

Colorado Legislative Council Staff

**STATE and STATUTORY PUBLIC ENTITY
REVISED FISCAL IMPACT**

(replaces fiscal impact dated March 24, 2004)
No State General Fund Impact

Drafting Number: LLS 04-0660	Date: March 30, 2004
Prime Sponsor(s): Sen. Anderson Rep. King	Bill Status: Senate 2 nd Reading
	Fiscal Analyst: Marc Carey (303 866-4102)

TITLE: CONCERNING INSTITUTIONS OF HIGHER EDUCATION.

Fiscal Impact Summary	FY 2004/2005	FY 2005/2006
State Revenues General Fund		
State Expenditures General Fund Cash Fund Exempt - State Institution Costs	\$270,130	\$163,007
FTE Position Change	4.0 FTE	6.0 FTE
<p>Other State Impact: TABOR Revenue Impact.</p> <p>State institutions of higher education will receive an estimated \$1,770,000 less in aggregate stipend revenues and Fee for Service contract moneys due to stipend's paid to eligible students at private institutions.</p>		
<p>Effective Date: July 1, 2004, except for sections 5,7,13 and 14. Sections 5,7 and 13 will take effect July 1, 2005, and section 14 will take effect only if the University of Colorado system is designated as in enterprise in FY 2004-05.</p>		
<p>Appropriations Summary for FY 2004-05: The General Assembly will no longer appropriate money to the governing boards of institutions of higher education. Instead, it will appropriate money in trust for eligible undergraduate students to the College Opportunity Fund.</p> <p>Department of Higher Education, (\$4,500,000) GF;*</p> <p>Department of Higher Education, \$4,500,000, CF spending authority;*</p>		
<p>Local Government Impact: None.</p>		

* Occurs only if the University of Colorado is designated as an enterprise in FY 2004-05.

Summary of Legislation

This bill, as amended by the Senate Education Committee, establishes the Colorado Opportunity Fund Act of 2004, and changes the method for state funding of public higher education. Specifically, the bill establishes the College Opportunity Fund Program to be administered by the Colorado Student Loan Program (CSLP) in the Department of Higher Education. This program provides funds to students directly in the form of stipends instead of appropriating state General Fund support to institutions. In addition, the bill requires the governing board of each state institution of higher education to negotiate a performance contract with the department, specifying performance

goals for the institution. The bill also authorizes the department to enter into fee-for service contracts with the board of each state institution regarding the provision of higher education services. Finally, the bill authorizes the boards to designate, by resolution, a state institution or group of state institutions as an enterprise for purposes of the Taxpayer's Bill of Rights (TABOR).

College Opportunity Fund Program. The bill creates the College Opportunity Fund as a trust fund to be administered by the CSLP. This fund will consist of stipend moneys for eligible Colorado undergraduate students that apply for the stipend and are admitted to and enroll in a state institution or participating private institution in Colorado. The bill defines an eligible student as: (1) an undergraduate student enrolled in a state institution and classified as an in-state student for tuition purposes, or (2) an undergraduate student enrolled in a participating private institution and: (1) is classified as an in-state student for tuition purposes; (2) is a graduate of a Colorado high school; (3) demonstrates financial need through eligibility for a federal Pell Grant; and (4) meets other eligibility criteria that may be established by the Colorado Commission on Higher Education.

This bill defines a stipend as the amount of money per credit hour held in trust for and paid on behalf of an eligible student. A student may use the stipend for courses taken at a fixed rate per credit hour, set annually by the General Assembly. Students may receive a stipend for a maximum of 140 credit hours, but may apply for a waiver of this limitation, based on extenuating circumstances specified in the bill. The stipend for any student may increase proportionately to the percent of unfunded enrollment growth appropriated to the boards. Institutions shall reimburse the fund proportionately for stipends received where students subsequently withdraw from a class.

Private institutions wishing to receive stipend payments on behalf of students must enter into a performance contract with the department. Students attending private institutions will only receive 50 percent of the stipend amount per credit hour. Participating private institutions are required to reimburse the department for administrative costs associated with including their students in the program.

The General Assembly, for each state fiscal year beginning on or after July 1, 2005, is required to make an annual appropriation to the CSLP, in trust for students, for deposit in the fund. Each state and private institution not receiving loan services through the CSLP is required to pay an implementation fee and an on-going disbursement fee, in amounts determined by the CSLP.

The General Assembly is also required to appropriate spending authority to each board for the cash funds exempt estimated to be received by the board as stipends. This spending authority will be calculated by multiplying the amount of applicable per-credit-hour stipend by the number of eligible undergraduate students estimated to be enrolled at the associated institution. After an eligible student has enrolled in a state or participating private institution, and upon receipt of the student's authorizing signature, the institution shall request a stipend payment from the fund on the student's behalf.

The commission, for each state fiscal year beginning on or after July 1, 2005, is required to annually estimate the number of eligible undergraduate student FTEs at each state and participating private institution, and report these estimates to the Governor and Joint Budget Committee (JBC). The commission, in consultation with the board, is required to calculate the amount of enrollment growth, and maintain records of the number of credit hours for which eligible students receive stipends from the fund.

The commission, in consultation with the boards, is required to annually review the amount of stipend per credit hour. Following this review, the commission would recommend potential adjustments to the amount of stipend per credit hour to the Governor and JBC that reflect, at a minimum, inflation and estimated enrollment growth. Annually, from July 1, 2006 to July 1, 2009, the commission shall submit to the Senate and House Education Committees and the JBC annual reports on the program's status, including recommended statutory changes, as appropriate. On or before July 1, 2010, the commission shall submit a final report to these committees on the program's implementation.

Higher Education Performance Contracts. Beginning July 1, 2004, the governing board of each state and participating private institution shall negotiate a performance contract with the department, specifying goals for that institution. Goals must be measurable and tailored to the institution's mission.

All performance contracts are required to be reviewed by the commission before they become effective. Each January beginning 2006, the department is required to report to the House and Senate Education Committees and the JBC on the financial effect of each performance contract on institutional funding, the overall statewide higher education system, and each institution's operations. Performance contracts may be for up to ten years, and may be renewed at the department's discretion with agreement from the board. The board is also required to report plans for any tuition increases in the following academic year to the commission for its consideration. While the board is operating under a performance contract, the commission may request a General Fund appropriation for each board for the amount of any unfunded enrollment growth that exists.

Fee-for-Service Contracts. The bill requires the commission to ensure the provision of specific postsecondary educational services in Colorado, by authorizing the department to enter into fee-for-service contracts with the board of each state institution. The primary required educational services include graduate programs, professional degree programs, and preparatory and prerequisite courses for post secondary education.

Such contracts are required to be consistent with the institution's performance contract. The commission will make annual recommendations to the General Assembly and the Governor regarding the funding necessary for the department to implement these contracts. The General Assembly will appropriate to the commission General Fund moneys sufficient to carry out these contracts.

Enterprise Status. The bill authorizes the governing board to designate, by resolution, a state institution as an enterprise for purposes of TABOR, so long as the board retains authority to issue revenue bonds, and the institution receives less than ten percent of annual revenues in grants from Colorado state and local governments. Grants do not include either fees received per fee-for-service contracts with the department or stipends paid on behalf of eligible undergraduate students. Such designation may not be rescinded so long as these conditions continue to be met. Resolutions must be submitted to the State Auditor to determine whether the required conditions have been met.

State Revenues

Potential Enterprise Status of Schools. This bill allows institutions to be designated as an enterprise for purposes of TABOR through a resolution by its governing board. To achieve such status, a program must : (1) engage in activities commonly carried on for profit outside the public

sector, (2) have authority to issue revenue bonds, (3) receive less than 10 percent of annual revenue from state and local governments, and (4) be accounted for separately under financial records. Currently, only the University of Colorado meets all of these requirements. The bill allows institutions to receive state funds both through undergraduate stipends and fee-for-service contracts that are explicitly deemed by the bill not to be a grant of public funds to the institution. Because of this provision, the following analysis assumes that the University of Colorado would be designated as an enterprise in FY 2004-05, and all other state institutions will be designated as enterprises in FY 2005-06.

Designating such institutions as enterprises, and thus exempting their revenues from the TABOR limit affects the size of the TABOR surplus, and in turn, the amount of revenues the state refunds to taxpayers the following fiscal year. TABOR limits the growth of aggregate state revenue without limiting the growth of any individual revenue source. To the extent that an institution's revenue increases at a slower (faster) rate than the allowable TABOR growth rate, the institution's revenue contributes to a larger (smaller) TABOR surplus. If the institution is designated as an enterprise, its revenue is no longer included in the TABOR base, and the TABOR surplus will increase (decrease).

Table 1 shows the forecast for the allowable TABOR growth rate and the total revenue subject to and exempt from TABOR for the Department of Higher Education under this scenario. Revenue to the CU system is forecast to increase at a rate slower than the TABOR allowable growth rate in FY 2004-05. Thus, granting enterprise status to the CU system will increase the TABOR surplus. Total tuition revenue subject to TABOR is forecast to increase at a faster rate than the allowable TABOR growth rate over most of the rest of the forecast period. However, the impact from FY 2004-05 on the TABOR surplus is large enough that the TABOR surplus would continue to increase over the entire forecast period.

This analysis assumes that per-pupil tuition will increase by the rate of inflation as projected by the Legislative Council staff. The General Assembly has control over tuition growth, and should they decide to increase tuition at a different rate, the results of the analysis would change.

Table 1: TABOR Allowable Growth Rate and Expected Growth in Higher Education Revenue* (Millions of Dollars)					
	FY 2004/05	FY 2005/06	FY 2006/07	FY 2007/08	FY 2008/09
TABOR Allowable Rate	7.1%	2.8%	3.5%	4.4%	4.5%
Higher Education Revenue Subject to TABOR*:					
Revenue Subject to TABOR**	\$377.9	\$0.0	\$0.0	\$0.0	\$0.0
Revenue Exempted from TABOR**	402.6	805.5	833.6	867.0	904.3
Growth Rate of Exempted Revenue	5.9%	3.2%	3.5%	4.0%	4.3%

* Based on the Legislative Council's March 2004 Revenue Forecast.

** Includes tuition revenue plus non-tuition revenue less scholarship allowances.

Table 2 shows the projected TABOR surplus with and without the effect of this scenario. Currently, the TABOR Surplus is projected to total \$1.8 billion over these four years. If CU is designated as an enterprise in FY 2004-05 and all other institutions are designated as enterprises in FY 2005-06, the TABOR surplus is projected to increase by a total of \$20.4 million over the forecast period.

Table 2: The Impact on the TABOR Surplus, FY 2004-05 to FY 2008-09* (Millions of Dollars)						
	FY 2004/05	FY 2005/06	FY 2006/07	FY 2007/08	FY 2008/09	Total
Surplus Total Under Current Law	\$24.6	\$327.2	\$515.4	\$459.2	\$523.1	\$1,849.5
Plus						
Change due to Higher Education Enterprise Status	4.7	1.7	1.8	5.1	7.1	20.4
Equals:						
Surplus Total after Enterprise Designation	29.3	328.8	517.2	464.3	530.2	1,869.8

**Based on the Legislative Council's March 2004 Forecast.*

Table 3 shows the change in moneys available for General Fund appropriations and Senate Bill 97-1 diversion from FY 2004-05 through FY 2008-09 that would result from this scenario. Money available for General Fund appropriations would decrease by a total of \$11.9 million. Spending on highways would decrease by \$3.2 million in FY 2006-07 and by \$5.0 million in FY 2008-09, based on current law.

Table 3: Change in Funds Available for General Fund Appropriations and SB 97-1 Diversion, FY 2004-05 to FY 2008-09 (Millions of Dollars)						
	FY 2004/05	FY 2005/06	FY 2006/07	FY 2007/08	FY 2008/09	Total
Available for General Fund Appropriations	(\$4.5)*	(\$1.7)	(\$1.8)	(\$1.9)	(\$2.0)	(\$11.9)
Senate Bill 97-1 Diversion	0.0	0.0	0.0	(3.2)	(5.0)	(8.2)

** Amendment L.020 requires that if CU is designated as an enterprise in FY 2004-05, the General Fund appropriation to the department of higher education be reduced by \$4.5 million in order to hold harmless the appropriations to other departments.*

Tuition Changes. As a result of this bill, institutions that are designated as enterprises may seek to raise tuition levels. Over the last five years, annual tuition increases for four-year institutions and two-year

institutions have ranged between 3.1 percent and 8.4 percent and between 2.4 percent and 5.0 percent respectively. During this period, tuition revenue increases were subject to TABOR limitations. While it is not possible to know exactly what future potential increases may be for each institution, it is reasonable to assume that any institutions newly designated as enterprises may choose to impose tuition increases.

It is also worth noting the effect that this bill would have on advertised tuition. Currently, advertised tuition is lower than it otherwise would be because of the state General Fund support of public institutions. Because these state moneys would now be used to fund stipends, and would be paid directly to the fund in trust for students, they would be credited to the institutions as part of tuition payments. Thus, the advertised tuition for each institution would increase by at least the amount of the stipend.

State Expenditures

CSLP Administration Costs. The CSLP would incur costs associated with administering the Colorado Opportunity Fund. Cost estimates are based on the assumption that the program would work for an individual student as follows:

- the student applies for vouchers on the CSLP Voucher Web System;
- the student selects an institution, and enrolls during the enrollment period;
- the institution is notified by email regarding the student's application for vouchers;
- the institution determines the student's eligibility, and sends a certification file to CSLP from the voucher web system;
- the CSLP receives the certification file and updates both the student's account on the voucher web system and the CSLP Escrow Disbursement System;
- the CSLP either invoices the State Treasury or verifies funds are in the CSLP account;
- appropriate funds are sent to institution along with a roster file;
- the institution determines any funds that need to be returned, and submits refund information through the voucher web system;
- the CSLP receives the file and updates the student's account on the voucher web system and the escrow disbursement system; and
- the institution receives the adjustment of credit hours and the maximum remaining that the student is eligible to receive.

Table 4 summarizes these additional expenses, based upon the following additional assumptions:

- CSLP would begin developing the system on July 1, 2004;
- CSLP would require a new server and a replacement server in the third year;
- CSLP would contract a significant portion of its IT costs. Contract staff would include one manager, six web developers, one mainframe developer (six months only), three testers (three months only, and three systems analysts (three months only). Only the manager, one web developer and one tester would remain on an on-going basis, and these employees would receive PERA/Medicare benefits;
- operations staff would include a manager starting July 1, 2004, and two staff assistants starting January 1, 2005. These would not be contract positions, and would receive PERA/Medicare benefits;
- an annual audit of the system would be required;
- CSLP would require a 10 percent contingency, as this is a completely untried program; and
- indirect costs are estimated to be an additional 10 percent.

Table 4: Estimated CSLP Program Administration Costs* (Assumes Quarterly Disbursements)		
	FY 2004/05	FY 2005/06
<u>IT Costs</u>		
Personnel	2.0 FTE - \$161,500	3.0 FTE - \$161,500
PERA/Medicare	<u>18,734</u>	<u>18,734</u>
Subtotal	180,234	180,234
Contract Personnel	215,000	0
Supplies	<u>69,356</u>	<u>15,075</u>
Total IT	\$464,590	\$195,309
<u>Operating Expenses</u>		
Operating Personnel	2.0 FTE -86,000	3.0 FTE - 112,000
PERA/Medicare	<u>9,976</u>	<u>12,992</u>
Subtotal	95,976	124,992
Supplies	<u>15,906</u>	<u>14,859</u>
Total Operating	\$111,882	\$139,851
<u>Accounting Expenses</u>		
Audit Costs	<u>\$30,000</u>	<u>\$30,000</u>
Total Accounting	\$30,000	\$30,000
Subtotal	\$606,472	\$365,160
<u>Other Expenses</u>		
Contingency (10 percent)	\$60,647	\$36,516
Indirect Costs (10 percent)	<u>60,647</u>	<u>36,516</u>
Total Other	\$121,294	\$73,032
Total Expenses	4.0 FTE - \$727,766	6.0 FTE - \$438,192

* These expenses assume that disbursements would be made on a quarterly basis. If disbursements are made on a monthly basis, costs would increase.

Institutional Direct Costs. The total administrative costs incurred will be allocated between the CSLP and the six institutions that are not currently using CSLP loan services. These institutions will cover their portion of the costs through the one-time implementation fees and on-going disbursement fees as specified in the bill. Currently, CSLP estimates that they will cover 60 percent of these costs, or approximately \$436,659 in FY 2004-05 and \$262,915 in FY 2005-06. Absorbing these costs would come at the expense of about half the scholarships (approximately \$250,000) that would otherwise be provided by CSLP.

The remaining 40 percent, or approximately \$291,107 in FY 2004-05 and \$175,277 in FY 2005-06, will be allocated among the six institutions according to the number of credit hours for enrolled students. Because credit hour figures were not available for the private institutions, this fiscal note uses the number of enrolled undergraduate students from Colorado to estimate this allocation. Table 5 summarizes the estimated administrative costs to be paid by each of these six institutions in FY 2004-05 and FY 2005-06.

Table 5: Estimated Share of CSLP Expenses Covered by Non-Customer Institutions*			
	Share*	FY 2004/05	FY 2005/06
University of Colorado - Boulder	41 %	\$119,354	\$71,863
University of Colorado - Health Sciences Center	1 %	2,911	1,753
Colorado State University	43 %	125,176	75,369
Colorado State University - Pueblo	8 %	23,289	14,022
Subtotal-State Institutions	93 %	\$270,730	\$163,007
Colorado College	2 %	5,822	3,506
University of Denver	5 %	14,555	8,764
Subtotal-Participating Private Institutions	7 %	\$20,377	\$12,270
Total Expenses	100 %	291,107	175,277

* Enrollment estimates for University of Colorado and Colorado State University are FY 2002-03 resident undergraduate FTE from CCHE. Estimates for Colorado College are from the school's web site. Estimates for the University of Denver are Fall 2004 from the Provost's Office.

Institutional Indirect Costs. Implementation costs to institutions may involve modifications to multiple computer systems such as integrated student information systems, financial aid and record systems, and internet portals that allow student access to registration and billing information. Data coordination with the CSLP may require additional programming. In particular, the bill requires participating private institutions to reimburse the department for the expenses associated with including that institution in the Student Unit Reporting Data System.

There will be ongoing costs associated with managing these integrated systems, as well as potential costs for additional staff in the financial aid offices to answer questions from students and parents about the new funding mechanism. To date, institutions have not provided estimates of these costs.

Direct and indirect costs incurred by state institutions will not be covered by an appropriation of General Fund moneys.

Institutional Distributional Impacts. The current General Fund subsidy per student varies by school, therefore, a flat stipend could change the distribution of state funds per student among institutions. Based on the assumption that General Fund support will not change from current levels in FY 2004-05, CCHE is planning on recommending that the stipend be set at \$2,400 per student. Any loss in funding to any individual institution resulting from setting the stipend at this level will be made up through Fee for Service contracts.

The amount of the Fee for Service contract for each state institution is estimated to be the difference between the governing board's current appropriation and the institution's projected stipend revenue, if the stipend is less than the current General Fund appropriations per student FTE. Because the \$2,400 stipend is equal to the current minimum appropriation per student FTE (Metro State), all

other institutions will receive Fee for Service moneys in order to hold the institution harmless. Table 6 presents estimates of stipend revenues, Fee for Service moneys and total funding, by institution, assuming a stipend of \$2,400 per student and state appropriations remain at current levels.

Table 6: Projected Stipend Revenues, Fee for Service Contract Moneys and Total Funding, by Institution, FY 2004-05.* (Assumes a \$2,400 stipend)			
Governing Board	Estimated Stipend Revenue	Estimated Fee for Service Revenue	Estimated Total Funding
CU System	\$62,744,453	\$92,428,388	\$155,172,841
CSU System	45,838,629	63,345,363	109,183,992
Colorado School of Mines	5,374,823	11,813,157	17,187,980
University of Northern Colo.	20,318,728	13,272,181	33,590,909
Metro State College	34,002,805	0	34,002,805
Fort Lewis College	6,509,793	925,368	7,435,161
Adams State College	3,734,288	6,582,403	10,316,691
Mesa State College	9,574,240	6,200,925	15,775,165
Western State College	3,855,695	3,041,093	6,896,788
Community College System	88,653,925	17,626,054	106,279,979
Total Expenses	\$280,607,380	\$215,234,931	\$495,842,311

**These totals do not reflect the \$1,770,000 that would need to be subtracted to support students at participating private institutions.*

It is worth noting that the \$2,400 stipend estimate is a function of current appropriation levels, and is the amount that allows institutions to be held harmless through Fee for Service contracts. If appropriations were to increase/decrease from current levels, the stipend would have to increase/decrease proportionately to maintain this condition.

CCHE Administration Costs. The bill makes several requirements of the commission regarding the administration of the program and negotiating performance and fee-for-service contracts with the boards of each state and participating private institution. Specifically, the commission is annually required to estimate the number of undergraduate FTEs at participating institutions, calculate enrollment growth, maintain a record of the number of credit hours eligible for stipends, review the current stipend amount and make recommendations regarding adjustments, report on the program's status to the General Assembly, and negotiate performance contracts and fee-for-service contracts with the governing boards. It is assumed that these requirements may be achieved through a reallocation of current personnel duties and resources. Thus, the commission's requirements in this bill can be absorbed within existing budgetary resources.

Need Based Financial Assistance. The bill requires that, institutions designated as enterprises annually allocate a minimum of 20 percent of any increase in tuition revenues above the rate of inflation to need-based financial assistance. Table 7 presents projected tuition revenues allocated to need-based financial assistance. Totals reflect the assumption that only the CU system will be designated an enterprise in FY 2004-05 while all other institution will receive such designation in FY 2005-06.

Table 7: Projected Tuition Revenues Allocated to Need-Based Financial Assistance* (Thousands of Dollars)					
	FY 2005/06	FY 2006/07	FY 2007/08	FY 2008/09	Total
Inflation Rate	1.5%	2.1%	2.7%	2.7%	
Tuition Revenue Increase above Inflation	\$7,439	\$7,932	\$8,144	\$11,990	\$35,505
20 Percent Set-Aside for Need-Based Aid	1,488	1,586	1,629	2,398	7,101

**Based on the Legislative Council's March 2004 Forecast.*

Enrollment at State Institutions. State institutions may see increases in enrollment as a result of this bill. From FY 2000-01 to FY 2002-03, annual enrollment increases at public institutions in Colorado have ranged between 0.6 percent and 6.4 percent. While it is currently not possible to know what future enrollment increases (if any) may be, it is reasonable to assume that these historic increases represent a lower bound. (The commission has not provided projections of future year enrollment growth under the provisions of this bill.) The state will be required to provide a stipend for every eligible undergraduate student. If a state budget shortfall occurs, options include a reduction in student stipends or a cap on enrollment.

Enrollment at Private Institutions. This bill would expand the number of students eligible to receive state tuition assistance, as resident students attending private institutions do not currently receive General Fund support, except for financial aid. Students currently attending private institutions that choose to participate and are eligible for a federal Pell Grant may receive a stipend equal to 50 percent of the amount that students attending state institutions receive.

In FY 2002-03, 1,475 students from Colorado's three non-profit private institutions (Colorado College, Regis University and University of Denver) qualified for and received a federal Pell grant. Assuming that the stipend is equal to \$2,400, the General Fund impact to include these three non-profit private institutions is \$1,770,000. This figure probably overestimates the impact, as not all of these students graduated from Colorado high schools.

State Appropriations

Generally, state institutions do not receive appropriations for expenses incurred by individual institutions. Rather, higher education receives a lump sum appropriation through the long bill. Therefore, this fiscal note implies that no additional General Fund appropriation is required in FY 2004-05 to implement this bill.

However, it should be noted that this bill eliminates the current practice of appropriating by governing board. State appropriations will now be made to the fund, in trust for eligible undergraduate students.

In the event that the University of Colorado is designated an enterprise in FY 2004-05, the Department of Higher Education will require a reduction in General Fund appropriations in the

amount of \$4,500,000 and a corresponding increase in cash fund spending authority in the amount of \$4,500,000 to implement this bill.

Departments Contacted

Higher Ed Treasury Legislative Council Staff Governor's Office