY THE NUMBER OF ELIGIBLE
25 STUDENT CREDIT HOURS THAT ARE ESTIMATED TO BE ATTRIBUTABLE TO
26 EACH STATE INSTITUTION OF HIGHER EDUCATION UNDER THE DIRECTION
27 AND CONTROL OF THE GOVERNING BOARD.

1 (b) THE TUITION INCREASES FROM WHICH THE GENERAL ASSEMBLY
2 DERIVED THE TOTAL CASH SPENDING AUTHORITY FOR EACH GOVERNING
3 BOARD SHALL BE NOTED IN A FOOTNOTE IN THE ANNUAL GENERAL
4 APPROPRIATIONS ACT.

5 (c) IF AN INSTITUTION OF HIGHER EDUCATION IS DESIGNATED AS AN
6 ENTERPRISE PURSUANT TO SECTION 23-5-101.7, THE INSTITUTION SHALL
7 ANNUALLY ALLOCATE AT LEAST TWENTY PERCENT OF ANY INCREASE IN
8 TUITION REVENUES ABOVE INFLATION TO NEED-BASED FINANCIAL
9 ASSISTANCE.

10 (4) REGARDLESS OF WHEN AN INSTITUTION RECEIVES MONEYS IN
11 THE FORM OF A STIPEND ON BEHALF OF A STUDENT, OR IF THE STIPEND
12 AMOUNT IS REDUCED BY THE GENERAL ASSEMBLY, A STATE INSTITUTION
13 OF HIGHER EDUCATION SHALL NOT INCREASE THE STUDENT'S SHARE OF
14 IN-STATE TUITION TO MAKE UP FOR AN ACTUAL OR EFFECTIVE REDUCTION
15 DURING THE SAME FISCAL YEAR IN THE STIPEND AMOUNT FROM WHICH THE
16 TOTAL IN-STATE TUITION AMOUNT WAS CALCULATED OR FOR ISSUES
17 RELATING TO THE TIMING OF STIPEND PAYMENTS.

18 (5) (a) AFTER AN UNDERGRADUATE STUDENT HAS APPLIED FOR THE
19 PROGRAM, BEEN APPROVED FOR THE PROGRAM, AND ENROLLED IN A STATE
20 OR PARTICIPATING PRIVATE INSTITUTION OF HIGHER EDUCATION, THE
21 INSTITUTION SHALL REQUEST THAT THE COLORADO STUDENT LOAN
22 PROGRAM MAKE A STIPEND PAYMENT FROM THE COLLEGE OPPORTUNITY
23 FUND TO THE INSTITUTION ON BEHALF OF THE ELIGIBLE UNDERGRADUATE
24 STUDENT. A PAYMENT BY THE COLORADO STUDENT LOAN PROGRAM TO AN
25 INSTITUTION OF HIGHER EDUCATION FROM THE COLLEGE OPPORTUNITY
26 FUND SHALL NOT BE SUBJECT TO THE ASSESSMENT OF A TRANSACTION FEE
27 PURSUANT TO SECTION 24-36-120, C.R.S. THE STIPEND PAYMENT SHALL

1 BE PAID TO THE INSTITUTION UPON RECEIPT BY THE INSTITUTION OF THE
2 ELIGIBLE UNDERGRADUATE STUDENT'S AUTHORIZATION. THE AMOUNT OF
3 THE STIPEND PAID ON BEHALF OF AN ELIGIBLE UNDERGRADUATE STUDENT
4 SHALL BE APPLIED AGAINST THE STUDENT'S TOTAL IN-STATE TUITION.

5 (b) THE STIPEND PAID BY THE COLORADO STUDENT LOAN
6 PROGRAM ON BEHALF OF THE ELIGIBLE UNDERGRADUATE STUDENT SHALL
7 NOTE ON THE STUDENT'S RECEIPT OF PAYMENT FROM THE STATE OR
8 PRIVATE INSTITUTION OF HIGHER EDUCATION THAT THE MONEYS CAME
9 FROM THE COLLEGE OPPORTUNITY FUND.

10 (c) (I) AN ELIGIBLE UNDERGRADUATE STUDENT SHALL NOT
11 RECEIVE A STIPEND FROM THE COLLEGE OPPORTUNITY FUND FOR MORE
12 THAN ONE HUNDRED FORTY-FIVE CREDIT HOURS DURING THE ELIGIBLE
13 UNDERGRADUATE STUDENT'S LIFETIME; EXCEPT THAT, IF AN ELIGIBLE
14 UNDERGRADUATE STUDENT HAS RECEIVED PAYMENT FOR A STIPEND FOR
15 ONE HUNDRED FORTY-FIVE CREDIT HOURS AND THE STUDENT HAS
16 RECEIVED A BACHELOR'S DEGREE, THE ELIGIBLE UNDERGRADUATE
17 STUDENT IS ELIGIBLE TO RECEIVE STIPEND PAYMENTS FOR AN ADDITIONAL
18 THIRTY UNDERGRADUATE CREDIT HOURS.

19 (II) FOR AN ELIGIBLE UNDERGRADUATE STUDENT WHO IS
20 ENROLLED AS A CONTINUING STUDENT AS OF JULY 1, 2005, THE
21 COMMISSION SHALL DETERMINE THE NUMBER OF CREDIT HOURS FOR
22 WHICH THE STUDENT MAY RECEIVE A STIPEND FROM THE COLLEGE
23 OPPORTUNITY FUND, BASED ON THE NUMBER OF CREDIT HOURS THE
24 ELIGIBLE UNDERGRADUATE STUDENT HAS EARNED.

25 (d) (I) AN INSTITUTION OF HIGHER EDUCATION SHALL NOT RECEIVE
26 THE PAYMENT OF A STIPEND ON BEHALF OF AN ELIGIBLE UNDERGRADUATE
27 STUDENT FOR:

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

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

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

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

7 (D) INTERNATIONAL BACCALAUREATE COURSES; OR

8 (E) ADVANCED PLACEMENT COURSES.

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

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

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

22 (II) THAT THE DEGREE PROGRAM, AS APPROVED BY THE
23 COMMISSION, REQUIRES MORE THAN ONE HUNDRED TWENTY HOURS TO
24 COMPLETE;

25 (III) THAT, WHILE THE ELIGIBLE UNDERGRADUATE STUDENT WAS
26 ENROLLED IN A SPECIFIC DEGREE PROGRAM, THE COMMISSION APPROVED
27 AND THE INSTITUTION IMPLEMENTED AN ALTERATION OF DEGREE

1 REQUIREMENTS OR STANDARDS FOR THE SPECIFIC DEGREE; OR

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

6 (f) NOTWITHSTANDING THE LIFETIME-CREDIT-HOUR LIMITATION
7 ESTABLISHED PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (5) AND
8 IN ADDITION TO THE PROVISIONS OF PARAGRAPH (e) OF THIS SUBSECTION
9 (5), A STATE INSTITUTION OF HIGHER EDUCATION MAY ANNUALLY GRANT
10 A ONE-YEAR WAIVER OF THE LIFETIME-CREDIT-HOUR LIMITATION FOR UP
11 TO FIVE PERCENT OF THE ELIGIBLE UNDERGRADUATE STUDENTS ENROLLED
12 IN THE STATE INSTITUTION OF HIGHER EDUCATION. IN GRANTING THE
13 WAIVERS UNDER THIS PARAGRAPH (f), THE STATE INSTITUTION OF HIGHER
14 EDUCATION SHALL GIVE PRIORITY TO STUDENTS WHO ARE SEEKING JOB
15 RETRAINING.

16 (6) IF AN ELIGIBLE UNDERGRADUATE STUDENT ENROLLS IN A CLASS
17 FOR WHICH THE STATE OR PARTICIPATING PRIVATE INSTITUTION OF HIGHER
18 EDUCATION RECEIVES A STIPEND PAYMENT PURSUANT TO SUBSECTION (5)
19 OF THIS SECTION AND THE ELIGIBLE UNDERGRADUATE STUDENT
20 SUBSEQUENTLY WITHDRAWS FROM THE CLASS ON OR PRIOR TO THE FINAL
21 DATE ON WHICH THE INSTITUTION PERMITS A STUDENT TO WITHDRAW
22 WITHOUT THE PAYMENT OF ANY AMOUNT OF TUITION, THE INSTITUTION
23 SHALL REIMBURSE THE COLLEGE OPPORTUNITY FUND FOR THE
24 PROPORTIONAL AMOUNT OF THE STIPEND RECEIVED THAT CONFORMS TO
25 THE GOVERNING BOARD'S REFUND POLICY FOR THE CLASS FROM WHICH
26 THE STUDENT WITHDREW. THE CREDITS FOR WHICH THE STIPEND IS
27 REFUNDED SHALL NOT COUNT AGAINST THE ELIGIBLE UNDERGRADUATE

1 STUDENT'S LIFETIME-CREDIT-HOUR LIMITATION ESTABLISHED PURSUANT
2 TO PARAGRAPH (c) OF SUBSECTION (5) OF THIS SECTION.

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

9 (8) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT NOTHING IN
10 THIS ARTICLE PRECLUDE THE GENERAL ASSEMBLY AT A FUTURE TIME FROM
11 INCLUDING A JUNIOR COLLEGE THAT IS PART OF A JUNIOR COLLEGE
12 DISTRICT ORGANIZED PURSUANT TO ARTICLE 71 OF THIS TITLE IN THE
13 COLLEGE OPPORTUNITY FUND PROGRAM.

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

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

1 INSTITUTION SHALL MAKE THE INFORMATION ON THE NUMBER OF CREDIT
2 HOURS ACCUMULATED AGAINST THE LIMITATIONS AVAILABLE TO THE
3 STUDENT UPON REQUEST.

4 **23-18-204. College opportunity fund - advertisement -**
5 **disclosure.** IF AN INSTITUTION OF HIGHER EDUCATION ADVERTISES, IN THE
6 FORM OF DIRECT MAIL, PRINT, RADIO, TELEVISION, OR VIA THE INTERNET,
7 A STUDENT'S ABILITY TO RECEIVE A STIPEND FROM THE COLLEGE
8 OPPORTUNITY FUND, THE INSTITUTION OF HIGHER EDUCATION SHALL
9 INCLUDE IN THE ADVERTISEMENT THE TOTAL COST OF ATTENDING THE
10 INSTITUTION, INCLUDING A STUDENT'S TOTAL TUITION COST PLUS
11 APPLICABLE FEES.

12 **23-18-205. College opportunity fund - information -**
13 **notification.** (1) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE
14 DEPARTMENT AND THE COMMISSION INFORM STUDENTS BEGINNING IN THE
15 EIGHTH GRADE OF THE STATE'S FINANCIAL COMMITMENT TO STUDENTS TO
16 ASSIST THEM IN CONTINUING THEIR EDUCATION BY ATTENDING COLLEGE
17 AND OF THE ADDITIONAL FINANCIAL RESOURCES THAT MAY BE AVAILABLE
18 TO THE STUDENTS IN ORDER TO FURTHER THEIR EDUCATION.

19 (2) (a) THE COMMISSION SHALL WORK WITH THE DEPARTMENT OF
20 EDUCATION TO NOTIFY ANNUALLY EIGHTH-GRADE STUDENTS OF THE
21 STATE'S CONTRIBUTION TO THE COLLEGE OPPORTUNITY FUND ON BEHALF
22 OF RESIDENT STUDENTS AND THE MANNER IN WHICH THE STUDENTS MAY
23 RECEIVE ADDITIONAL INFORMATION REGARDING FINANCIAL RESOURCES
24 FOR HIGHER EDUCATION INCLUDING BUT NOT LIMITED TO THE AMOUNT OF
25 THE STIPEND AND A STUDENT'S ABILITY TO USE SPECIFIC WEBSITES TO
26 EXPLORE FINANCIAL AND ACADEMIC OPTIONS FOR PREPARING TO ENTER
27 COLLEGE.

1 (b) THE COLORADO STUDENT LOAN PROGRAM SHALL INCLUDE
2 INFORMATION REGARDING THE COLLEGE OPPORTUNITY FUND ON AN
3 INTERNET WEBSITE TO ASSIST STUDENTS IN PLANNING FINANCIALLY AND
4 ACADEMICALLY TO ATTEND AN INSTITUTION OF HIGHER EDUCATION IN
5 COLORADO INCLUDING BUT NOT LIMITED TO THE CURRENT VALUE OF THE
6 STIPEND.

7 **23-18-206. College opportunity fund - directive.** THE
8 COLORADO STUDENT LOAN PROGRAM AND THE STATE TREASURER, IN
9 CONSULTATION WITH THE GOVERNING BOARDS, SHALL COOPERATIVELY
10 ESTABLISH A DISBURSEMENT SCHEDULE FOR STIPENDS AWARDED
11 PURSUANT TO THIS PART 2.

12 **23-18-207. College opportunity fund - legislative declaration**
13 **- commission report.** (1) THE GENERAL ASSEMBLY FINDS THAT:

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

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

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

1 (b) ON OR BEFORE JULY 1, 2010, THE COMMISSION SHALL SUBMIT
2 A FINAL REPORT TO THE EDUCATION COMMITTEES OF THE SENATE AND
3 HOUSE OF REPRESENTATIVES AND TO THE JOINT BUDGET COMMITTEE OF
4 THE GENERAL ASSEMBLY ON THE IMPLEMENTATION OF THE PROGRAM
5 ESTABLISHED PURSUANT TO THIS PART 2.

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

9 **23-5-128. Governing boards - performance contract -**
10 **authorization - operations.** (1) AS USED IN THIS SECTION, UNLESS THE
11 CONTEXT OTHERWISE REQUIRES:

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

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

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

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

1 THE "HIGHER EDUCATION QUALITY ASSURANCE ACT", ARTICLE 13 OF THIS
2 TITLE, FOR THE PERIOD OF THE PERFORMANCE CONTRACT.

3 (b) IF A PRIVATE INSTITUTION OF HIGHER EDUCATION PLANS TO
4 ACCEPT STIPENDS PAID ON BEHALF OF ELIGIBLE UNDERGRADUATE
5 STUDENTS PURSUANT TO ARTICLE 18 OF THIS TITLE, THE PRIVATE
6 INSTITUTION OF HIGHER EDUCATION SHALL NEGOTIATE A PERFORMANCE
7 CONTRACT WITH THE DEPARTMENT OF HIGHER EDUCATION, WHICH SHALL
8 SPECIFY THE PERFORMANCE GOALS THE INSTITUTION SHALL ACHIEVE
9 DURING THE PERIOD THAT IT OPERATES UNDER THE PERFORMANCE
10 CONTRACT.

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

16 (I) IMPROVING COLORADO RESIDENTS' ACCESS TO HIGHER
17 EDUCATION;

18 (II) IMPROVING QUALITY AND SUCCESS IN HIGHER EDUCATION;

19 (III) IMPROVING THE EFFICIENCY OF OPERATIONS; AND

20 (IV) ADDRESSING THE NEEDS OF THE STATE.

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

23 (I) APPROPRIATE LEVELS OF STUDENT ENROLLMENT, TRANSFER,
24 RETENTION, AND GRADUATION RATES AND INSTITUTIONAL PROGRAMS
25 SPECIFICALLY DESIGNED TO ASSIST STUDENTS IN ACHIEVING THEIR
26 ACADEMIC AND, IN THE CASE OF COMMUNITY COLLEGES,
27 VOCATIONAL GOALS;

1 (II) STUDENT SATISFACTION AND STUDENT PERFORMANCE AFTER
2 GRADUATION, MEASURED BY INDICATORS APPROPRIATE TO THE
3 INSTITUTIONAL ROLE AND MISSION, SUCH AS EMPLOYMENT OR
4 ENROLLMENT IN GRADUATE PROGRAMS;

5 (III) COMPARATIVE COST AND PRODUCTIVITY DATA IN RELATION
6 TO PEER INSTITUTIONS;

7 (IV) ASSESSMENT OF THE QUALITY OF THE INSTITUTION'S
8 ACADEMIC AND, WHERE RELEVANT, VOCATIONAL PROGRAMS, INCLUDING
9 ASSESSMENT BY EXTERNAL REVIEWERS, SUCH AS ACCREDITATION BOARDS
10 AND EMPLOYERS, AND CONSIDERATION OF STUDENT PERFORMANCE ON
11 NATIONAL EXAMINATIONS; AND

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

15 (A) THE PROVISION OF NEED-BASED AND OTHER STUDENT
16 FINANCIAL AID;

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

19 (C) ASSESSMENT OF FINANCIAL INDICATORS COMPARED TO
20 NATIONAL BENCHMARKS COMMONLY USED TO MEASURE FINANCIAL
21 PERFORMANCE IN HIGHER EDUCATION ACCORDING TO THE TYPE OF
22 INSTITUTION; AND

23 (D) INCREASING FINANCIAL SUPPORT TO SUSTAIN AND ENHANCE
24 THE EDUCATIONAL MISSION OF THE INSTITUTION AND, IN THE CASE OF
25 INSTITUTIONS WITH A RESEARCH MISSION, INCREASING PUBLIC AND
26 PRIVATE RESEARCH CAPABILITIES AND COMPETITIVENESS.

27 (e) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION TO

1 THE CONTRARY, INCREASING ENROLLMENT OF UNDERSERVED STUDENTS,
2 INCLUDING LOW-INCOME INDIVIDUALS, MALES, AND MINORITY GROUPS,
3 SHALL BE ADDRESSED IN EACH PERFORMANCE CONTRACT.

4 (f) NOTWITHSTANDING ANY PROVISION OF THIS SUBSECTION (2) TO
5 THE CONTRARY, THE PROVISIONS OF THIS SUBSECTION (2) SHALL NOT
6 APPLY TO THE PERFORMANCE CONTRACT WITH THE COLORADO SCHOOL OF
7 MINES, AUTHORIZED BY SECTION 23-41-104.6, THAT IS IN PLACE ON JULY
8 1, 2004, UNTIL THE DEPARTMENT OF HIGHER EDUCATION RENEGOTIATES
9 THE PERFORMANCE CONTRACT WITH THE SCHOOL OF MINES, TO TAKE
10 EFFECT JULY 1, 2011.

11 (3) ALL PERFORMANCE CONTRACTS BETWEEN THE DEPARTMENT OF
12 HIGHER EDUCATION AND ANY STATE OR PRIVATE INSTITUTION OF HIGHER
13 EDUCATION SHALL BE REVIEWED AND APPROVED BY THE COLORADO
14 COMMISSION ON HIGHER EDUCATION BEFORE THE CONTRACT MAY BECOME
15 EFFECTIVE.

16 (4) NOTWITHSTANDING THE REQUIREMENTS OF ARTICLE 101 OF
17 TITLE 24, C.R.S., AND PART 11 OF ARTICLE 30 OF TITLE 24, C.R.S., A
18 GOVERNING BOARD OF A STATE INSTITUTION OF HIGHER EDUCATION THAT
19 OPERATES PURSUANT TO A PERFORMANCE CONTRACT NEGOTIATED
20 PURSUANT TO THIS SECTION MAY NEGOTIATE WITH THE DEPARTMENT OF
21 HIGHER EDUCATION, AFTER APPROVAL FROM THE COLORADO COMMISSION
22 ON HIGHER EDUCATION, A PROVISION IN THE PERFORMANCE CONTRACT TO
23 ALLOW AN EXEMPTION FROM THE PROCUREMENT CODE, ARTICLE 101 OF
24 TITLE 24, C.R.S., AND THE CENTRAL STATE MOTOR VEHICLE FLEET
25 SYSTEM, PART 11 OF ARTICLE 30 OF TITLE 24, C.R.S. THE EXECUTIVE
26 DIRECTOR OF THE DEPARTMENT OF HIGHER EDUCATION SHALL
27 COMMUNICATE IN WRITING WITH THE EXECUTIVE DIRECTOR OF THE

1 DEPARTMENT OF PERSONNEL REGARDING ANY EXEMPTIONS GRANTED
2 PURSUANT TO THIS SUBSECTION (4).

3 (5) (a) BEGINNING JANUARY 2006, AND EACH JANUARY
4 THEREAFTER, THE DEPARTMENT OF HIGHER EDUCATION SHALL REPORT TO
5 THE MEMBERS OF THE EDUCATION COMMITTEES OF THE SENATE AND THE
6 HOUSE OF REPRESENTATIVES AND THE MEMBERS OF THE JOINT BUDGET
7 COMMITTEE OF THE GENERAL ASSEMBLY THE FINANCIAL EFFECT OF THE
8 PROVISIONS OF EACH PERFORMANCE CONTRACT WITH REGARD TO FUNDING
9 FOR THE AFFECTED GOVERNING BOARD OF A STATE INSTITUTION OF HIGHER
10 EDUCATION AND OVERALL FUNDING FOR THE STATEWIDE SYSTEM OF
11 HIGHER EDUCATION, ANY EXEMPTIONS GRANTED PURSUANT TO
12 SUBSECTION (4) OF THIS SECTION, AND A REVIEW OF EACH STATE OR
13 PRIVATE INSTITUTION'S OPERATIONS UNDER THE INSTITUTION'S
14 PERFORMANCE CONTRACT. THE TERM OF A PERFORMANCE CONTRACT MAY
15 BE UP TO TEN YEARS. THE DEPARTMENT OF HIGHER EDUCATION MAY
16 RENEW A PERFORMANCE CONTRACT AT ITS DISCRETION, WITH THE
17 AGREEMENT OF THE GOVERNING BOARD.

18 (b) BEGINNING JANUARY 2006, AND EACH JANUARY THEREAFTER,
19 DATA COLLECTED AND USED TO MEASURE A STATE OR PRIVATE
20 INSTITUTION OF HIGHER EDUCATION'S PROGRESS TOWARDS THE GOALS SET
21 FORTH IN THE INSTITUTION'S PERFORMANCE CONTRACT WITH THE
22 DEPARTMENT OF HIGHER EDUCATION SHALL BE MADE AVAILABLE TO THE
23 MEMBERS OF THE EDUCATION COMMITTEES OF THE HOUSE OF
24 REPRESENTATIVES AND THE SENATE, MEMBERS OF THE JOINT BUDGET
25 COMMITTEE, EACH GOVERNING BOARD, AND EACH INSTITUTION OF HIGHER
26 EDUCATION COVERED BY A PERFORMANCE CONTRACT. THE DEPARTMENT
27 OF HIGHER EDUCATION SHALL ALSO PROVIDE COPIES OF THE DATA TO

1 OTHER MEMBERS OF THE GENERAL ASSEMBLY AND MEMBERS OF THE
2 PUBLIC ON REQUEST.

3 (6) WHILE OPERATING PURSUANT TO A PERFORMANCE CONTRACT
4 NEGOTIATED PURSUANT TO THIS SECTION, THE GOVERNING BOARD OF A
5 STATE INSTITUTION OF HIGHER EDUCATION:

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

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

25 (c) SHALL REPORT TO THE COLORADO COMMISSION ON HIGHER
26 EDUCATION ITS PLANS FOR ANY TUITION INCREASES FOR THE FOLLOWING
27 ACADEMIC YEAR FOR THE COMMISSION TO FORWARD TO THE GENERAL

1 ASSEMBLY DURING THE ANNUAL BUDGET PROCESS.

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

5 (a) REMAIN ELIGIBLE FOR STATE-FUNDED CAPITAL CONSTRUCTION
6 PROJECTS AND CONTROLLED MAINTENANCE PROJECTS AS PROVIDED IN
7 SECTION 23-1-106;

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

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

21 (9) THE COLORADO SCHOOL OF MINES, WHILE OPERATING UNDER
22 A PERFORMANCE CONTRACT PURSUANT TO SECTION 23-41-104.6, MAY
23 NEGOTIATE WITH THE COLORADO COMMISSION ON HIGHER EDUCATION FOR
24 EXEMPTIONS CONSISTENT WITH THE PROVISIONS OF SUBSECTION (4) OF
25 THIS SECTION.

26 (10) WHILE A STATE INSTITUTION OF HIGHER EDUCATION IS
27 OPERATING PURSUANT TO A PERFORMANCE CONTRACT NEGOTIATED

1 PURSUANT TO THIS SECTION, THE GENERAL ASSEMBLY RETAINS THE
2 AUTHORITY TO APPROVE TUITION SPENDING AUTHORITY FOR THE
3 GOVERNING BOARD OF THE INSTITUTION.

4 **23-5-129. Governing boards - fee-for-service contracts -**
5 **authorization.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
6 OTHERWISE REQUIRES:

7 (a) "COMMISSION" SHALL HAVE THE SAME MEANING AS PROVIDED
8 IN SECTION 23-18-102 (3).

9 (b) "DEPARTMENT" SHALL HAVE THE SAME MEANING AS PROVIDED
10 IN SECTION 23-18-102 (4).

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

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

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

22 (b) BASIC SKILLS COURSES, AS DEFINED IN SECTION 23-1-113 (1)
23 (b) (II) (A.7);

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

27 (d) EDUCATIONAL SERVICES ASSOCIATED WITH THE HIGH SCHOOL

- 1 FAST TRACK PROGRAM PURSUANT TO SECTION 22-34-101, C.R.S.;
- 2 (e) EDUCATIONAL SERVICES REQUIRED OF THE COMMISSION TO
- 3 MEET ITS OBLIGATIONS UNDER RECIPROCAL AGREEMENTS PURSUANT TO
- 4 SECTION 23-1-112;
- 5 (f) GRADUATE SCHOOL SERVICES;
- 6 (g) EDUCATIONAL SERVICES THAT MAY INCREASE ECONOMIC
- 7 DEVELOPMENT OPPORTUNITIES IN THE STATE, INCLUDING COURSES TO
- 8 ASSIST STUDENTS IN CAREER DEVELOPMENT AND RETRAINING; AND
- 9 (h) SPECIALIZED EDUCATIONAL SERVICES AND PROFESSIONAL
- 10 DEGREES, INCLUDING BUT NOT LIMITED TO THE AREAS OF DENTISTRY,
- 11 MEDICINE, VETERINARY MEDICINE, NURSING, LAW, FORESTRY, AND
- 12 ENGINEERING.

13 (3) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT ANY

14 INSTITUTION UNDER THE DIRECTION AND CONTROL OF A GOVERNING

15 BOARD THAT ENTERS INTO A FEE-FOR-SERVICE CONTRACT FOR BASIC

16 SKILLS COURSES NOT CHARGE A STUDENT MORE FOR A BASIC SKILLS

17 COURSE THAN THE STUDENT WOULD OTHERWISE PAY PER CREDIT HOUR FOR

18 ANY GENERAL EDUCATION COURSE.

19 **SECTION 4.** Article 1 of title 23, Colorado Revised Statutes, is

20 amended BY THE ADDITION OF A NEW SECTION to read:

21 **23-1-109.7. Duties and powers of the commission with regard**

22 **to the provision of educational services. (1) BEGINNING JULY 1, 2005,**

23 **THE COMMISSION SHALL BE RESPONSIBLE FOR ENSURING THE PROVISION OF**

24 **SPECIFIC POSTSECONDARY EDUCATIONAL SERVICES IN THE STATE. THESE**

25 **EDUCATIONAL SERVICES SHALL INCLUDE BUT NEED NOT BE LIMITED TO:**

- 26 (a) EDUCATIONAL SERVICES IN RURAL AREAS OR COMMUNITIES IN
- 27 WHICH THE COST OF DELIVERING SUCH SERVICES IS NOT SUSTAINED BY THE

1 AMOUNT RECEIVED IN STUDENT TUITION;

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

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

4 (c) EDUCATIONAL SERVICES ASSOCIATED WITH THE

5 "POSTSECONDARY ENROLLMENT OPTIONS ACT", ARTICLE 35 OF TITLE 22,

6 C.R.S.;

7 (d) EDUCATIONAL SERVICES ASSOCIATED WITH THE HIGH SCHOOL

8 FAST TRACK PROGRAM PURSUANT TO SECTION 22-34-101, C.R.S.;

9 (e) EDUCATIONAL SERVICES REQUIRED OF THE COMMISSION TO

10 MEET ITS OBLIGATIONS UNDER RECIPROCAL AGREEMENTS PURSUANT TO

11 SECTION 23-1-112;

12 (f) GRADUATE SCHOOL SERVICES;

13 (g) EDUCATIONAL SERVICES THAT MAY INCREASE ECONOMIC

14 DEVELOPMENT OPPORTUNITIES IN THE STATE, INCLUDING COURSES TO

15 ASSIST STUDENTS IN CAREER DEVELOPMENT AND RETRAINING; AND

16 (h) SPECIALIZED EDUCATIONAL SERVICES AND PROFESSIONAL

17 DEGREES, INCLUDING BUT NOT LIMITED TO THE AREAS OF DENTISTRY,

18 MEDICINE, VETERINARY MEDICINE, NURSING, LAW, FORESTRY, AND

19 ENGINEERING.

20 (2) THE DEPARTMENT OF HIGHER EDUCATION ON BEHALF OF THE

21 COMMISSION SHALL ANNUALLY ENTER INTO FEE-FOR-SERVICE CONTRACTS

22 WITH ONE OR MORE GOVERNING BOARDS OF INSTITUTIONS OF HIGHER

23 EDUCATION TO PROVIDE THE HIGHER EDUCATION SERVICES SPECIFIED IN

24 SUBSECTION (1) OF THIS SECTION. THE DEPARTMENT OF HIGHER

25 EDUCATION MAY CONTRACT WITH A GOVERNING BOARD OF AN

26 INSTITUTION OF HIGHER EDUCATION ONLY TO THE EXTENT THAT THE

27 CONTRACT REMAINS CONSISTENT WITH ANY CONTRACT ENTERED INTO

1 PURSUANT TO SECTION 23-5-128 WITH THE GOVERNING BOARD.

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

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

13 **23-1-113.3. Commission directive - basic skills courses.**

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

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

22 **24-1-114. Department of higher education - creation.**

23 (5) (b) With respect to the Colorado commission on higher education and
24 the universities, colleges, and boards specified in subsection (4) of this
25 section, the executive director shall have only those powers, duties, and
26 functions prescribed in article 1 of title 23, C.R.S.; EXCEPT THAT THE
27 EXECUTIVE DIRECTOR OF THE COLORADO COMMISSION ON HIGHER

1 EDUCATION IS AUTHORIZED TO NEGOTIATE, IMPLEMENT, AND MONITOR
2 CONTRACTS, AS DESCRIBED IN SECTIONS 23-5-128 AND 23-5-129, C.R.S.,
3 WITH UNIVERSITIES, COLLEGES, AND BOARDS, IN CONSULTATION WITH THE
4 COLORADO COMMISSION ON HIGHER EDUCATION.

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

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

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

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

25 **23-5-101.7. Enterprise status of institutions of higher**
26 **education.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
27 OTHERWISE REQUIRES, "INSTITUTION OF HIGHER EDUCATION" OR

1 "INSTITUTION" MEANS THE COLORADO STATE UNIVERSITY - PUEBLO,
2 ADAMS STATE COLLEGE, MESA STATE COLLEGE, METROPOLITAN STATE
3 COLLEGE OF DENVER, FORT LEWIS COLLEGE, WESTERN STATE COLLEGE
4 OF COLORADO, THE UNIVERSITY OF NORTHERN COLORADO, COLORADO
5 SCHOOL OF MINES, THE UNIVERSITY OF COLORADO, COLORADO STATE
6 UNIVERSITY, AND ALL COMMUNITY COLLEGES GOVERNED BY THE STATE
7 BOARD FOR COMMUNITY COLLEGES AND OCCUPATIONAL EDUCATION.

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

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

1 (a) IS ACCOUNTED FOR SEPARATELY IN INSTITUTIONAL FINANCIAL
2 RECORDS; AND

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

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

15 (b) ALL RESOLUTIONS ADOPTED PURSUANT TO PARAGRAPH (a) OF
16 THIS SUBSECTION (4) SHALL BE SUBMITTED BY THE ADOPTING GOVERNING
17 BOARD TO THE OFFICE OF THE STATE AUDITOR IN THE FORM AND MANNER
18 PRESCRIBED BY THE LEGISLATIVE AUDIT COMMITTEE. THE DESIGNATIONS
19 SHALL BE REVIEWED BY THE OFFICE OF THE STATE AUDITOR TO DETERMINE
20 WHETHER THE DESIGNATIONS ARE WITHIN THE AUTHORITY OF THE
21 ADOPTING GOVERNING BOARD PURSUANT TO THE PROVISIONS OF THIS
22 SECTION AND FOR LATER REVIEW BY THE LEGISLATIVE AUDIT COMMITTEE
23 FOR ITS OPINION AS TO WHETHER THE DESIGNATIONS CONFORM WITH THE
24 PROVISIONS OF THIS SECTION. THE OFFICIAL CERTIFICATE OF THE STATE
25 AUDITOR AS TO THE FACT OF SUBMISSION OR THE DATE OF SUBMISSION OF
26 A DESIGNATION AS SHOWN BY THE RECORDS OF THE OFFICE OF THE STATE
27 AUDITOR, AS WELL AS TO THE FACT OF NONSUBMISSION AS SHOWN BY THE

1 NONEXISTENCE OF SUCH RECORDS, SHALL BE RECEIVED AND HELD IN ALL
2 CIVIL CASES AS COMPETENT EVIDENCE OF THE FACTS CONTAINED THEREIN.
3 A DESIGNATION ADOPTED BY A GOVERNING BOARD OF AN INSTITUTION OR
4 GROUP OF INSTITUTIONS OF HIGHER EDUCATION WITHOUT BEING
5 SUBMITTED WITHIN TWENTY DAYS AFTER ADOPTION TO THE OFFICE OF THE
6 STATE AUDITOR FOR REVIEW BY THE OFFICE AND BY THE LEGISLATIVE
7 AUDIT COMMITTEE SHALL BE VOID.

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

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

21 **23-5-101.5. Enterprise status of auxiliary facilities.** (2) As
22 used in this ~~article~~ SECTION AND SECTIONS 23-5-102 TO 23-5-105.5:

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

24 (A) Any indirect benefit conferred upon an auxiliary facility, OR
25 GROUP OF AUXILIARY FACILITIES OR AN INSTITUTION OR GROUP OF
26 INSTITUTIONS from the state or any local government in Colorado,
27 INCLUDING ANY INTEREST IN OR USE OF EXISTING FACILITIES OWNED,

1 FUNDED, OR FINANCED BY THE GOVERNING BOARD OF AN INSTITUTION, THE
2 STATE, OR ANY LOCAL GOVERNMENT IN COLORADO;

3 (B) Any revenues resulting from MARKET EXCHANGES SUCH AS
4 rates, fees, assessments, TUITIONS, or other charges imposed by an
5 auxiliary facility, OR GROUP OF AUXILIARY FACILITIES OR BY AN
6 INSTITUTION OR GROUP OF INSTITUTIONS for the provision of goods or
7 services by such auxiliary facility, GROUP OF AUXILIARY FACILITIES,
8 INSTITUTION OR GROUP OF INSTITUTIONS, including SERVICES TO THE
9 STATE OR A LOCAL GOVERNMENT IN COLORADO AND fees paid to the
10 auxiliary facility OR GROUP OF AUXILIARY FACILITIES for internal services
11 provided to the institution of higher education with which the auxiliary
12 facility is associated;

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

17 (D) FEES RECEIVED BY AN INSTITUTION PURSUANT TO A
18 FEE-FOR-SERVICE CONTRACT BETWEEN THE DEPARTMENT OF HIGHER
19 EDUCATION AND THE INSTITUTION OR THE INSTITUTION'S GOVERNING
20 BOARD;

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

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

27 **23-5-102. Funding for auxiliary facilities - institutions of higher**

1 **education - loans - bonds.** (1) For the purpose of obtaining funds for
2 constructing, otherwise acquiring, and equipping auxiliary facilities for
3 the use of students and employees at any state educational institution or
4 any branch thereof OR FACILITIES FOR USE BY ANY INSTITUTION OR GROUP
5 OF INSTITUTIONS THAT ARE DESIGNATED AS AN ENTERPRISE PURSUANT TO
6 SECTION 23-5-101.7 and for the acquisition of land for such purposes, the
7 governing board of any state educational institution is authorized, after
8 notification to the commission on higher education, to enter into contracts
9 with any person, corporation, or state or federal government agency for
10 the advancement of money for such purposes and providing for the
11 repayment of such advancements with interest at a specified net effective
12 interest rate.

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

1 GOVERNING BOARD OF AN INSTITUTION OR GROUP OF INSTITUTIONS THAT
2 ISSUES BONDS ON BEHALF OF THE INSTITUTION OR GROUP OF INSTITUTIONS,
3 WHICH IS DESIGNATED AS AN ENTERPRISE PURSUANT TO SECTION
4 23-5-101.7, SHALL FILE NOTICE OF SUCH ISSUANCE WITH THE COLORADO
5 COMMISSION ON HIGHER EDUCATION. Bonds issued pursuant to this
6 subsection (2) shall be payable only from revenues generated by the
7 auxiliary facility or group of auxiliary facilities OR BY THE INSTITUTION
8 OR GROUP OF INSTITUTIONS on behalf of which such bonds are issued;
9 except that, subject to section 23-1-123 (5) (a) (III) and (5) (b) (II),
10 revenues generated by a designated enterprise ~~auxiliary facility~~ that is
11 associated with the university of Colorado may be pledged for the
12 repayment of bonds issued by another designated enterprise auxiliary
13 facility ~~which~~ THAT is not part of the same enterprise. Such bonds shall
14 be issued in accordance with the provisions of section 23-5-103 (2). The
15 termination, rescission, or expiration of the enterprise designation of any
16 auxiliary facility or group of auxiliary facilities pursuant to section
17 23-5-101.5 (3) OR OF ANY INSTITUTION OR GROUP OF INSTITUTIONS shall
18 not adversely affect the validity of or security for any revenue bonds
19 issued on behalf of ~~such~~ ANY auxiliary facility or group of auxiliary
20 facilities OR ON BEHALF OF ANY INSTITUTION OR GROUP OF INSTITUTIONS.

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

23 **23-5-103. Pledge of income.** (1) The governing board of any one
24 or more state educational institutions, including, but not limited to, the
25 state colleges under the control and operation of their respective boards
26 of trustees, ~~which~~ THAT enters into such a contract for the advancement
27 of moneys is authorized, in connection with or as a part of such contract,

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

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

26 **24-77-102. Definitions - repeal.** As used in this article, unless
27 the context otherwise requires:

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

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

5 **SECTION 13.** 24-36-120 (4), Colorado Revised Statutes, is
6 amended to read:

7 **24-36-120. Authority to assess transaction fees.** (4) The state
8 treasurer shall not assess a fee for an eligible transaction involving any of
9 the following funds:

10 (a) The state education fund created in section 17 (4) of article IX
11 of the state constitution;

12 (b) The highway users tax fund created in section 43-4-201,
13 C.R.S.;

14 (c) The great outdoors Colorado trust fund created in section 2 of
15 article XXVII of the state constitution;

16 (d) The public school fund described in section 3 of article IX of
17 the state constitution;

18 (e) The old age pension fund created in section 1 of article XXIV
19 of the state constitution; and

20 (f) Any other fund against which the assessment of a fee would
21 be contrary to the state constitution; AND

22 (g) THE COLLEGE OPPORTUNITY FUND CREATED IN ARTICLE 18 OF
23 TITLE 23, C.R.S.

24 **SECTION 14. Repeal.** 23-1-104 (1.5), (2), and (6) and
25 23-1-105 (2) and (3), Colorado Revised Statutes, are repealed.

26 **SECTION 15. Appropriations in long bill to be adjusted.**

27 (1) For the implementation of this act, appropriations made in the annual

1 general appropriation act to the department of higher education,
2 governing boards and local district junior colleges, regents of the
3 university of Colorado, governing board and general campuses, general
4 fund and tuition allocation, for the fiscal year beginning July 1, 2004,
5 shall be adjusted as follows:

6 (a) The general fund appropriation shall be reduced by four
7 million five hundred thousand dollars (\$4,500,000).

8 (b) The cash funds appropriation shall be increased by four
9 million five hundred thousand dollars (\$4,500,000). Said sum shall be
10 from tuition.

11 **SECTION 16. Severability.** If any provision of this act or the
12 application thereof to any person or circumstance is held invalid, such
13 invalidity shall not affect other provisions or applications of the act that
14 can be given effect without the invalid provision or application, and to
15 this end the provisions of this act are declared to be severable.

16 **SECTION 17. Effective date.** (1) Except as provided in
17 subsections (2) and (3) of this section, this act shall take effect July 1,
18 2004.

19 (2) Sections 5, 7, and 14 of this act shall take effect July 1, 2005.

20 (3) Section 15 of this act shall take effect only if:

21 (a) During state fiscal year 2004-05, the board of regents of the
22 university of Colorado designates the university of Colorado as an
23 enterprise pursuant to section 23-5-101.7, Colorado Revised Statutes; and

24 (b) The board of regents of the university of Colorado files
25 written notice with the revisor of statutes and the staff director of the joint
26 budget committee of the enterprise designation specified in paragraph (a)
27 of this subsection (3).

1 **SECTION 18. Safety clause.** The general assembly hereby
2 finds, determines, and declares that this act is necessary for the immediate
3 preservation of the public peace, health, and safety.