

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

PREAMENDED

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

LLS NO. 05-0334.01 Michele Hanigsberg

HOUSE BILL 05-1041

HOUSE SPONSORSHIP

Knoedler

SENATE SPONSORSHIP

Tupa

House Committees

Education

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE FINANCIAL EXPENDITURES OF A NONPROFIT ENTITY**
102 **ORGANIZED FOR THE BENEFIT OF A STATE INSTITUTION OF**
103 **HIGHER EDUCATION.**

Bill Summary

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

Specifies that the financial records of a nonprofit entity that is organized for the benefit of one or more state institutions of higher education are public records for purposes of the open records act. Specifies that these financial records shall not include any names or other identifying information of the donors of the nonprofit entity.

Requires each governing board to submit annually to the Colorado commission on higher education a comprehensive list of each donation

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.

received, monetary or in-kind, by the governing board's institutions from a nonprofit entity. Requires the department of higher education to forward the list to the governor and the joint budget committee with the department's annual budget submission.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 24-72-202 (2), Colorado Revised Statutes, is
3 amended, and the said 24-72-202 is further amended BY THE
4 ADDITION OF A NEW SUBSECTION, to read:

5 **24-72-202. Definitions.** As used in this part 2, unless the context
6 otherwise requires:

7 (1.6) "INSTITUTIONALLY RELATED FOUNDATION" MEANS A
8 NONPROFIT CORPORATION, FOUNDATION, INSTITUTE, OR SIMILAR ENTITY
9 THAT IS ORGANIZED FOR THE BENEFIT OF ONE OR MORE INSTITUTIONS,
10 THAT HAS A PRINCIPAL PURPOSE OF RECEIVING OR USING PRIVATE
11 DONATIONS TO BE HELD OR USED FOR THE BENEFIT OF AN INSTITUTION. AN
12 INSTITUTIONALLY RELATED FOUNDATION SHALL BE DEEMED NOT TO BE A
13 GOVERNMENTAL BODY, AGENCY, OR OTHER PUBLIC BODY FOR ANY
14 PURPOSE.

15 (2) "Official custodian" means and includes any officer or
16 employee of the state, of any agency, institution, or political subdivision
17 of the state, OF ANY INSTITUTIONALLY RELATED FOUNDATION, or of any
18 local government-financed entity, who is responsible for the maintenance,
19 care, and keeping of public records, regardless of whether the records are
20 in his or her actual personal custody and control.

21 **SECTION 2.** 24-72-202 (6) (a), Colorado Revised Statutes, is
22 amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

23 **24-72-202. Definitions.** As used in this part 2, unless the context

1 otherwise requires:

2 (6) (a) (IV) "PUBLIC RECORDS" MEANS, FOR AN INSTITUTIONALLY
3 RELATED FOUNDATION, ALL WRITINGS RELATING TO THE REQUESTS FOR
4 DISBURSEMENT OR EXPENDITURE OF FUNDS, THE CONSIDERATION OF
5 REQUESTS FOR DISBURSEMENT OR EXPENDITURE OF FUNDS, OR THE
6 DISBURSEMENT OR EXPENDITURE OF FUNDS, BY THE INSTITUTIONALLY
7 RELATED FOUNDATION.

8 **SECTION 3.** 24-72-202 (6) (b), Colorado Revised Statutes, is
9 amended BY THE ADDITION OF THE FOLLOWING NEW
10 SUBPARAGRAPHS to read:

11 **24-72-202. Definitions.** As used in this part 2, unless the context
12 otherwise requires:

13 (6) (b) "Public records" does not include:

14 (VI) FOR PURPOSES OF AN INSTITUTIONALLY RELATED
15 FOUNDATION, ANY DOCUMENTS, AGREEMENTS, OR OTHER RECORDS OR
16 INFORMATION OTHER THAN THE FINANCIAL EXPENDITURE RECORDS
17 SPECIFIED IN SUBPARAGRAPH (IV) OF PARAGRAPH (a) OF THIS SUBSECTION
18 (6).

19 (VII) FOR PURPOSES OF AN INSTITUTION OR AN INSTITUTIONALLY
20 RELATED FOUNDATION:

21 (A) THE IDENTITY OF, OR RECORDS OR INFORMATION IDENTIFYING
22 OR LEADING TO THE IDENTIFICATION OF, ANY DONOR OR PROSPECTIVE
23 DONOR TO AN INSTITUTION OR AN INSTITUTIONALLY RELATED
24 FOUNDATION;

25 (B) THE AMOUNT OF ANY ACTUAL OR PROSPECTIVE GIFT OR
26 DONATION FROM A DONOR OR PROSPECTIVE DONOR TO AN
27 INSTITUTIONALLY RELATED FOUNDATION;

1 (C) PROPRIETARY FUNDRAISING INFORMATION OF AN INSTITUTION
2 OR AN INSTITUTIONALLY RELATED FOUNDATION; OR

3 (D) AGREEMENTS OR OTHER DOCUMENTS RELATING TO GIFTS OR
4 DONATIONS OR PROSPECTIVE GIFTS OR DONATIONS TO AN INSTITUTION OR
5 AN INSTITUTIONALLY RELATED FOUNDATION FROM A DONOR OR
6 PROSPECTIVE DONOR.

7 **SECTION 4.** 24-75-104 (3) (a), Colorado Revised Statutes, is
8 amended to read:

9 **24-75-104. Gifts and bequests to state institutions of higher**
10 **education - effect.** (3) (a) On January 30, 1997, and January 30 of each
11 ~~odd-numbered~~ year thereafter, each state institution of higher education
12 shall submit to the governor and general assembly a complete listing of
13 all endowments, gifts, and bequests made to said state institution of
14 higher education during the immediately preceding ~~two~~ state fiscal years
15 YEAR.

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