

SENATE JOURNAL
Sixty-second General Assembly
STATE OF COLORADO
Second Regular Session

62nd Legislative Day Monday, March 6, 2000

Call to Order By the President at 10:00 a.m.

Prayer By the chaplain, Reverend Glen Hamlyn, Rocky Mountain Cathedral, Denver.

Roll Call Present--Total, 32.
Absent/Excused--Lacy, Tanner, Tebedo--Total, 3.
Present later--Lacy, Tanner.

Quorum The President announced a quorum present.

Reading of Journal On motion of Senator Sullivant, reading of the Journal of Friday, March 3rd was dispensed with and the Journal stands approved as corrected by the Secretary.

SENATE SERVICES REPORT

Senate Services Correctly enrolled: SB 00-002, 043, 051, 053, 064, 073, 077.
Correctly revised: HB00-1243, 1266, 1292, 1307.
Correctly engrossed: SB00-154, 190.

SENATE SERVICES REPORT

Senate Services To the governor for signature on Friday, March 3, 2000, at 2:56 p.m.:
SB 00-053, 064, 073.

COMMITTEE OF REFERENCE REPORTS

Appropriations After consideration on the merits, the committee recommends that SB00-186 be amended as follows and, as so amended, be referred favorably to the Committee of the Whole with favorable recommendation:

Amend printed bill, page108, strike lines 6 through 26.

Strike page 109.

Strike page 110 and substitute the following:

"SECTION 32. Repeal. 22-25-104.5 (2) (c), Colorado Revised Statutes, is repealed as follows:".

Page 111, strike line 1;
strike lines 5 through 26.

Strike page 112.

Page 113, strike lines 1 through 24.

Page 118, strike lines 3 through 8 and substitute the following:

"SECTION 43. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of education, for the fiscal year beginning July 1, 2000, the sum of eleven million seven

hundred sixty-nine thousand one hundred twenty dollars (\$11,769,120), or so much thereof as may be necessary, for the implementation of this act. Said sum shall be allocated as follows:

(a) Three million seven hundred fifty-two thousand nine hundred seventy-eight dollars (\$3,752,978) shall be for the implementation of section 22-7-603, Colorado Revised Statutes;

(b) Two million four hundred ninety-seven thousand one hundred sixty-nine dollars (\$2,497,169) shall be for the implementation of sections 22-7-604 through 22-7-608, Colorado Revised Statutes; and

(c) Five million five hundred eighteen thousand nine hundred seventy-three dollars (\$5,518,973) shall be for the implementation of sections 22-7-409 (1) (c) (II), (1) (e), (1) (f), (1.2), (1.3), (1.5), and (1.9), Colorado Revised Statutes.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of higher education, Colorado commission on higher education, special purpose, for the fiscal year beginning July 1, 2000, the sum of four hundred fifty-one thousand two hundred ninety-five dollars (\$451,295), or so much thereof as may be necessary, for the implementation of section 23-1-124, Colorado Revised Statutes."

Appropriations

After consideration on the merits, the committee recommends that SB00-135 be amended as follows and, as so amended, be referred favorably to the Committee of the Whole with favorable recommendation:

Amend printed bill, page 5, line 1, strike "Section 3." and substitute **"SECTION 3."**.

Page 6, line 7, in the ITEM & SUBTOTAL column, strike "13,900,000" and substitute "14,675,099" and, in the CAPITAL CONSTRUCTION FUND EXEMPT column, strike "13,900,000" and substitute "14,675,099";

line 14, in the TOTAL column, strike "31,850,000" and substitute "32,625,099".

Page 7, line 5, in the CAPITAL CONSTRUCTION FUND EXEMPT column, strike "\$25,793,093" and substitute "\$25,793,093";

line 6, in the TOTAL column, strike "\$41,336,093" and substitute "\$42,111,192" and, in the CAPITAL CONSTRUCTION FUND EXEMPT column, insert "\$26,568,192";

line 11, in the CAPITAL CONSTRUCTION FUND EXEMPT column, strike "\$270,096,545" and substitute "\$270,096,545";

line 12, in the TOTAL column, strike "\$525,507,155" and substitute "\$526,282,254" and, in the CAPITAL CONSTRUCTION FUND EXEMPT column, insert "\$270,871,644".

Appropriations

After consideration on the merits, the committee recommends that the following be referred favorably to the Committee of the Whole: SB00-021

Appropriations

After consideration on the merits, the committee recommends that the following be referred favorably to the Committee of the Whole: HB00-1055

MESSAGE FROM THE HOUSE:

March 3, 2000

Mr. President:

The House has postponed indefinitely SB00-096. The bill is returned herewith.

The House voted to adhere to its position on HB00-1149. The bill is transmitted herewith.

The House has voted to concur in the Senate amendments to HCR00-1001 and HB00-1028, 1046, 1077, 1091, 1194, 1321, and has repassed the bills as so amended.

In response to the request of the Senate, the Speaker has appointed Representatives McPherson, chairman, Allen, and Bacon as House conferees on the First Conference Committee on SB00-183.

MESSAGE FROM THE GOVERNOR

March 2, 2000

To the Honorable
Senate
Sixty-second General Assembly
Second Regular Session
Denver, CO 80203

Ladies and Gentlemen:

I have the honor to inform you that I have approved and filed with the Secretary of State the following Acts:

SJR 00-003- Concerning Additions And Modifications To The Water Pollution Control Revolving Fund Eligibility List.

Approved March 2, 2000 at 1:30 p.m.

SJR 00-004- Concerning Additions And Modifications To The Drinking Water Revolving Fund Eligibility List.

Approved March 2, 2000 at 1:32 p.m.

Sincerely,
(Signed)
Bill Owens
Governor
Rec'd 3/3/00
P. Dicks, Secretary

MESSAGE FROM THE GOVERNOR

Appoint- A letter of designation and appointment from Governor Owens was read and assigned to
ment Committee as follows:

February 17, 2000

To the Honorable
Colorado Senate
Colorado General Assembly
State Capitol Building
Denver, CO 80203

Ladies and Gentlemen:

Pursuant to the powers conferred upon me by the Constitution and Laws of the State of Colorado, I have the honor to designate, appoint and submit to your consideration, the following:

BOARD OF DIRECTORS OF THE COLORADO

UNINSURABLE HEALTH INSURANCE PLAN

for a term expiring July 1, 2003:

Lisa H. Schneck of Denver, Colorado, to serve as a representative of the uninsurable and as a Democrat, appointed.

Sincerely,
(Signed)
Bill Owens
Governor
Rec'd 2/28/00
P. Dicks, Secretary

Committee on Health, Environment, Welfare and Institutions

SIGNING OF BILLS

The President has signed: SB00-002, 043, 051, 077.

SIGNING OF BILLS - RESOLUTIONS - MEMORIALS

The President has signed: HB00-1005, 1006, 1011, 1017, 1018, 1022, 1027, 1059, 1073, 1075, 1089, 1106, 1109, 1113, 1141, 1152, 1175.

THIRD READING OF BILLS--FINAL PASSAGE

On Third Reading, the titles of the following bills were publicly read, the reading at length having been dispensed with by unanimous consent:

HB00-1243 by Rep. Lee; Sen. Teck--Parental Consent For Firearms For Minors

The question being "Shall the bill pass?" the roll was called with the following result:

YES	31	NO	2	EXCUSED	2	ABSENT	0
Anderson	Y	Evans	Y	Musgrave	Y	Tanner	Y
Andrews	Y	Feeley	Y	Nichol	Y	Tebedo	E
Arnold	Y	Hernandez	Y	Owen	Y	Teck	Y
Blickensderfer	Y	Hillman	Y	Pascoe	Y	Thiebaut	N
Chlouber	Y	Lacy	E	Perlmutter	Y	Wattenberg	Y
Congrove	Y	Lamborn	Y	Phillips	Y	Weddig	Y
Dennis	Y	Linkhart	Y	Reeves	Y	Wham	Y
Dyer	Y	Martinez	Y	Rupert	N	Mr. President	Y
Epps	Y	Matsunaka	Y	Sullivant	Y		

A majority of all members elected to the Senate having voted in the affirmative, the bill was declared PASSED.

Co-sponsors added: Andrews, Powers.

SB 00-154 by Sen. Tebedo; Rep. McPherson--Defenses To Weapons Laws

Laid over until Tuesday, March 7, retaining its place on the calendar.

SB 00-190 by Sen. Feeley; Rep. Kaufman--Methyl Tertiary Butyl Ether (MTBE)

Laid over until Tuesday, March 7, retaining its place on the calendar.

HB 00-1292 by Rep. Kester; Sen. Hillman--Credit Insurance Truncated Coverage

The question being "Shall the bill pass?" the roll was called with the following result:

YES	31	NO	2	EXCUSED	2	ABSENT	0
Anderson	Y	Evans	Y	Musgrave	Y	Tanner	Y
Andrews	Y	Feeley	Y	Nichol	Y	Tebedo	E
Arnold	Y	Hernandez	Y	Owen	Y	Teck	Y
Blickensderfer	Y	Hillman	Y	Pascoe	Y	Thiebaut	N
Chlouber	Y	Lacy	E	Perlmutter	Y	Wattenberg	Y
Congrove	Y	Lamborn	Y	Phillips	Y	Weddig	Y
Dennis	Y	Linkhart	Y	Reeves	Y	Wham	Y
Dyer	Y	Martinez	N	Rupert	Y	Mr. President	Y
Epps	Y	Matsunaka	Y	Sullivan	Y		

A majority of all members elected to the Senate having voted in the affirmative, the bill was declared PASSED.

HB 00-1266 by Rep. Berry; Senator Chlouber--Optional Premises Multiple Ownership

The question being "Shall the bill pass?" the roll was called with the following result:

YES	33	NO	0	EXCUSED	2	ABSENT	0
Anderson	Y	Evans	Y	Musgrave	Y	Tanner	Y
Andrews	Y	Feeley	Y	Nichol	Y	Tebedo	E
Arnold	Y	Hernandez	Y	Owen	Y	Teck	Y
Blickensderfer	Y	Hillman	Y	Pascoe	Y	Thiebaut	Y
Chlouber	Y	Lacy	E	Perlmutter	Y	Wattenberg	Y
Congrove	Y	Lamborn	Y	Phillips	Y	Weddig	Y
Dennis	Y	Linkhart	Y	Reeves	Y	Wham	Y
Dyer	Y	Martinez	Y	Rupert	Y	Mr. President	Y
Epps	Y	Matsunaka	Y	Sullivan	Y		

A majority of all members elected to the Senate having voted in the affirmative, the bill was declared PASSED.

HB 00-1307 by Rep. Young; Senator Chlouber--Advisory Committee On River Outfitters

The question being "Shall the bill pass?" the roll was called with the following result:

YES	33	NO	0	EXCUSED	2	ABSENT	0
Anderson	Y	Evans	Y	Musgrave	Y	Tanner	Y
Andrews	Y	Feeley	Y	Nichol	Y	Tebedo	E
Arnold	Y	Hernandez	Y	Owen	Y	Teck	Y
Blickensderfer	Y	Hillman	Y	Pascoe	Y	Thiebaut	Y
Chlouber	Y	Lacy	E	Perlmutter	Y	Wattenberg	Y
Congrove	Y	Lamborn	Y	Phillips	Y	Weddig	Y
Dennis	Y	Linkhart	Y	Reeves	Y	Wham	Y
Dyer	Y	Martinez	Y	Rupert	Y	Mr. President	Y
Epps	Y	Matsunaka	Y	Sullivan	Y		

A majority of all members elected to the Senate having voted in the affirmative, the bill was declared PASSED.

Co-sponsors added: Congrove, Powers, Wattenberg.

On motion of Senator Blickensderfer, and with a two-thirds majority of those elected to the Senate having voted in the affirmative, HB00-1172 was made Special Orders at 10:25 a.m..

Committee of the Whole

The hour of 10:25 a.m. having arrived, Senator Wattenberg moved that the Senate resolve itself into the committee of the Whole for consideration of Special Orders and Senator Wattenberg was called to act as Chairman.

SPECIAL ORDERS--SECOND READING OF BILL--10:25 A. M.

The Committee of the Whole having risen, the Chairman reported that the following bill, reading at length having been dispensed with by unanimous consent, had been considered and action taken thereon as follows:

HB 00-1172 by Rep. Gordon; Senator Blickensderfer--SIP Review Process

Amendment No. 1, Health, Environment, Welfare and Institutions Amendment
(Printed in Senate Journal, February 18, page 358.)

Amendment No. 2, State, Veterans, and Military Affairs Committee Amendment
(Printed in Senate Journal, March 3, page 475.)

Amendment No. 3, by Senator Blickensderfer

Amend the State, Veterans, and Military Affairs Committee amendment, as printed in Senate Journal, March 3, page 475, strike line 56 and substitute the following:

"(a) OF THIS SUBSECTION (2). IF ANY BILL IS INTRODUCED UNDER PARAGRAPH (a) OF THIS SUBSECTION (2) OR UNDER THIS PARAGRAPH (c) TO POSTPONE THE EXPIRATION OF ANY ADDITION OR CHANGE TO A SIP ELEMENT DESCRIBED IN A REPORT SUBMITTED UNDER SUBSECTION (1) OF THIS SECTION OR PARAGRAPH (d) OF THIS SUBSECTION (2), AND ANY SUCH BILL DOES NOT BECOME LAW, THE ADDITION OR CHANGE TO A SIP ELEMENT ADDRESSED IN SUCH BILL MAY BE SUBMITTED TO THE ADMINISTRATOR OF THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY FOR FINAL APPROVAL AND INCORPORATION INTO THE SIP UNDER PARAGRAPH (b) OF THIS SUBSECTION (2).";".

As amended, ordered revised and placed on the calendar for Third Reading and Final Passage.

ADOPTION OF THE REPORT OF THE COMMITTEE OF THE WHOLE

On motion of Senator Wattenberg, the Report of the Committee of the Whole was adopted and, a majority of all members elected having voted in the affirmative, the following action was taken:

HB00-1172, as amended, declared passed on Second Reading.

Committee of the Whole On motion of Senator Wattenberg, the Senate resolved itself into Committee of the Whole for consideration of General Orders and Senator Wattenberg was called to the Chair to act as Chairman.

GENERAL ORDERS--SECOND READING OF BILLS

The Committee of the Whole having risen, the Chairman reported that the following bills, reading at length having been dispensed with by unanimous consent, had been considered and action taken thereon as follows:

SCR 00-002 by Sen. Blickensderfer; Rep. Dean--Timetable Redistricting General Assembly

Laid over until Tuesday, March 7, retaining its place on the calendar.

HB 00-1047 by Rep. Lawrence; Senator Phillips--Wildlife Commission Prop Transactions

Amendment No. 1, Agriculture, Natural Resources and Energy Committee Amendment
(Printed in Senate Journal, February 24, page 416.)

As amended, ordered revised and placed on the calendar for Third Reading and Final Passage.

HB 00-1267 by Rep. Johnson; Senator Hillman--Extends Pet Animal Care & Facilities Act

Laid over until Tuesday, March 7, retaining its place on the calendar.

HB 00-1216 by Rep. Lawrence; Senator Arnold--Criminal Procedural Laws

Laid over until Tuesday, March 7, retaining its place on the calendar.

HB 00-1058 by Rep. Morrison; Senator Epps--Unprofessional Medical Conduct

Ordered revised and placed on the calendar for Third Reading and Final Passage.

HB 00-1038 by Rep. Morrison; Senator Epps--More Public Members On Med Examiners Bd

Ordered revised and placed on the calendar for Third Reading and Final Passage.

HB 00-1029 by Rep. Tupa; Senator Pascoe--Eligibility For Child Care Assistance

Laid over until Tuesday, March 7, retaining its place on the calendar.

HB 00-1151 by Rep. Gotlieb; Senator Evans--Licenses For Out-of-state Educators

Amendment No. 1, Education Committee Amendment
(Printed in Senate Journal, February 28, pages 434-435.)

As amended, ordered revised and placed on the calendar for Third Reading and Final Passage.

HB 00-1139 by Rep. Mace; Sen. Feeley--Appointment Of Guardians

Laid over until Tuesday, March 7, retaining its place on the calendar.

HB 00-1108 by Rep. Ragsdale; Sen. Evans--Foster Care & Adoption Of Siblings

Laid over until Thursday, March 9, retaining its place on the calendar.

HB 00-1138 by Rep. Leyba; Sen. Linkhart--Ltd Liability Of Foster Care Providers

Amendment No. 1, Judiciary Committee Amendment
(Printed in Senate Journal, February 29, page 452.)

Amendment No. 2, by Senator Linkhart

Amend the Judiciary Committee amendment, as printed in Senate Journal, February 29, page 452, strike lines 17 through 23 and substitute the following:

"Page 2, strike lines 1 through 5 and substitute the following:

"(1) IF A PLAINTIFF BRINGING A CIVIL ACTION ON BEHALF OF A FOSTER CHILD AGAINST A FOSTER CARE PROVIDER FOR ANY ACTS OR OMISSIONS COMMITTED BY THE FOSTER CHILD WHILE IN THE CARE OF THE FOSTER

CARE PROVIDER IS A BIOLOGICAL OR ADOPTIVE PARENT OR OTHER
RELATIVE OF THE FOSTER";".

As amended, ordered revised and placed on the calendar for Third Reading and Final
Passage.

HB 00-1268 by Rep. McKay; Senator Teck--Property Tax Assessment

Laid over until Tuesday, March 7, retaining its place on the calendar.

HB 00-1191 by Rep. Clarke; Senator Andrews--Treasury Withholding Judge's Salary

Ordered revised and placed on the calendar for Third Reading and Final Passage.

SB 00-195 by Sen. Chlouber--Professional Competencies of Educators

Amendment No. 1, Education Committee Amendment
(Printed in Senate Journal, March 2, page 466.)

As amended, ordered engrossed and placed on the calendar for Third Reading and Final
Passage.

HB 00-1315 by Rep. Allen; Sen. Hillman--Standards For Recycled Wastewater

Laid over until Tuesday, March 7, retaining its place on the calendar.

HB 00-1277 by Rep. Dean; Sen. Sullivant--Condemnation By Park & Rec District

Amendment No. 1, Local Government Committee Amendment
(Printed in Senate Journal, March 2, page 467.)

As amended, laid over until Thursday, March 9, retaining its place on the calendar.

HB 00-1290 by Rep. Gotlieb; Senator Wattenberg--Extension Of Water Quality Permit Fees

Ordered revised and placed on the calendar for Third Reading and Final Passage.

HB 00-1309 by Rep. Mitchell; Senator Teck--Junk Email Law

Laid over until Tuesday, March 7, retaining its place on the calendar.

HB 00-1048 by Rep. Mitchell; Sen. Arnold--Continue Checkoff For Special Olympics

Laid over until Tuesday, March 7, retaining its place on the calendar.

HB 00-1286 by Rep. Webster; Senator Chlouber--Protection Of Livestock

Amendment No. 1, by Senator Wattenberg

Amend reengrossed bill, page 3, after line 5, insert the following:

"SECTION 4. Repeal. 35-41-104 (10) and 35-57.8-109, Colorado Revised Statutes, are repealed."

Renumber succeeding sections accordingly.

As amended, ordered revised and placed on the calendar for Third Reading and Final Passage.

ADOPTION OF THE REPORT OF THE COMMITTEE OF THE WHOLE

On motion of Senator Wattenberg, the Report of the Committee of the Whole was adopted and, a majority of all members elected having voted in the affirmative, the following action was taken:

HB00-1058, HB00-1038, HB00-1191, HB00-1290 declared passed on Second Reading. SB00-195, as amended; HB00-1047, as amended, HB00-1151, as amended; HB00-1138, as amended; HB00-1286, as amended, declared passed on Second Reading. SCR00-002, HB00-1267, HB00-1216, HB00-1029, HB00-1139, HB00-1268, HB00-1315, HB00-1309, HB00-1048 laid over until Tuesday, March 7, retaining their place on the calendar. HB00-1108 laid over until Thursday, March 9, retaining its place on the calendar. HB00-1277, as amended, laid over until Thursday, March 9, retaining its place on the calendar.

On motion of Senator Blickensderfer, and with a two-thirds majority of those elected to the Senate having voted in the affirmative, HB00-1211, HB00-1283, HB00-1324, HB00-1325, HB00-1271 were made Special Orders at 11:25 a.m.

Committee of the Whole The hour of 11:25 a.m. having arrived, Senator Wattenberg moved that the Senate resolve itself into Committee of the Whole for consideration of Special Orders and Senator Wattenberg was called to the Chair to act as Chairman.

SPECIAL ORDERS--SECOND READING OF BILLS--11:25 A.M.

The Committee of the Whole having risen, the Chairman reported that the following bills, reading at length having been dispensed with by unanimous consent, had been considered and action taken thereon as follows:

HB 00-1324 by Rep. Larson; Sen. Dyer--Intergovt Agrmt So Ute On Air Quality

Ordered revised and placed on the calendar for Third Reading and Final Passage.

HB 00-1325 by Rep. Larson; Sen. Dyer--So Ute & Colo Environmtal Commn (Local Government Committee Amendment as printed in Senate Journal, March 3, page 476, declared LOST on Second Reading.)

Ordered revised and placed on the calendar for Third Reading and Final Passage.

HB 00-1271 by Rep. Mitchell; Senator Anderson--Divide Special Districts Into Areas

Amendment No. 1, Local Government Committee Amendment (Printed in Senate Journal, March 3, pages 476-477.)

As amended, ordered revised and placed on the calendar for Third Reading and Final Passage.

HB 00-1211 by Rep. Hoppe; Sen. Wattenberg--Modify Special Fuel Tax Refund

Ordered revised and placed on the calendar for Third Reading and Final Passage.

HB 00-1283 by Rep. Sinclair; Sen. Wattenberg--Fire Management

Laid over until Tuesday, March 7, retaining its place on the calendar.

ADOPTION OF THE REPORT OF THE COMMITTEE OF THE WHOLE

On motion of Senator Wattenberg, the Report of the Committee of the Whole was adopted and, a majority of all members elected having voted in the affirmative, the following action was taken:

HB00-1324, HB00-1325, HB00-1211 declared passed on Second Reading.
 HB00-1271, as amended, declared passed on Second Reading.
 HB00-1283 laid over until March 7 retaining its place on the calendar.

On motion of Senator Blickensderfer, and with a majority of those elected to the Senate having voted in the affirmative, the balance of the calendar of Monday, March 6, was laid over until Tuesday, March 7, retaining its place on the calendar.

Senate in recess.

Senate reconvened.

SENATE SERVICES REPORT

Senate Services To the governor for signature on Monday, March 6, 2000, at 1:55 pm: SB 00-002, 043, 051, 077.

COMMITTEE OF REFERENCE REPORTS

Health, Environment, Welfare and Institutions After consideration on the merits, the committee recommends that HB00-1297 be amended as follows and, as so amended, be referred to the Committee of the Whole with favorable recommendation:

Amend reengrossed bill, page 2, strike lines 2 through 8 and substitute the following:

"SECTION 1. 25-1-210, Colorado Revised Statutes, is amended to read:

25-1-210. Reports. The division shall submit a report not later than ~~January 1~~ NOVEMBER 1 of each year to the house and senate committees on health, environment, welfare, and institutions on the costs and effectiveness of alcohol and drug abuse programs in this state and on recommended legislation in the field of alcohol and drug abuse."

Page 3, strike lines 10 through 26 and substitute the following:

"SECTION 3. 25-3.5-606, Colorado Revised Statutes, is amended to read:

25-3.5-606. Annual report. No later than January 1, 1991, and prior to ~~January 1~~ NOVEMBER 1 of each year thereafter, the department, in cooperation with the council, shall submit a report to the health, environment, welfare, and institutions committees and the joint budget committee of the general assembly on the moneys credited to the emergency medical services account and on the expenditure of such moneys during the preceding fiscal year. Such report shall contain a listing of the grant recipients, proposed projects, and a statement of the short-term and long-term planning goals of the department, the EMS division, and the council to further implement the provisions of this part 6.

SECTION 4. 25-3.5-709, Colorado Revised Statutes, is amended

to read:

25-3.5-709. Annual report. No later than January 1, 1999, and prior to ~~January 1~~ NOVEMBER 1 of each year thereafter, the department, in cooperation with the trauma council, the EMS council, and where appropriate, the joint council, shall submit a report to the health, environment, welfare, and institutions committees and the joint budget committee of the general assembly on the quality of the statewide trauma care system. Such report shall include an evaluation of each component of the statewide trauma care system and any recommendation for legislation concerning the statewide trauma care system or any component thereof."

Page 4, strike lines 1 through 6.

Page 5, strike lines 14 through 26.

Page 6, strike lines 1 through 18.

Renumber succeeding sections accordingly.

Page 1, line 101, strike "HOUSE HEALTH, EDUCATION," and substitute "HEALTH, ENVIRONMENT,";

line 102 strike "COMMITTEE" and substitute "COMMITTEES".

Trans-
portation

After consideration on the merits, the committee recommends that HB00-1105 be amended as follows and, as so amended, be referred favorably to the Committee of the Whole with favorable recommendation:

Amend reengrossed bill, page 2, line 6, after "legible.", insert "A TEMPORARY MOTOR VEHICLE REGISTRATION PLATE OR EXTENDED TEMPORARY MOTOR VEHICLE REGISTRATION PERMIT MAY BE DISPLAYED IN A WINDOW INSIDE THE VEHICLE AS LONG AS THE PLATE OR PERMIT IS CLEARLY LEGIBLE FROM THE EXTERIOR OF THE VEHICLE.";

line 9, strike "BEFORE BEING FASTENED TO THE VEHICLE TO WHICH" and substitute "IF FASTENED TO THE EXTERIOR OF THE VEHICLE TO WHICH".

Page 3, line 12, strike "DIRECT" and substitute "ACTUAL".

Trans-
portation

After consideration on the merits, the committee recommends that the following be referred favorably to the Committee on Appropriations: HB00-1167

Trans-
portation

After consideration on the merits, the committee recommends that HB00-1298 be amended as follows and, as so amended, be referred to the Committee on Appropriations with favorable recommendation:

Amend reengrossed bill, page 2, strike lines 23 through 26 and substitute the following:

"TIME PERIOD STATED IN THE AFFIDAVIT. SUCH AFFIDAVIT OF".

Page 3, strike lines 8 through 18.

Renumber succeeding sections accordingly.

Education	After consideration on the merits, the committee recommends that <u>HB00-1040</u> be	1
	amended as follows and, as so amended, be referred to the Committee of the Whole with	2
	favorable recommendation:	3
		4
	Amend reengrossed bill, page 2, line 6, strike "DISTRICT," and substitute	5
	"DISTRICT DESCRIBED IN PARAGRAPH (c) OF THIS SUBSECTION (1),";	6
		7
	line 10, after "OPPORTUNITY" insert "AND QUALITY";	8
		9
	line 11, strike "OR" and substitute "AND";	10
		11
	after line 25, insert the following:	12
		13
	"(c) A PRINCIPAL OF A PUBLIC SCHOOL MAY INITIATE A REQUEST	14
	FOR A WAIVER PURSUANT TO THIS SECTION AND SHALL SUBMIT SUCH	15
	REQUEST TO THE SUPERINTENDENT AND THE BOARD OF EDUCATION OF THE	16
	SCHOOL DISTRICT IN WHICH THE PUBLIC SCHOOL IS LOCATED. SUCH	17
	WAIVER, IF GRANTED, SHALL BE LIMITED IN APPLICATION TO THE PUBLIC	18
	SCHOOL, UNLESS OTHERWISE DESIGNATED BY THE SCHOOL DISTRICT. THE	19
	SCHOOL DISTRICT MAY CHOOSE EITHER TO ADOPT SUCH REQUEST AND	20
	APPLY TO THE STATE BOARD FOR A WAIVER PURSUANT TO THIS SECTION OR	21
	NOT ADOPT SUCH REQUEST.	22
		23
	(d) THE PROVISIONS OF THIS SECTION SHALL APPLY ONLY TO A	24
	SCHOOL DISTRICT IF THE DISTRICT'S FUNDED PUPIL COUNT, AS DEFINED IN	25
	SECTION 22-54-104 (7), IS LESS THAN THREE THOUSAND."	26
State, Veterans, and Military Affairs	Page 3, line 2, strike "MEETING," and substitute "MEETING INCLUDING A	27
	PUBLIC HEARING,";	28
		29
	after line 4, insert the following:	30
		31
	"THE SCHOOL DISTRICT BOARD OF EDUCATION SHALL POST NOTICE OF	32
	SUCH PUBLIC MEETING IN THREE PUBLIC PLACES WITHIN THE DISTRICT FOR	33
	A PERIOD OF NOT LESS THAN THIRTY CALENDAR DAYS PRIOR TO SUCH	34
	MEETING, GIVING THE TIME AND LOCATION OF SUCH MEETING AND A	35
	DESCRIPTION OF THE WAIVER REQUEST, AND, IF A NEWSPAPER IS	36
	PUBLISHED WITHIN THE COUNTY, SHALL PUBLISH SUCH NOTICE ONCE EACH	37
	WEEK FOR AT LEAST FOUR WEEKS PRIOR TO THE MEETING IN SUCH	38
	NEWSPAPER.";	39
		40
	line 5, strike "MEETING," and substitute "MEETING AND HEARING,";	41
		42
	line 17, strike "MEETING." and substitute "MEETING AND HEARING.".	43
		44
		45
		46
	After consideration on the merits, the committee recommends that <u>SB00-164</u> be	47
	amended as follows and, as so amended, be referred to the Committee of the Whole	48
	with favorable recommendation:	49
		50
	Amend printed bill, strike everything below the enacting clause, and	51
	substitute the following:	52
		53
	"SECTION 1. 23-3.1-201, Colorado Revised Statutes, is	54
	amended to read:	55
		56
		57
	23-3.1-201. Legislative declaration. The general assembly	58
	hereby declares that the availability of improved access to and choice of	59
	higher education opportunities in this state will benefit the residents of	60
	the state and that the establishment of a student obligation bond program,	61
	with proceeds of bonds to be used for the purchase or making of student	62
	obligations or the making of authority loans, and the establishment of a	63
	PREPAID postsecondary education expense program will enhance the	64
	availability of student obligations and assist residents in meeting the	65
	expenses incurred in availing themselves of higher education	66
	opportunities. It is the intent of the general assembly in enacting this part	67
	2 to create the Colorado student obligation bond authority, which SHALL	68
	BE A DIVISION WITHIN THE DEPARTMENT OF HIGHER EDUCATION AND	69
	WHICH AUTHORITY shall make or purchase student obligations, shall make	70
	authority loans, and shall develop and administer a PREPAID	71
	postsecondary education expense program. and to vest the authority with	72

~~powers to enable the authority to accomplish such purposes.~~ This part 2 shall be liberally construed to accomplish the intentions expressed in this section.

SECTION 2. 23-3.1-202, Colorado Revised Statutes, is amended to read:

23-3.1-202. Definitions. As used in this part 2, unless the context otherwise requires:

(1) "Advance payment contract" means a contract entered into by the authority, as defined in subsection (1.2) of this section, and a purchaser in connection with the prepaid POSTSECONDARY EDUCATION expense program as authorized in section 23-3.1-206.7.

(1.2) "Authority", PRIOR TO JULY 1, 2000, means the Colorado student obligation bond authority ~~created by~~ EXISTING AS AN INDEPENDENT PUBLIC BODY POLITIC IN ACCORDANCE WITH section 23-3.1-203. ON AND AFTER JULY 1, 2000, "AUTHORITY" MEANS THE COLORADO STUDENT OBLIGATION BOND AUTHORITY TRANSFERRED TO THE DEPARTMENT OF HIGHER EDUCATION AND EXISTING AS A DIVISION OF THAT DEPARTMENT PURSUANT TO SECTION 23-3.1-203.

(1.5) "Authority loan" means a loan made by the authority, from bond proceeds or other moneys available, to one or more institutions of higher education located in Colorado, to a Colorado nonprofit corporation acting on behalf of one or more of such institutions of higher education, to the division, or to purchasers and made for the purpose of funding student obligations or payments to be made under advance payment contracts.

(2) "Board" means the board of directors of the authority.

(3) "Bond" means any bond, note, debenture, interim certificate, or other evidence of indebtedness authorized to be issued by the authority pursuant to this part 2, including refunding bonds.

(4) "Bond resolution" means the resolution authorizing the issuance of or providing the terms and conditions related to bonds issued pursuant to this part 2 and includes any trust agreement or trust indenture providing terms and conditions for such bonds.

(4.1) "BOOK VALUE" MEANS THE PURCHASE PRICE OR COST OF ALL ASSETS OF THE COLORADO PREPAID POSTSECONDARY EDUCATION EXPENSE TRUST FUND AND, IN THE CASE OF RECEIVABLES UNDER THE ADVANCE PAYMENT CONTRACTS, THE PRESENT VALUE OF FUTURE PAYMENTS RECEIVABLE AS DETERMINED BY THE BOARD.

(4.2) "Depositor" means any person who makes deposits in accordance with a savings contract.

(4.3) "DIRECTOR" MEANS THE EXECUTIVE OFFICER OF THE COLORADO STUDENT OBLIGATION BOND AUTHORITY APPOINTED PRIOR TO JULY 1, 2000, IN ACCORDANCE WITH SECTION 23-3.1-203 AND, ON AND AFTER JULY 1, 2000, IN ACCORDANCE WITH SECTION 23-3.1-203.

~~(4.4) "Education expense program" means the Colorado postsecondary education expense program created under this part 2, which may include a prepaid expense program or a savings program, or both.~~

~~(4.5) "Executive director" means the executive director of the Colorado commission on higher education.~~ "EXCESS AMOUNT" MEANS THE ASSETS IN THE PREPAID POSTSECONDARY EDUCATION EXPENSE TRUST FUND THAT THE ACTUARIAL CALCULATION UNDER SECTION 23-3.1-206.7 (5) DEMONSTRATES ARE IN EXCESS OF THE ASSETS REQUIRED TO PAY THE OBLIGATIONS OF THE PREPAID EXPENSE TRUST FUND WITH A LIKELIHOOD OF SUCH SUFFICIENCY OF AT LEAST NINETY-FIVE PERCENT.

(4.7) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HIGHER EDUCATION.

(4.9) "EXECUTIVE OFFICER", PRIOR TO JULY 1, 2000, MEANS THE EXECUTIVE OFFICER OF THE AUTHORITY. ON AND AFTER JULY 1, 2000, "EXECUTIVE OFFICER" MEANS THE DIRECTOR OF THE COLORADO STUDENT OBLIGATION BOND AUTHORITY TRANSFERRED TO THE DEPARTMENT OF HIGHER EDUCATION AND EXISTING AS A DIVISION OF THAT DEPARTMENT PURSUANT TO SECTION 23-3.1-203.

(5) ~~"Executive officer" means the executive officer of the authority.~~ "EXPECTED TUITION UNITS" MEANS THE TOTAL TUITION UNITS PAID FOR AND NOT DISTRIBUTED OR REFUNDED TOGETHER WITH THE PORTION OF TUITION UNITS AVAILABLE FOR PURCHASE UNDER OUTSTANDING ADVANCE PAYMENT CONTRACTS THAT, BASED ON AN ACTUARIAL PROJECTION, ARE EXPECTED TO BE PAID FOR AND BECOME OBLIGATIONS OF THE PREPAID POSTSECONDARY EDUCATION EXPENSE TRUST FUND.

(5.1) "Prepaid expense program" means the Colorado prepaid postsecondary education expense program authorized in section 23-3.1-206.7.

(5.2) "Prepaid expense trust fund" means the Colorado prepaid postsecondary education expense trust fund established by the authority in accordance with section 23-3.1-206.7 (5) AND TRANSFERRED ON JULY 1, 2000, PURSUANT TO SECTION 23-3.1-206.7 (5).

(5.3) "Purchaser" means a person who makes or is obligated to make a payment or payments in accordance with an advance payment contract on behalf of a qualified beneficiary.

(5.5) "Qualified beneficiary" means a person identified in an advance payment contract ~~or a savings contract~~ as the recipient of moneys or benefits to be disbursed in accordance with an advance payment contract. ~~or a savings contract.~~

(5.6) ~~"Savings contract" means a contract entered into by the authority and a depositor in connection with the savings program.~~

(5.7) ~~"Savings program" means the Colorado postsecondary education expense savings program authorized by section 23-3.1-206.7.~~

(5.8) ~~"Savings trust fund" means the Colorado postsecondary education expense savings trust fund established by the authority in accordance with section 23-3.1-206.7 (5).~~

(5.9) "State institution" shall have the same meaning as provided in section 23-3.3-101 (4).

(6) "Student" means a student who, under rules promulgated by the division, is enrolled or accepted for enrollment at an eligible institution and who is making suitable progress in his OR HER education toward obtaining a degree or other appropriate certification in accordance with standards promulgated by the division.

(7) "Student obligations" means student obligation notes and other debt obligations evidencing loans to residents for higher education purposes, or to any person for the purposes of consolidating or refinancing loans for higher education purposes, which are either guaranteed student loans, educational loans, or loans eligible for consolidation or refinancing under Part B of Title IV of the federal "Higher Education Act of 1965", as amended, which the authority may make, acquire, buy, sell, or endorse pursuant to this part 2, or which one or more institutions of higher education located in Colorado, or a Colorado nonprofit corporation acting on behalf of one or more of such institutions of higher education, or the division may make from or in anticipation of an authority loan and which include a direct or indirect interest, in whole or part, of the notes or obligations.

(8) "Tuition" means the quarter, semester, or term charges imposed by a state institution on residents of the state and such fees or charges as may be included in the advance payment contract at the option of the authority.

SECTION 3. 23-3.1-203, Colorado Revised Statutes, is amended to read:

23-3.1-203. Authority - creation - membership - transfer of personnel. (1) ~~There is hereby created an independent public body politic and corporate to be known as the Colorado student obligation bond authority. Said authority is constituted a public instrumentality, and its exercise of the powers conferred by this part 2 shall be deemed and held to be the performance of an essential public function. The authority shall be a body corporate and a political subdivision of the state and shall not be an agency of state government and shall not be subject to administrative direction by any department, commission, board, or agency of the state. EFFECTIVE JULY 1, 2000, THE COLORADO STUDENT OBLIGATION BOND AUTHORITY, AS IT EXISTED PRIOR TO JULY 1, 2000, SHALL BE TRANSFERRED TO THE DEPARTMENT OF HIGHER EDUCATION, AND SHALL BECOME A DIVISION THEREOF. EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, ON AND AFTER JULY 1, 2000, THE AUTHORITY SHALL EXERCISE ITS POWERS, DUTIES, AND FUNCTIONS UNDER THE DEPARTMENT OF HIGHER EDUCATION AS IF IT WERE TRANSFERRED BY A TYPE 2 TRANSFER UNDER THE PROVISIONS OF THE "ADMINISTRATIVE ORGANIZATION ACT OF 1968", ARTICLE 1 OF TITLE 24, C.R.S. THE DIRECTOR SHALL BE APPOINTED BY THE EXECUTIVE DIRECTOR AND SHALL FUNCTION AS THE EXECUTIVE OFFICER OF THE AUTHORITY. THE DIRECTOR, WITH THE APPROVAL OF THE EXECUTIVE DIRECTOR, SHALL EMPLOY SUCH PROFESSIONAL AND CLERICAL PERSONNEL AS MAY BE DEEMED NECESSARY TO CARRY OUT THE DUTIES AND FUNCTIONS OF THE AUTHORITY. SUCH PERSONNEL SHALL RECEIVE COMPENSATION FOR THEIR SERVICES AS DETERMINED BY THE DIRECTOR. THE DIRECTOR AND ALL PERSONNEL OF THE AUTHORITY ARE DECLARED TO HOLD EDUCATIONAL OFFICES AND TO BE EXEMPT FROM THE STATE PERSONNEL SYSTEM.~~

(2) (a) ~~The governing body of the authority shall be a board of directors which shall consist of nine members. Members shall be appointed by the governor, with the consent of the senate. Such members shall be residents of the state. No more than five of the members shall be of the same political party. All appointments made on or after July 1, 1984, and prior to June 15, 1987, shall be for terms of six years; except that the three members appointed on July 1, 1984, shall serve for terms of four, five, and six years, respectively. In addition, the three members appointed on July 1, 1984, and their successors, shall be appointed from among persons who are or have recently been responsible for the development of higher education policy in Colorado. Persons holding office on June 15, 1987, are subject to the provisions of section 24-1-137, C.R.S. Thereafter the term of office of each member shall be four years. EFFECTIVE JULY 1, 2000, THE BOARD OF DIRECTORS OF THE AUTHORITY, AS IT EXISTED PRIOR TO JULY 1, 2000, SHALL BE TRANSFERRED TO THE AUTHORITY IN THE DEPARTMENT OF HIGHER EDUCATION. THE BOARD SHALL CONTINUE TO CONSIST OF NINE MEMBERS WHO SHALL CONTINUE TO BE APPOINTED BY THE GOVERNOR, WITH THE CONSENT OF THE SENATE. SUCH MEMBERS SHALL BE RESIDENTS OF THE STATE. THE TERM OF OFFICE OF EACH MEMBER SHALL BE FOUR YEARS. All terms shall expire on June 30 of the last year of the term. Each member shall serve until his OR HER successor has been appointed by the governor and qualified. Any member shall be eligible for reappointment. The governor shall fill any vacancy by appointment for the remainder of an unexpired term. Any member appointed by the governor when the general assembly is not in regular session, whether appointed for an unexpired term or for a full term, shall be deemed to be duly appointed and qualified until the appointment of such member is approved or rejected by the senate. Such appointment shall be submitted to the senate for its approval or rejection during the next regular session of the general assembly following the appointment.~~

(b) Any member of the board appointed by the governor may be removed by the governor. ~~for misfeasance, malfeasance, willful neglect of duty, or other cause, after notice and a public hearing, unless such notice and hearing have been expressly waived in writing.~~

SECTION 4. 23-3.1-204, Colorado Revised Statutes, is amended to read:

23-3.1-204. Organizational meeting - chairperson - surety bond

- conflict of interest. (1) ~~(a)~~ ON OR BEFORE JULY 15, 2000, a member of the board, designated by the governor, shall call and convene the initial organizational meeting of the board AFTER TRANSFER OF THE AUTHORITY TO THE DEPARTMENT and shall serve as its ~~chairman~~ CHAIRPERSON pro tempore. At such meeting, appropriate bylaws shall be presented for adoption. The bylaws may provide for ~~the election or appointment of officers;~~ the delegation of certain powers and duties and such other matters as the authority deems proper. At such meeting, and annually thereafter, the board shall elect one of its members as ~~chairman~~ CHAIRPERSON and one as ~~vice-chairman~~ VICE-CHAIRPERSON.

~~(b) The authority shall appoint an executive officer and such other personnel as it deems necessary including an associate executive officer who shall not be members of the board and who shall serve at its pleasure. They shall receive such compensation for their services as determined by the board.~~

(2) ~~The executive officer, the associate executive officer~~ DIRECTOR or any other person designated by the board shall keep a record of the proceedings of the board and shall be custodian of all books, documents, and papers filed with the board AND the minute books or journal of the board. ~~and its official seal. Said executive officer, associate executive officer, DIRECTOR or other person may cause copies to be made of all minutes and other records and documents of the board and may give certificates under the official seal of the authority to the effect that such copies are true copies and all persons dealing with the authority may rely on such certificates.~~

(3) The board may delegate, by resolution, to one or more of its members or to its ~~executive officer or associate executive officer~~ DIRECTOR such powers and duties as it may deem proper and to its ~~executive officer or associate executive officer, DIRECTOR or any other person designated by the board, the power to fix the interest rates of any particular issue, subject to such limitations as shall be prescribed by the board by resolution.~~

(4) Before the issuance of any bonds under this part 2, the ~~executive officer and associate executive officer~~ DIRECTOR shall each execute a surety bond in the penal sum of one hundred thousand dollars, and each member of the board shall execute a surety bond in the penal sum of fifty thousand dollars or, in lieu thereof, the ~~chairman~~ CHAIRPERSON of the board shall execute a blanket bond covering each member of the board, the ~~executive officer, the associate executive officer, DIRECTOR, and the employees of the authority, each surety bond to be conditioned upon the faithful performance of the duties of the office covered, to be executed by a surety authorized to transact business in this state as surety. The cost of each such bond shall be paid by the authority.~~

(5) Any member of the board shall disqualify himself OR HERSELF from voting on any issue in which he OR SHE has a conflict of interest unless such member has disclosed such conflict of interest in compliance with section 18-8-308, C.R.S.

SECTION 5. 23-3.1-205, Colorado Revised Statutes, is amended to read:

23-3.1-205. Meetings of board - quorum - expenses. (1) ~~Until July 1, 1984, six members of the board shall constitute a quorum for the purpose of conducting business and exercising its powers and, thereafter, five members shall constitute such a quorum. Action may be taken by the board upon the affirmative vote of at least six of its members until July 1, 1984, and by five of its members thereafter. FIVE MEMBERS OF THE BOARD SHALL CONSTITUTE A QUORUM. ACTION MAY BE TAKEN BY THE BOARD UPON THE AFFIRMATIVE VOTE OF AT LEAST FIVE OF ITS MEMBERS. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the board.~~

(2) Pursuant to part 4 of article 6 of title 24, C.R.S., each meeting of the board shall be open to the public. Notice of meetings shall be as provided in ACCORDANCE WITH APPLICABLE LAW. ~~the bylaws of the authority. If a meeting of the board is called for the sole purpose of adopting resolutions authorizing the issuance of bonds, notes, bond~~

~~anticipation notes, or other obligations by the authority,~~ One or more members of the board may participate in ~~such~~ ANY BOARD meeting and may vote on ~~such~~ resolutions through the usage of telecommunications devices, including, but not limited to, the usage of a conference telephone or similar communications equipment. Such participation through telecommunications devices shall constitute presence in person at such meeting. Such use of telecommunications shall not supersede any requirements for public hearing otherwise provided by law. Resolutions need not be published or posted, but resolutions and all proceedings and other acts of the board shall be a public record.

(3) Members of the board shall receive no compensation for services but shall be entitled to the necessary expenses, including traveling and lodging expenses, incurred in the discharge of their official duties. Any payments for compensation and expenses shall be paid from funds of the authority.

SECTION 6. Article 3.1 of title 23, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

23-3.1-205.3. Transfer of property. (1) ON JULY 1, 2000, ALL ITEMS OF PROPERTY, REAL AND PERSONAL, INCLUDING OFFICE FURNITURE AND FIXTURES, BOOKS, DOCUMENTS, FUNDS AND ACCOUNTS, AND RECORDS OF THE COLORADO STUDENT OBLIGATION BOND AUTHORITY SHALL BE TRANSFERRED WITH THE COLORADO STUDENT OBLIGATION BOND AUTHORITY TO THE DEPARTMENT OF HIGHER EDUCATION, AND SHALL REMAIN THE PROPERTY OF THE AUTHORITY.

(2) AMOUNTS IN THE EXISTING ADMINISTRATIVE FUND OF THE AUTHORITY TRANSFERRED ON JULY 1, 2000, SHALL BE DEPOSITED AS PROVIDED IN SECTION 23-3.1-205.4. FUNDS OF THE AUTHORITY HELD BY A CORPORATE TRUSTEE PURSUANT TO A TRUST INDENTURE SHALL CONTINUE TO BE HELD AND INVESTED IN ACCORDANCE WITH SUCH TRUST INDENTURE. THE PREPAID TUITION EXPENSE FUND SHALL BE TRANSFERRED TO BE HELD BY THE STATE TREASURY AND SHALL BE ADMINISTERED IN ACCORDANCE WITH THE PROVISIONS OF THIS PART 2.

(3) ON AND AFTER JULY 1, 2000, WHENEVER THE COLORADO STUDENT OBLIGATION BOND AUTHORITY OR THE BOARD OF DIRECTORS OF THE COLORADO STUDENT OBLIGATION BOND AUTHORITY IS REFERRED TO OR DESIGNATED BY ANY CONTRACT OR OTHER DOCUMENT OR IN OTHER STATE STATUTORY PROVISIONS, SUCH REFERENCE OR DESIGNATION SHALL BE DEEMED TO APPLY TO THE COLORADO STUDENT OBLIGATION BOND AUTHORITY AS A DIVISION OF THE DEPARTMENT OF HIGHER EDUCATION PURSUANT TO SECTION 23-3.1-203. ALL CONTRACTS ENTERED INTO BY THE COLORADO STUDENT OBLIGATION BOND AUTHORITY OR ITS BOARD PRIOR TO JULY 1, 2000, ARE HEREBY VALIDATED, WITH THE COLORADO STUDENT OBLIGATION BOND AUTHORITY IN THE DEPARTMENT OF HIGHER EDUCATION SUCCEEDING TO ALL RIGHTS AND ASSUMING ALL OBLIGATIONS UNDER SUCH CONTRACTS.

(4) NO SUIT, ACTION, OR OTHER JUDICIAL OR ADMINISTRATIVE PROCEEDING LAWFULLY COMMENCED PRIOR TO JULY 1, 2000, OR THAT COULD HAVE BEEN COMMENCED PRIOR TO SAID DATE, BY OR AGAINST THE COLORADO STUDENT OBLIGATION BOND AUTHORITY, ITS BOARD OF DIRECTORS, OR ANY OFFICER THEREOF IN SUCH OFFICER'S OFFICIAL CAPACITY OR IN RELATION TO THE DISCHARGE OF THE OFFICIAL'S DUTIES SHALL ABATE BY REASON OF THE TRANSFER OF THE AUTHORITY AND ITS BOARD TO THE DEPARTMENT OF HIGHER EDUCATION.

23-3.1-205.4. Colorado student obligation bond authority fund - creation - control - use. (1) THERE IS HEREBY CREATED IN THE STATE TREASURY THE COLORADO STUDENT OBLIGATION BOND AUTHORITY FUND WHICH SHALL BE UNDER THE CONTROL OF THE AUTHORITY IN ACCORDANCE WITH THE PROVISIONS OF THIS PART 2 AND PART 3 OF THIS ARTICLE. THE MONEYS IN THE COLORADO STUDENT OBLIGATION BOND AUTHORITY FUND SHALL BE INVESTED BY THE STATE TREASURER. EXCEPT AS OTHERWISE ALLOWED BY SECTION 24-36-103 (2), C.R.S., AND EXCEPT FOR AMOUNTS RECEIVED IN CONNECTION WITH THE PREPAID EXPENSE PROGRAM AND THE PROGRAM IN PART 3 OF THIS ARTICLE, OTHER THAN AMOUNTS RELATED TO REASONABLE ADMINISTRATIVE FEES AND CHARGES,

ALL MONEYS RECEIVED OR ACQUIRED BY THE AUTHORITY, WHETHER BY APPROPRIATION, GRANT, CONTRACT, GIFT, BY SALE OR LEASE OF SURPLUS REAL OR PERSONAL PROPERTY, OR BY ANY OTHER MEANS, WHOSE DISPOSITION IS NOT OTHERWISE PROVIDED FOR BY LAW OR BY A TRUST INDENTURE, AND ALL INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THE FUND SHALL BE CREDITED TO SAID FUND, INCLUDING MONEYS RECEIVED PURSUANT TO SECTIONS 23-3.1-206 (1) (k) AND 23-3.1-304 (1) (h). THE MONEYS IN THE FUND ARE HEREBY CONTINUOUSLY APPROPRIATED TO THE AUTHORITY AND SHALL REMAIN IN THE FUND AND SHALL NOT BE TRANSFERRED OR REVERT TO THE GENERAL FUND OF THE STATE AT THE END OF ANY FISCAL YEAR.

(2) THE MONEYS IN THE COLORADO STUDENT OBLIGATION BOND AUTHORITY FUND MAY BE USED BY THE AUTHORITY FOR THE PAYMENT OF SALARIES AND OPERATING AND ADMINISTRATIVE EXPENSES OF THE AUTHORITY AND FOR THE PAYMENT OF ANY OTHER OBLIGATIONS INCURRED BY THE AUTHORITY IN CARRYING OUT ITS STATUTORY POWERS AND DUTIES.

(3) THE MONEYS IN THE COLORADO STUDENT OBLIGATION BOND AUTHORITY FUND THAT ARE NOT NEEDED FOR IMMEDIATE USE BY THE AUTHORITY MAY BE INVESTED BY THE STATE TREASURER IN INVESTMENTS AUTHORIZED BY SECTIONS 24-36-109, 24-36-112, AND 24-36-113, C.R.S. THE AUTHORITY SHALL DETERMINE THE AMOUNT OF MONEYS IN THE FUND THAT MAY BE INVESTED AND SHALL NOTIFY THE STATE TREASURER IN WRITING OF SUCH AMOUNT.

23-3.1-205.5. Colorado student obligation bond authority - enterprise status. (1) THE AUTHORITY SHALL CONSTITUTE AN ENTERPRISE FOR THE PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, SO LONG AS THE AUTHORITY RETAINS THE ABILITY TO ISSUE REVENUE BONDS AND THE AUTHORITY RECEIVES LESS THAN TEN PERCENT OF ITS TOTAL ANNUAL REVENUES IN GRANTS, AS DEFINED IN SECTION 24-77-102 (7), C.R.S., FROM ALL COLORADO STATE AND LOCAL GOVERNMENTS COMBINED. SO LONG AS IT CONSTITUTES AN ENTERPRISE PURSUANT TO THIS SUBSECTION (1), THE AUTHORITY SHALL NOT BE SUBJECT TO ANY PROVISIONS OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION. AGREEMENTS BETWEEN THE AUTHORITY AND THE STUDENT LOAN DIVISION IN THE DEPARTMENT OF HIGHER EDUCATION FOR THE GUARANTEE OF PAYMENT OF STUDENT LOANS ARE NOT GRANTS FOR PURPOSES OF THE DEFINITION OF ENTERPRISE UNDER SECTION 20 (2) (d) OF ARTICLE X OF THE STATE CONSTITUTION.

(2) FOR PURPOSES OF PART 2 OF ARTICLE 72 OF TITLE 24, C.R.S., THE RECORDS OF THE AUTHORITY AND THE BOARD SHALL BE PUBLIC RECORDS, AS DEFINED IN SECTION 24-72-202 (6), C.R.S., EXCEPT TO THE EXTENT OTHERWISE SPECIFIED BY LAW, REGARDLESS OF WHETHER THE AUTHORITY AND THE BOARD CONSTITUTE AN ENTERPRISE PURSUANT TO SUBSECTION (1) OF THIS SECTION.

23-3.1-205.7. Department of higher education - executive director of the commission - powers and duties. THE EXECUTIVE DIRECTOR SHALL HAVE SUCH POWERS AND DUTIES AS ARE NOT OTHERWISE GRANTED TO THE AUTHORITY IN THIS PART 2 AND IN PART 3 OF THIS ARTICLE, AND SHALL ALSO HAVE ALL POWERS AND DUTIES NECESSARY TO OVERSEE THE AUTHORITY, INCLUDING, BUT NOT LIMITED TO, ITS MANAGEMENT AND DIRECTION.

SECTION 7. 23-3.1-206, Colorado Revised Statutes, is amended to read:

23-3.1-206. General powers and duties of the authority. (1) In addition to any other powers AND DUTIES specifically granted to the authority in this part 2, the authority has the following powers:

- (a) ~~To have perpetual existence and succession as a body politic and corporate;~~
- (b) To adopt and from time to time amend or repeal ~~bylaws~~ POLICIES for the regulation of its affairs and the conduct of its business, consistent with the provisions of this part 2;

- (c) ~~To sue and be sued;~~
- (d) ~~To have and to use a seal and to alter the same at pleasure;~~
- (e) ~~To maintain an office at such place as it may designate;~~
- (f) To borrow money and issue bonds, notes, bond anticipation notes, or other obligations ~~for any of its corporate purposes~~ and to fund or refund such obligations as provided in this part 2;
- (g) SUBJECT TO THE APPROVAL OF THE EXECUTIVE DIRECTOR, to engage the services of private consultants and legal counsel and to otherwise contract with providers to render professional and technical assistance, advice, and other services in carrying out the purposes of this part 2 AND PART 3 OF THIS ARTICLE WITHOUT REGARD TO THE PROVISIONS OF THE "PROCUREMENT CODE", ARTICLES 101 TO 112 OF TITLE 24, C.R.S.;
- (h) To make or participate in the making of student obligations or authority loans;
- (i) To purchase or participate in the purchase of student obligations;
- (j) To sell or participate in the sale of student obligations;
- (k) SUBJECT TO THE APPROVAL OF THE EXECUTIVE DIRECTOR, to collect and pay reasonable fees and charges in connection with making, purchasing, originating, disbursing, and servicing or causing to be made, purchased, originated, disbursed, or serviced student obligations or authority loans by the authority, including payment to the division for services performed for the authority AND PURSUANT TO PART 3 OF THIS ARTICLE WITHOUT REGARD TO THE PROVISIONS OF THE "PROCUREMENT CODE", ARTICLES 101 TO 112 OF TITLE 24, C.R.S.;
- (l) To procure ~~from the division or other sources~~ insurance, guarantees, or other credit support with respect to all student obligations made or purchased or all authority loans made by the authority;
- (m) To consent, whenever it deems it necessary or desirable in the fulfillment of its ~~corporate~~ purposes, to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms of any student obligation to which the authority is a party, but no such consent shall be made or given if its effect would be to obviate insurance coverage with respect to any student obligation;
- (n) To make and execute contracts, including advance payment contracts with purchasers ~~and savings contracts with depositors;~~ and all other instruments necessary or convenient for the exercise of its powers and functions under this part 2;
- (o) To do all things necessary and convenient to carry out the purposes of this part 2 and in connection with the servicing of student obligations by the authority including sale, public or private, to the student loan marketing association or any successor organization;
- (p) ~~To invest moneys in the prepaid expense and savings trust funds in accordance with this part 2;~~
- (q) ~~To make reasonable restrictions on the number of participants in, and to impose reasonable time limits on the use of benefits provided by, the education expense program;~~
- (r) ~~To establish and collect reasonable administrative fees and charges and impose reasonable penalties in connection with the education expense program; and~~
- (s) To establish ~~other~~ policies, procedures, and criteria to implement and administer the ~~education~~ PREPAID expense program; AND
- (t) TO ASSURE THAT NOTHING SHALL CAUSE THE AUTHORITY TO EXCEED THE LIMITATIONS PRESCRIBED IN SECTION 23-3.1-205.5.

(2) NO ACTIONS TAKEN BY THE AUTHORITY PURSUANT TO THIS SECTION SHALL BE INTERPRETED TO CONSTITUTE OR BECOME AN INDEBTEDNESS, A DEBT, OR A LIABILITY OF THE STATE, NOR SHALL ANY ACTIONS TAKEN BY THE AUTHORITY BE INTERPRETED TO CONSTITUTE THE GIVING, PLEDGING, OR LOANING OF THE FULL FAITH AND CREDIT OF THE STATE.

SECTION 8. 23-3.1-206.7, Colorado Revised Statutes, is amended to read:

23-3.1-206.7. Prepaid expense program. (1) The authority shall develop and administer, in accordance with this part 2, ~~and the rules promulgated pursuant to subsection (7) of this section,~~ the Colorado PREPAID postsecondary education expense program, which program is hereby created. Through the education PREPAID expense program, all or part of tuition or other costs, as determined by the authority, may be paid in advance of or accumulated toward enrollment at state institutions and at such other institutions of higher education and graduate schools as may be approved by the authority.

~~(2) The authority may establish a prepaid expense program or a savings program, or both, as follows:~~

~~(a) A prepaid expense program shall provide for a payment or payments by a purchaser in favor of a qualified beneficiary in accordance with and pursuant to the terms of an advance payment contract. An advance payment contract shall establish the number of credit hours for which tuition at a state institution has been contracted by the purchaser and shall specify any minimum rate of return guaranteed by the contract. The benefits to be received under any advance payment contract shall be contingent on the continuing actuarial soundness of the prepaid expense program. The amount and number of payments required to be made by a purchaser on behalf of a qualified beneficiary under an advance payment contract shall be determined by the authority based on an actuarial analysis of the prepaid expense trust fund.~~

~~(b) A savings program shall provide for deposits by a depositor in accordance with and pursuant to the terms of a savings contract. A savings contract shall specify any minimum rate of return guaranteed by the contract.~~

(3) No purchaser ~~depositor,~~ or qualified beneficiary participating in the education PREPAID expense program shall be classified as a resident for tuition purposes as a result of such participation. Purchasers ~~depositors,~~ and qualified beneficiaries shall be required to establish residency status based on the requirements of the state institution at which the qualified beneficiary is seeking to enroll.

(4) The selection by a purchaser in an advance payment contract ~~or a depositor in a savings contract~~ of a particular state institution shall not in any way constitute a promise or guarantee that a qualified beneficiary will be admitted to any particular state institution or other institution of higher education or allowed to continue enrollment in or graduate from any state institution or other institution of higher education.

(5) (a) The Colorado prepaid postsecondary education expense trust fund is hereby created. THE STATE TREASURER SHALL INVEST MONEYS IN THE PREPAID EXPENSE TRUST FUND BASED UPON THE ADVICE AND RECOMMENDATIONS OF THE AUTHORITY AND SHALL MAKE DISBURSEMENTS FROM THE PREPAID EXPENSE TRUST FUND IN CONNECTION WITH THE PREPAID EXPENSE PROGRAM BASED UPON THE DIRECTION OF THE AUTHORITY AND IN A MANNER APPROPRIATE TO CARRY OUT THE PREPAID EXPENSE PROGRAM. The prepaid expense trust fund shall consist of moneys remitted by purchasers and receivables for moneys due to be remitted in accordance with advance payment contracts, moneys acquired from governmental and private sources, and general fund appropriations, if any. All ~~interest~~ INCOME derived from the deposit and investment of moneys in the prepaid expense trust fund shall be credited to the fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the prepaid expense trust fund shall remain therein and shall not be credited or transferred to the general fund or any other fund. ON JULY 1,

2000, THE COLORADO PREPAID EXPENSE TRUST FUND, AND ALL MONEYS IN SAID FUND, INCLUDING ALL INTEREST AND EARNINGS IN SAID FUND SHALL BE TRANSFERRED WITH THE AUTHORITY AS PROVIDED IN SECTION 23-3.1-205.3. ALL MONEYS REMITTED BY PURCHASERS AND RECEIVABLES FOR MONEYS DUE TO BE REMITTED IN ACCORDANCE WITH ADVANCE PAYMENT CONTRACTS AND OTHER MONEYS RECEIVED BY THE AUTHORITY IN CONNECTION WITH THE PREPAID EXPENSE PROGRAM SHALL BE TRANSMITTED BY THE AUTHORITY TO THE STATE TREASURER AND CREDITED TO THE PREPAID EXPENSE TRUST FUND EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (e) OF THIS SUBSECTION (5). ALL INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THE PREPAID EXPENSE TRUST FUND SHALL BE CREDITED TO THE FUND. AT THE END OF ANY FISCAL YEAR, ALL UNEXPENDED AND UNENCUMBERED MONEYS IN THE PREPAID EXPENSE TRUST FUND SHALL REMAIN THEREIN AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND.

~~(b) The Colorado postsecondary education expense savings trust fund is hereby created. The savings trust fund shall consist of moneys deposited by depositors in accordance with savings contracts, moneys acquired from governmental and private sources, and general fund appropriations, if any. All interest derived from the deposit and investment of moneys in the savings trust fund shall be credited to the fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the savings trust fund shall remain therein and shall not be credited or transferred to the general fund or any other fund.~~

~~(c) The authority shall maintain the prepaid expense trust fund and the savings trust fund as separate funds. The authority shall credit all moneys remitted to the authority pursuant to advance payment contracts or otherwise received in connection with the prepaid expense program to the prepaid expense trust fund. The authority shall credit all moneys remitted to the authority pursuant to savings contracts or otherwise received in connection with the savings program to the savings trust fund. Moneys remitted to the authority in connection with the education expense program generally may be credited to either trust fund. THE STATE TREASURER SHALL MAINTAIN ON BEHALF OF THE AUTHORITY THE PREPAID EXPENSE TRUST FUND AS A SEPARATE FUND. THE STATE TREASURER SHALL CREDIT ALL MONEYS REMITTED TO THE STATE TREASURER BY THE AUTHORITY AS PROVIDED IN PARAGRAPH (a) OF THIS SUBSECTION (5) TO THE PREPAID EXPENSE TRUST FUND.~~

~~(d) The authority may invest moneys in the prepaid expense trust fund, and the savings trust fund, as provided in section 23-3.1-216 (3), and shall administer the funds in a manner appropriate to carry out the education expense program. The authority shall annually evaluate the actuarial soundness of the prepaid expense trust fund. and the savings trust fund. THE AUTHORITY SHALL CONTRACT WITH A PRIVATE CONSULTANT OR CONSULTANTS TO PERFORM AN ACTUARIAL EVALUATION OF THE PREPAID EXPENSE TRUST FUND AND TO PROVIDE FINANCIAL ADVICE TO THE AUTHORITY IN CONNECTION WITH THE PREPAID EXPENSE TRUST FUND. ANY ACTUARIAL REPORT AND WRITTEN FINANCIAL ADVICE SHALL BE PROVIDED BY THE AUTHORITY TO THE STATE TREASURER. If, based upon such AN ACTUARIAL evaluation, the authority determines that either THE PREPAID EXPENSE trust fund is not actuarially sound, the authority may DIRECT THE STATE TREASURER TO distribute the available assets of that THE trust fund in a manner permitted by outstanding advance payment or savings contracts. IN CONNECTION WITH THE ANNUAL EVALUATION OF THE PREPAID EXPENSE TRUST FUND, A CALCULATION BASED ON KEY ASSUMPTIONS APPROVED BY THE BOARD SHALL BE MADE BY OR ON BEHALF OF THE AUTHORITY TO DETERMINE WHETHER AN EXCESS AMOUNT EXISTS IN THE PREPAID EXPENSE TRUST FUND. If, BASED ON THIS CALCULATION, THE AUTHORITY DETERMINES THAT AN EXCESS AMOUNT EXISTS IN THE PREPAID EXPENSE TRUST FUND, THE AUTHORITY SHALL CALCULATE, BY DIVIDING SUCH EXCESS AMOUNT BY THE TOTAL NUMBER OF EXPECTED TUITION UNITS IN THE PREPAID EXPENSE TRUST FUND, THE PORTION OF SUCH EXCESS AMOUNT THAT WOULD BE ATTRIBUTABLE ON A PRO RATA BASIS TO EACH SUCH EXPECTED TUITION UNIT. AT THE TIME THE VALUE OF ANY TUITION UNITS UNDER AN ADVANCE PAYMENT CONTRACT IS DISBURSED FROM THE PREPAID EXPENSE TRUST FUND DURING THE ACADEMIC YEAR IMMEDIATELY FOLLOWING SUCH CALCULATION, THE PORTION OF THE EXCESS AMOUNT ATTRIBUTABLE TO SUCH TUITION UNITS AS A RESULT OF THE CALCULATION MADE PURSUANT TO THIS PARAGRAPH~~

(d) SHALL BE PAID AS PART OF SUCH DISBURSEMENT. THE EXCESS AMOUNT SHALL OTHERWISE REMAIN IN THE PREPAID EXPENSE TRUST FUND AS A PART OF THE STABILIZATION RESERVE.

(e) (I) All expenses of the authority incurred in developing and administering the prepaid expense program shall be payable from the prepaid expense trust fund. The authority may use moneys in the prepaid expense trust fund to reimburse the expenses of the authority incurred in connection with the development and administration of the prepaid expense program. IN NO EVENT SHALL ANNUAL ADMINISTRATION EXPENSES OF THE AUTHORITY EXCEED ONE PERCENT OF THE CONTRACT PRICE. ANY RECOVERY OF DEVELOPMENT COSTS BY THE AUTHORITY SHALL NOT INCLUDE INTEREST OR FINANCE CHARGES. ANY MONEYS IN THE PREPAID EXPENSE TRUST FUND THAT ARE NOT NEEDED FOR IMMEDIATE USE BY THE AUTHORITY SHALL BE INVESTED BY THE STATE TREASURER IN ACCORDANCE WITH PARAGRAPH (a) OF THIS SUBSECTION (5) AND WITH THE ACTUARIAL REPORT PROVIDED BY THE AUTHORITY AND IN INVESTMENTS PERMITTED BY SECTION 23-3.1-216 (1) AND (3). THE AUTHORITY SHALL DETERMINE THE AMOUNT OF MONEYS IN THE FUND THAT SHALL BE INVESTED AND SHALL NOTIFY THE STATE TREASURER IN WRITING OF SUCH AMOUNT.

~~(II) All expenses incurred by the authority in developing and administering the savings program shall be payable from the savings trust fund. The authority may use moneys in the savings trust fund to reimburse the expenses of the authority incurred in connection with the development and administration of the savings program.~~

~~(6) (a) Prior to the development of policies and procedures for the education expense program pursuant to subsection (7) of this section, the authority shall conduct a feasibility study to develop criteria for a prepaid expense program and a savings program and to evaluate the financial soundness of such programs based on such criteria, including a study of the use of private service providers for investment, marketing, and records administration in such programs. The feasibility study shall include, but need not be limited to, consideration of the following criteria to be developed for such a program:~~

~~(I) The circumstances under which the benefits receivable under an advance payment contract or the deposits made under a savings contract may be used either at an institution other than the institution designated in the contract or for a purpose other than higher education expenses;~~

~~(II) The circumstances under which the benefits receivable under an advance payment contract or the deposits made under a savings contract may be transferred from the designated qualified beneficiary to another qualified beneficiary;~~

~~(III) The basis on which refunds of advance payments may be available from the prepaid expense trust fund and deposits may be disbursed from the savings trust fund;~~

~~(IV) Restrictions on and the basis for termination of advance payment and savings contracts;~~

~~(V) Remedies available upon default under advance payment and savings contracts;~~

~~(VI) The basis the authority will use to set the amount and number of payments for purchasing advance payment contracts in accordance with subsection (2) of this section;~~

~~(VII) Any age limits or other limitations on the persons who may be designated as qualified beneficiaries;~~

~~(VIII) The specific educational costs to be guaranteed by any advance payment contract;~~

~~(IX) The basis for calculation of any benefits receivable under an advance payment contract other than guaranteed tuition;~~

~~(X) The time period within which the benefits receivable under an advance payment contract must be exercised or deposits under a savings contract must be withdrawn;~~

~~(XI) The basis for determination of ownership of the rights and payments to be received under an advance payment contract and of the deposits under a savings contract; and~~

~~(XII) The length and timing of the annual period during which advance payment contracts may be purchased and savings contracts may be entered into.~~

~~(b) The authority shall cooperate and consult with the office of the governor, the office of the state treasurer, the commission, the governing boards of the state institutions of higher education, students, private institutions, and other interested institutions in conducting the feasibility study. The authority shall periodically consult with the education committees of the senate and the house of representatives and with the joint budget committee in evaluating the feasibility of a fiscally sound education expense program.~~

~~(c) The authority shall present its findings regarding the feasibility of an education expense program at a joint meeting of the education committees of the house of representatives and the senate no later than December 1, 1996. During such presentation, the authority shall solicit comments and suggestions regarding its findings and the proposed program from the members of the committees and shall recommend whether to proceed to implement a program and whether any laws regarding the education expense program should be amended or repealed.~~

~~(7) After consultation with the governor, the state treasurer, the commission, the governing boards of the state institutions of higher education, the education committees of the house of representatives and the senate, and the joint budget committee of the general assembly, the board shall adopt and publish policies and procedures for implementing the education expense program. Such policies and procedures shall be effective and implemented no later than July 1, 1997.~~

~~(8) If, at any time, the authority determines that the education PREPAID expense program, or any aspect thereof, is not financially sound, the authority may discontinue permanently or for a period of time the prepaid expense program or savings program or that particular aspect of the program and the execution of additional advance payment or savings contracts. The authority STATE TREASURER shall continue to administer and maintain the prepaid expense and savings trust funds INVEST MONEYS IN THE PREPAID EXPENSE TRUST FUND BASED UPON THE ADVICE AND RECOMMENDATIONS OF THE AUTHORITY AND SHALL CONTINUE TO MAKE DISBURSEMENTS FROM THE PREPAID EXPENSE TRUST FUND IN CONNECTION WITH THE PREPAID EXPENSE PROGRAM BASED UPON THE DIRECTION OF THE AUTHORITY for the benefit of existing purchasers depositors, and qualified beneficiaries except as otherwise authorized.~~

SECTION 9. 23-3.1-211, Colorado Revised Statutes, is amended to read:

23-3.1-211. Personal liability. Neither the members of the board, employees of the authority, nor any person executing the bonds or notes or advance payment or savings contracts shall be liable personally on bonds or notes or advance payment or savings contracts or be subject to any personal liability or accountability by reason of the issuance thereof or as a result of the education PREPAID expense program.

SECTION 10. 23-3.1-213, Colorado Revised Statutes, is amended to read:

23-3.1-213. Payment of bonds and advance payment contracts - limited liability of state. (1) Bonds and notes issued by the authority shall BE PAYABLE SOLELY FROM THE FUNDS PROVIDED FOR IN THIS PART 2 AND SHALL not OTHERWISE constitute or become an indebtedness, a debt, or a liability of the state, nor shall the state OTHERWISE be liable on such bonds and notes, nor shall such bonds or notes constitute the giving, pledging, or loaning of the full faith and credit of the state. but such

~~bonds and notes shall be payable solely from the funds provided for in this part 2. The issuance of bonds or notes under the provisions of this part 2 shall not obligate the state or empower the authority, directly, indirectly, or contingently, to levy or collect any form of taxes or assessments, to create any indebtedness payable out of taxes or assessments, or to make any appropriation for their payment, and such appropriation, levy, or collection is prohibited.~~

~~(2) Nothing in this section shall prevent or be construed to prevent the authority from pledging its full faith and credit to the payment of bonds or notes authorized pursuant to this part 2, but Nothing in this part 2 shall be construed to authorize the authority to create a debt of the state within the meaning of the constitution or statutes of Colorado; and all bonds issued by the authority pursuant to the provisions of this part 2 are payable and shall state that they are payable solely from the funds pledged for their payment in accordance with the resolution authorizing their issuance or with any trust indenture executed as security for such bonds and are not OTHERWISE a debt or liability of the state of Colorado.~~

~~(3) EXCEPT AS OTHERWISE PROVIDED IN THIS PART 2, the state shall not be liable in any event for the payment of the principal of or interest on any bonds of the authority or for the performance of any pledge, obligation, or agreement of any kind whatsoever which THAT may be undertaken by the authority. No breach of any such pledge, obligation, or agreement shall impose any pecuniary liability upon the state, EXCEPT FROM FUNDS SPECIFICALLY PLEDGED BY THE STATE, or any charge upon its general credit or against its taxing power.~~

~~(4) EXCEPT AS OTHERWISE PROVIDED IN THIS PART 2, advance payment contracts ~~savings contracts~~, and the benefits due thereunder shall BE PAYABLE SOLELY FROM THE MONEYS IN THE PREPAID EXPENSE TRUST FUND, AND SHALL not OTHERWISE constitute or become an indebtedness, a debt, or a liability of the state, nor shall the state OTHERWISE be liable on such advance payment or savings contracts, nor shall such advance payment or savings contracts constitute the giving, pledging, or loaning of the full faith and credit of the state. but such advance payment and savings contracts and the benefits due thereunder shall be payable solely from the moneys in the prepaid expense and savings trust funds, respectively. Advance payment contracts and the benefits due thereunder shall be payable by the authority solely from moneys in the prepaid expense trust fund and are not payable from or secured in any way by other moneys or accounts of the authority. Savings contracts and the benefits due thereunder shall be payable by the authority solely from moneys in the savings trust fund and are not payable from or secured in any way by other moneys or accounts of the authority.~~

SECTION 11. 23-3.1-216, Colorado Revised Statutes, is amended to read:

23-3.1-216. Investment of funds. ~~(1) The authority may invest any funds~~ FUNDS OF THE AUTHORITY, INCLUDING THE MONEYS HELD IN THE COLORADO STUDENT OBLIGATION BOND AUTHORITY FUND CREATED IN SECTION 23-3.1-205.4, MAY BE INVESTED in securities meeting the investment requirements established in part 6 of article 75 of title 24, C.R.S.; in certificates of deposit or time deposits constituting direct obligations of any bank or savings and loan association in Colorado ~~which THAT~~ may be made only in those certificates of deposit or time deposits in banks or savings and loan associations ~~which THAT~~ are insured by the federal deposit insurance corporation or federal savings and loan insurance corporation and may not exceed the maximum of such insurance unless such banks or savings and loan associations are eligible public depositories and such excess is secured by a pledge of eligible collateral as required by either article 10.5 or article 47 of title 11, C.R.S.; or in obligations of the student loan marketing association or any successor organization. Any such securities may be purchased at the offering or market price at the time of such purchase. ~~The authority may invest its~~ Funds OF THE AUTHORITY MAY BE INVESTED with such maturities as determined by the STATE TREASURER, BASED UPON THE ADVICE AND RECOMMENDATIONS OF THE authority, if such maturities are on a date or dates prior to the time when, in the judgment of the STATE TREASURER, BASED UPON THE ADVICE AND RECOMMENDATIONS OF THE authority, the funds so invested will be required for expenditure. The

express judgment of the authority as to the time when any funds will be required for expenditure or be redeemable is final and conclusive.

(2) The board may direct a corporate trustee ~~which~~ THAT holds funds of the authority pursuant to a trust indenture between such trustee and the authority to invest or reinvest such funds in any investments, other than those specified in subsection (1) of this section, if the board determines by resolution, including but not limited to a bond resolution, that:

(a) Such investment meets the standard for investments established in section 15-1-304, C.R.S.;

(b) The income on such investment is at least comparable to income then available on the investments permitted in subsection (1) of this section; and

(c) Such investment will assist the authority in alleviating an insufficient access to student obligations from normal private market sources.

(3) In addition to the investments otherwise permitted in this part 2, the ~~authority~~ STATE TREASURER may invest moneys in the prepaid expense ~~and the savings trust funds~~ TRUST FUND in the following:

(a) State and municipal bonds;

(b) Corporate notes, bonds, and debentures, whether or not convertible, to the extent provided for in paragraph (d) of this subsection (3);

(c) Participation agreements with life insurance companies;

(d) Common or preferred stock; except that:

(I) No investment of moneys in the prepaid expense trust fund ~~or the savings trust fund~~ in common or preferred stock, or both, of any corporation shall be of an amount that exceeds five percent of the then book value of ~~such~~ THE trust fund;

(II) ~~Neither~~ The prepaid expense trust fund ~~nor the savings trust fund~~ shall NOT acquire more than five percent of the outstanding stock or bonds of any single corporation; and

(III) The aggregate amount of moneys of the prepaid expense trust fund ~~or savings trust fund~~ invested in common or preferred stock, or in corporate bonds, notes, or debentures ~~which~~ THAT are convertible into common or preferred stock, or in investment trust shares shall not exceed sixty percent of the then book value of ~~either fund or the aggregate of the funds~~ THE PREPAID EXPENSE TRUST FUND; and

(d.5) INVESTMENTS IN THE FORM OF MUTUAL FUNDS; AND

(e) Any guaranteed investment contract, guaranteed interest contract, annuity contract, or funding agreement if the board determines by resolution that:

(I) Such contract or agreement meets the standard for investments established in section 15-1-304, C.R.S.;

(II) The income on such contract or agreement is at least comparable to the income then available on the other investments permitted in this section; and

(III) Such contract or agreement will assist the authority in maintaining an actuarially sound trust fund.

SECTION 12. 23-3.1-217, Colorado Revised Statutes, is amended to read:

23-3.1-217. Proceeds as trust funds. EXCEPT AS OTHERWISE PROVIDED IN THIS PART 2, all moneys received pursuant to this part 2,

whether as proceeds from the sale of bonds, notes, or other obligations or as revenues or receipts, including moneys received under advance payment contracts ~~and savings contracts~~, shall be deemed to be trust funds to be held and applied solely as provided in this part 2. Any officer, bank, or trust company with which such moneys are deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes of this part 2, subject to such ~~regulations~~ POLICIES AND GUIDELINES as the authority and the resolution authorizing the bonds, notes, or other obligations of any issue or the trust ~~agreement~~ INDENTURE securing such obligations provides.

SECTION 13. 23-3.1-217.5, Colorado Revised Statutes, is amended to read:

23-3.1-217.5. Claims of creditors - exemption. Moneys credited to or expended from the prepaid expense trust fund ~~or the savings trust fund~~ by or on behalf of a purchaser ~~depositor~~, or qualified beneficiary of an advance payment contract ~~or a savings contract~~ made under this part 2, which contract has not been terminated, are exempt from all claims of creditors of the purchaser, ~~the depositor~~, the qualified beneficiary, or the authority.

SECTION 14. 23-3.1-221, Colorado Revised Statutes, is amended to read:

23-3.1-221. Account of activities - receipts for expenditures - report - audit. The authority shall keep an accurate account of all its activities and of all its receipts and expenditures and shall report annually on such activities, receipts, and expenditures in the month of February to its members, to the governor, to the commission, and to the state auditor in a form prescribed by the controller. Also included in the report shall be any recommendations with reference to additional legislation, a financial analysis of the actuarial soundness of the prepaid expense trust fund, ~~and the savings trust fund~~, and other action that may be necessary to carry out the purposes of the authority. The state auditor may investigate the affairs of the authority and may examine the properties and records of the authority, and the controller may prescribe methods of accounting and the rendering of periodical reports in relation to undertakings by the authority. ~~The authority~~ DEPARTMENT OF HIGHER EDUCATION shall adopt and prepare a budget ~~FOR THE AUTHORITY~~ for the next fiscal year. ~~in accordance with the bylaws of the authority.~~ BEGINNING JULY 1, 2000, the fiscal year of the authority shall begin on ~~October~~ JULY 1 and shall end on ~~September~~ JUNE 30.

SECTION 15. 23-3.1-225, Colorado Revised Statutes, is amended to read:

23-3.1-225. Confidentiality of records. ~~(1) Notwithstanding the provisions of part 2 of article 72 of title 24, C.R.S., the following data, information, and records relating to the prepaid expense trust fund shall be kept confidential by the authority, and the authority shall deny the right of access to or inspection of such data, information, and records except as provided in subsection (2) of this section: EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS SECTION AND SECTION 23-3.1-307.7, ALL DATA, INFORMATION, AND RECORDS RELATING TO THE PREPAID EXPENSE PROGRAM ARE PUBLIC RECORDS AND ARE SUBJECT TO INSPECTION PURSUANT TO THE PROVISIONS OF PART 2 OF ARTICLE 72 OF TITLE 24, C.R.S.~~

~~(a) Data and information collected by or furnished to or on behalf of the authority in connection with the prepaid expense trust fund maintained and administered by the authority under this part 2, including all information submitted by purchasers of advance payment contracts;~~

~~(b) Records, data, and information compiled, held, maintained, or disseminated by or on behalf of the authority in connection with the prepaid expense trust fund, except for information compiled in the report pursuant to subsection (2) of this section;~~

~~(c) Trade secrets, commercial data, or financial data developed or obtained by or on behalf of the authority in connection with the prepaid expense trust fund.~~

(2) THE FOLLOWING DATA, INFORMATION, AND RECORDS RELATING TO THE PREPAID EXPENSE PROGRAM SHALL BE KEPT CONFIDENTIAL BY THE AUTHORITY AND THE AUTHORITY SHALL DENY THE RIGHT OF ACCESS TO OR INSPECTION OF SUCH DATA, INFORMATION, AND RECORDS, EXCEPT AS PROVIDED IN SUBSECTION (3) OF THIS SECTION:

(a) DATA, INFORMATION AND RECORDS RELATING TO QUALIFIED BENEFICIARIES AND PURCHASERS OF ADVANCE PAYMENT CONTRACTS, INCLUDING ANY RECORDS THAT REVEAL PERSONALLY IDENTIFIABLE INFORMATION ABOUT SUCH INDIVIDUALS;

(b) MARKETING PLANS AND THE RESULTS OF MARKET SURVEYS CONDUCTED BY THE AUTHORITY; AND

(c) TRADE SECRETS AND PROPRIETARY INFORMATION REGARDING SOFTWARE, INCLUDING PROGRAMS AND SOURCE CODES, UTILIZED OR OWNED BY THE AUTHORITY.

~~(2)~~ (3) Notwithstanding the provisions of ~~subsection (1)~~ SUBSECTION (2) of this section, THE AUTHORITY MAY DISCLOSE AND MAY PROVIDE THE RIGHT OF ACCESS TO OR INSPECTION OF ANY DATA, INFORMATION, OR RECORDS TO:

(a) ~~The authority may disclose and may provide the right of access to or inspection of any data, information, or records as provided in an advance payment contract or contracts, to Agents or representatives of professionals engaged by the authority; or if the purchaser or purchasers of the advance payment contract or contracts have consented in writing to the disclosure to third parties;~~

(b) ~~The authority may disclose and provide the right of access to the reports concerning the prepaid expense trust fund the authority is required to prepare pursuant to section 23-3.1-221. QUALIFIED BENEFICIARIES AND PURCHASERS INVOLVED IN THE PROGRAM, AS THE DATA, INFORMATION, AND RECORDS PERTAINS TO SUCH PERSONS;~~

(c) THE STATE TREASURER'S OFFICE, AS NECESSARY TO CARRY OUT THE FUNCTIONS OF THE STATE TREASURER'S OFFICE PURSUANT TO THIS PART 2; OR

(d) OTHER THIRD PARTIES IF THE QUALIFIED BENEFICIARIES AND PURCHASERS, AS APPLICABLE, HAVE CONSENTED IN WRITING TO SUCH DISCLOSURE.

~~(3)~~ (4) No cause of action shall arise against a person for disclosing confidential information in violation of subsection (2) of this section unless the act or omission giving rise to the cause of action was intentional or grossly negligent.

SECTION 16. Part 2 of article 3.1 of title 23, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

23-3.1-226. Policies for promotion and disclosure of program information. (1) THE AUTHORITY SHALL DESIGN A POLICY RELATED TO THE PROMOTION OF THE PREPAID EXPENSE PROGRAM AND A POLICY RELATED TO THE DISCLOSURE OF PROGRAM-RELATED INFORMATION TO PURCHASERS OR QUALIFIED BENEFICIARIES IN A MANNER CONSISTENT WITH THIS PART 2 AND CONSISTENT WITH THE REQUIREMENTS OF SECTION 529 OF THE INTERNAL REVENUE CODE IN ORDER TO REQUIRE THAT:

(a) APPROPRIATE PROMOTIONAL MATERIAL AND PROGRAM-RELATED INFORMATION DISCLOSE THE AVERAGE TUITION INCREASE IN STATE INSTITUTIONS OF HIGHER EDUCATION IN COLORADO, AS DEFINED IN SECTION 23-3.3-101 (4), OVER THE PREVIOUS FIVE YEARS;

(b) ANNUAL STATEMENTS TO PURCHASERS OR QUALIFIED BENEFICIARIES DISCLOSE THE NUMBER OF TUITION UNITS PAID FOR, THE PAYMENTS MADE FOR SUCH TUITION UNITS, AND THE CURRENT VALUE OF SUCH TUITION UNITS, AS WELL AS THE AVERAGE TUITION INCREASES IN STATE INSTITUTIONS OF HIGHER EDUCATION IN COLORADO, AS DEFINED IN SECTION 23-3.3-101 (4), OVER THE FIVE PREVIOUS YEARS;

(c) AN ANNUAL REPORT TO EACH PURCHASER OF AN ADVANCE PAYMENT CONTRACT SETTING FORTH THE VALUE AND RATE OF RETURN ON THE ADVANCE PAYMENT CONTRACT BASED ON A CALCULATION OF AVERAGE TUITION AND SETTING FORTH THE AMOUNT OF THE STABILIZATION RESERVE AND RETAINED EARNINGS IN THE PREPAID EXPENSE PROGRAM. THE REPORT SHALL BE PROVIDED AT LEAST ANNUALLY AND UPON REQUEST OF THE PURCHASER OF THE ADVANCE PAYMENT CONTRACT;

(d) PROMOTIONAL MATERIAL AND PROGRAM-RELATED INFORMATION DISCLOSE THAT NO MONEYS INVESTED IN THE PREPAID EXPENSE PROGRAM ARE INSURED BY THE STATE OF COLORADO AND THAT NEITHER THE PRINCIPAL DEPOSITED NOR THE INVESTMENT RETURNED IS GUARANTEED BY THE STATE OF COLORADO. SUCH MATERIAL AND INFORMATION SHALL ALSO DISCLOSE THE EXISTENCE OF A STABILIZATION RESERVE TO BETTER SUPPORT ITS LIABILITY; AND

(e) ANY FEES PAID FROM MONEYS COLLECTED PURSUANT TO THIS PART 2 ARE DISCLOSED IN PROMOTIONAL MATERIAL AND PROGRAM-RELATED INFORMATION PROVIDED TO THE PUBLIC AND TO PURCHASERS OR QUALIFIED BENEFICIARIES, INCLUDING DISCLOSURE OF AMOUNTS ASSESSED FOR PAYMENTS OVER TIME.

SECTION 17. Part 3 of article 3.1 of title 23, Colorado Revised Statutes, is amended to read:

PART 3

COLLEGE SAVINGS PLAN

23-3.1-301. Legislative declaration. The general assembly hereby finds, determines, and declares that a choice of education opportunities will benefit the residents of the state of Colorado and that the establishment of a college savings program, to be administered by the Colorado student obligation bond authority ~~using a plan designed by the department of the treasury,~~ will enhance the availability of postsecondary educational opportunities for residents. It is the intent of the general assembly to achieve this purpose through a public-private partnership using selected financial institutions to serve as account holders and managers of individual college savings accounts.

23-3.1-302. Definitions. As used in this part 3, unless the context otherwise requires:

(1) "Account" means an individual trust account or savings account established pursuant to this part 3.

(2) "Account owner" means the person designated at the time an account is opened as having the right to withdraw moneys from the account before the account is disbursed to or for the benefit of the designated beneficiary.

(3) "Authority", PRIOR TO JULY 1, 2000, means the Colorado student obligation bond authority ~~created pursuant to~~ EXISTING AS AN INDEPENDENT PUBLIC BODY POLITIC IN ACCORDANCE WITH section 23-3.1-203. ON AND AFTER JULY 1, 2000, "AUTHORITY" MEANS THE COLORADO STUDENT OBLIGATION BOND AUTHORITY TRANSFERRED TO THE DEPARTMENT OF HIGHER EDUCATION AND EXISTING AS A DIVISION OF THAT DEPARTMENT PURSUANT TO SECTION 23-3.1-203.

(4) "Designated beneficiary" or "beneficiary" means, with respect to an account, the person designated at the time the account is opened, or the person who replaces a designated beneficiary, as the person whose education expenses are expected to be paid from the account.

(5) "Eligible education institution" has the same meaning as that term is defined in 26 U.S.C. sec. 135 (c) (3).

(5.5) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HIGHER EDUCATION.

(6) "Financial institution" means any state bank, state trust

company, industrial bank, savings and loan association, credit union chartered by the state of Colorado, national bank, broker-dealer, mutual fund, insurance company, or other similar financial entity qualified to do business in the state of Colorado.

(7) "Internal revenue code" means the federal "Internal Revenue Code of 1986", as amended.

(8) "Manager" means a financial institution under contract with the authority to serve as administrator of the program and recipient of contributions on behalf of the program.

(9) "Member of the family" has the same meaning as that term is defined in 26 U.S.C. sec. 529 (e) (2).

(10) "Nonqualified withdrawal" means a withdrawal from an account other than a qualified withdrawal, a withdrawal made as the result of the death or disability of the designated beneficiary of an account, a withdrawal made as a result of the beneficiary's receipt of a scholarship, or a rollover or change of designated beneficiary.

(11) "Program" means the college savings program established pursuant to this part 3.

(12) "Qualified higher education expenses" has the same meaning as is provided for that term in 26 U.S.C. sec. 529 (e) (3).

(13) "Qualified withdrawal" means a withdrawal from an account to pay the qualified higher education expenses of the designated beneficiary of the account, a withdrawal made on account of the death or disability of the designated beneficiary, or a withdrawal made on account of a scholarship, but only if the withdrawal is made in accordance with this part 3.

23-3.1-303. Department - purpose - powers - duties. (1) ~~In addition to any other powers and duties specifically granted by law, the department of the treasury shall:~~

~~(a) Design the program and the policies related thereto in a manner consistent with this part 3 and consistent with the requirements of section 529 of the internal revenue code; and~~

~~(b) Approve any plan for promoting the program developed by a manager, as provided in section 23-3.1-305 (6) (f).~~

23-3.1-304. Authority - purpose - powers - duties. (1) In addition to any other powers or duties specifically granted to the authority in this part 3, the authority shall:

(a) Develop and implement the program in a manner consistent with this part 3 ~~and with the program design and policies as established by the department of the treasury through the adoption of rules, guidelines and procedures;~~

(b) Select the financial institution or institutions, and enter into a contract with said institution or institutions to serve as managers and to invest the contributions deposited into the accounts;

(c) Establish rules regarding withdrawal of funds, which rules shall include provisions that will enable the authority or the manager to determine if a withdrawal is a nonqualified withdrawal or a qualified withdrawal;

~~(d) Retain the professional services of accountants, auditors, consultants, and other experts if necessary in order to implement and develop the program;~~

(e) Seek rulings and other guidance from the United States department of the treasury, the internal revenue service, and the securities and exchange commission relating to the program as is necessary for proper implementation and development of the program;

(f) Make changes to the program required in order for account owners and beneficiaries and the program to obtain or maintain federal income tax benefits or treatment provided by section 529 of the internal revenue code and exemptions under federal securities laws;

(g) When establishing ~~rules~~, policies, guidelines, and procedures, interpret the provisions of this part 3 broadly in light of the purpose and objectives set forth in this part 3;

(h) Charge, impose, and collect administrative fees and service charges in connection with any agreement, contract, or transaction relating to the program in amounts not exceeding the cost of establishing and maintaining the program, SUBJECT TO THE APPROVAL OF THE EXECUTIVE DIRECTOR;

(i) Approve the application and review, for purposes of compliance with applicable laws and regulations, any informational materials utilized by the manager to be furnished to persons who desire to participate in the program established in this part 3;

(j) ~~Promulgate rules~~ DEVELOP POLICIES relating to penalties associated with nonqualified withdrawals from accounts pursuant to section 23-3.1-306 (8);

(k) Adopt ~~rules~~ A POLICY to prevent contributions on behalf of a designated beneficiary in excess of those necessary to pay the qualified higher education expenses of the designated beneficiary;

(l) Require that every contract, application, deposit slip, or other similar document that may be used in connection with a contribution to an account clearly indicate that the account is not insured by this state and neither the principal deposited nor the investment return is guaranteed by the state;

(m) MAKE AND EXECUTE CONTRACTS WITH DEPOSITORS;

(n) DO ALL THINGS NECESSARY AND CONVENIENT TO CARRY OUT THE PURPOSES OF THIS PART 3.

(2) Notwithstanding the restrictions in section 23-3.1-216, the authority is hereby authorized to contract with one or more financial institutions pursuant to section 23-3.1-305 to act as managers for the investment of contributions related to this program in stocks, bonds, mutual funds, and other such investments as deemed appropriate by the authority. In so doing, the authority shall be bound by the fiduciary duty described in section 15-1-304, C.R.S., and shall assure that investments by the managers are made with judgment and care ~~which men~~ THAT PERSONS of prudence, discretion, and intelligence exercise in the management of the property of another, not in regard to speculation but in regard to the permanent disposition of funds, considering the probable income as well as the probable safety of capital. The funds contributed to the accounts established by account owners pursuant to this section are held in trust by the authority and the manager for the sole benefit of the account owner and beneficiary. These contributions are not subject to any limitations on the investment of public funds and are not subject to section 20 of article X of the state constitution, which limits fiscal year spending of state government and other districts.

23-3.1-305. Financial institutions - managers - purpose - selection - requirements - contracts. (1) The authority shall implement the program through the use of one or more financial institutions to act as managers. Under the program, potential account owners may establish accounts through the program at the financial institution.

(2) The authority shall solicit proposals from financial institutions to act as the recipients of contributions and managers.

(3) The authority shall select from among bidding financial institutions one or more financial institutions that demonstrate the most advantageous combination to account owners and beneficiaries, based on the following factors:

- (a) Financial stability and integrity;
- (b) The ability of the financial institution, directly or through a subcontract, to satisfy record-keeping and reporting requirements;
- (c) The financial institution's plan for promoting the program and the investment that the financial institution is willing to make in order to promote the program;
- (d) The historic ability of the investment instruments utilized by the financial institution to track the estimated costs of higher education as calculated by the United States department of education;
- (e) The fees, if any, proposed to be charged to account owners for maintaining accounts;
- (f) The minimum initial cash contribution and minimum contributions that the financial institution will require, and the willingness of the financial institution to accept contributions through payroll deduction plans or systematic deposit plans; and
- (g) Any other benefits to the state or to its residents, included in the proposal, including an account opening fee payable to the authority by the account owner.
- (4) The authority shall contract with one or more financial institutions, in accordance with subsection (5) of this section, to serve as managers and to invest the contributions to accounts. ON JULY 1, 2000, PURSUANT TO SECTION 23-3.1-205.3, THE AUTHORITY SHALL SUCCEED TO ALL RIGHTS AND OBLIGATIONS UNDER ANY SUCH EXISTING CONTRACTS.
- (5) The authority may select more than one financial institution for the program if the United States internal revenue service has provided guidance that giving a contributor a choice of two or more financial institutions will not cause the program to fail to qualify for favorable tax treatment under section 529 of the internal revenue code, and the authority concludes that the choice of two or more financial institutions is in the best interest of account owners and beneficiaries and will not interfere with the promotion of the program.
- (5.5) THE AUTHORITY MAY SELECT A FINANCIAL INSTITUTION PURSUANT TO SUBSECTION (3) OF THIS SECTION WITHOUT REGARD TO THE PROVISIONS OF THE "PROCUREMENT CODE", ARTICLES 101 TO 112 OF TITLE 24, C.R.S.
- (6) A manager shall:
- (a) Take all actions required to keep the program in compliance with the requirements of this part 3 and to assure that the program is treated as a qualified state tuition plan under section 529 of the internal revenue code and to assure that the program is exempt from registration under the federal securities law;
- (b) Keep adequate and separate records of each account and provide the authority with the information necessary to prepare the reports required by section 529 of the internal revenue code or file these reports on behalf of the authority;
- (c) Compile and total information contained in statements required to be prepared pursuant to section 23-3.1-306 (16) and (17) and provide these compilations to the authority;
- (d) Provide representatives of the authority access to the books and records of the manager to the extent needed to determine compliance with the contract;
- (e) Hold all accounts in trust for the sole benefit of the account owner and beneficiary on behalf of the program, acting in a fiduciary capacity and making investments with judgment, care, and prudence as described in section 15-1-304, C.R.S.; and
- (f) Develop a plan to promote the program and, after approval of

such plan by the ~~department of the treasury~~ AUTHORITY, promote the program in accordance with the plan.

(7) Any contract executed between the authority and a financial institution pursuant to this section shall be for a term of at least five years and may be renewable.

(8) If a contract executed between the authority and a financial institution pursuant to this section is not renewed, all of the following conditions shall apply at the end of the term of the nonrenewed contract, so long as applying these conditions does not disqualify the program as a qualified state tuition plan under section 529 of the internal revenue code:

(a) The authority shall continue to maintain the program at the financial institution;

(b) Accounts previously established at the financial institution shall not be terminated, except as provided in paragraph (e) of this subsection (8) or as provided in subsection (9) of this section;

(c) Additional contributions may be made to the accounts;

(d) No new accounts may be placed with that financial institution; and

(e) If the authority determines that continuing the accounts at the financial institution is not in the best interest of the account owners, the accounts may be transferred to another financial institution under contract with the authority.

(9) The authority may terminate a contract with a financial institution at any time. If a contract is terminated pursuant to this subsection (9), the authority shall take custody of accounts held at that financial institution and shall seek to promptly transfer the accounts to another financial institution that is selected as a manager and into investment instruments as similar to the original investments as possible pursuant to the guidelines established in section 23-3.1-306 (13). THE AUTHORITY MAY SELECT THE SUCCESSOR FINANCIAL INSTITUTION WITHOUT REGARD TO THE PROVISIONS OF THE "PROCUREMENT CODE", ARTICLES 101 TO 112 OF TITLE 24, C.R.S.

23-3.1-306. Accounts - contributions - withdrawals - penalties - statements. (1) The program shall be operated through the use of accounts. An account may be opened by any person who desires to save for the qualified higher education expenses of a potential beneficiary by satisfying each of the following requirements:

(a) Completing an application in the form prescribed by the financial institution and approved by the authority. Said application shall include the following information:

(I) The name, address, and social security number or employer identification number of any person that contributes to the account;

(II) The name, address, and social security number or employer identification number of the account owner;

(III) The name, address, social security number or employer identification number, and date of birth of the designated beneficiary;

(IV) A certification from the contributor that states that to the best of the contributor's knowledge, the account balance for the designated beneficiary in all qualified state tuition programs, as defined in section 529 of the internal revenue code, does not exceed the greater of either a maximum college savings amount established by the authority or the cost in current dollars of qualified higher education expenses that the contributor reasonably anticipates the designated beneficiary will incur; and

(V) Any other information that the authority may deem necessary.

(b) Making the minimum contribution required by the financial institution to open an account.

(2) Any person may make contributions to an account, consistent with the terms established by the authority, after the account is opened.

(3) Contributions to accounts shall be made in cash only.

(4) Account owners may withdraw all or part of the balance from an account upon giving sixty days' notice, or upon such shorter period as may be authorized by the authority pursuant to rules established by the authority, including any applicable fees and penalties.

(5) An account owner may change the designated beneficiary of an account to an individual who is a member of the family or former designated beneficiary in accordance with procedures established by the authority.

(6) At the direction of the account owner, all or a portion of an account may be transferred to another account, if the designated beneficiary of the transferee account is a member of the family of the designated beneficiary of the transferor account.

(7) Changes in designated beneficiaries and rollovers under this section are not permitted if the changes or rollovers would violate rules related to excess contributions or rules related to investment choice.

(8) In the case of any nonqualified withdrawal from an account, an amount that would constitute more than a de minimis penalty, as determined by the authority in accordance with section 529 of the internal revenue code, shall be withheld as a penalty from the amount withdrawn or from funds remaining in the account and paid to the authority for use in operating the program and for state student financial aid.

(9) If an account owner makes a nonqualified withdrawal and no penalty amount is withheld pursuant to subsection (8) of this section, or the amount withheld is less than the amount required to be withheld pursuant to subsection (8) of this section for nonqualified withdrawals, the account owner shall pay the unpaid portion of the penalty to the authority on or before April 15 of the following tax year.

(10) Each account shall be accounted for separately from all other accounts under the program.

(11) Separate records and accounting shall be maintained for each account for each designated beneficiary.

(12) As long as prohibited by federal law, no contributor to, account owner of, or designated beneficiary of any account may direct the investment of any contribution to an account or the earnings from the account.

(13) If the authority terminates the contract of a financial institution to hold accounts and accounts must be moved from that financial institution to another financial institution, the authority shall select the financial institution to which the balances of the accounts are moved.

(14) Neither an account owner nor a designated beneficiary may use an interest in an account as a security for a loan. Any pledge of an interest in an account is of no force and effect.

(15) If there is any distribution from an account to any person or for the benefit of any person during the calendar year, the distribution shall be reported to the internal revenue service and to the account owner or the designated beneficiary to the extent required by federal law.

(16) The financial institution shall provide statements to each account owner at least once each year, within thirty-one days after the end of the calendar year. The statement shall identify the contributions made during the preceding reporting period, the total contributions made through the end of the reporting period, the value of the account as of the

end of the reporting period, withdrawals made during the reporting period, and any other matters that the authority requires to be reported to the account owner.

(17) Statements and information returns relating to accounts shall be prepared and filed to the extent required by federal or state tax law.

23-3.1-307. Limitations. (1) Nothing in this part 3 shall be construed to:

(a) Give any designated beneficiary any rights or legal interest with respect to an account unless the designated beneficiary is the account owner;

(b) Guarantee that a designated beneficiary will be admitted to an education institution or be allowed to continue enrollment at or graduate from an education institution;

(c) Establish state residency for a beneficiary merely because of the designation as a beneficiary; or

(d) Guarantee that amounts saved pursuant to the program will be sufficient to cover the qualified higher education expenses of a designated beneficiary.

(2) Nothing in this part 3 shall establish any obligation of the state of Colorado or any agency or instrumentality of the state of Colorado to guarantee for the benefit of any owner, contributor to an account, or designated beneficiary any of the following:

(a) The return of any amounts contributed to an account;

(b) The rate of interest or other return on any account;

(c) The payment of interest or other return on any account; or

(d) Tuition rates or the cost of related education expenditures.

(3) Nothing in this part 3 shall be construed to indicate that the account is insured by the state of Colorado or that the principal deposited or investment return is guaranteed by the state of Colorado.

(3.5) NOTHING IN THIS PART 3 SHALL BE CONSTRUED TO CREATE AN INDEBTEDNESS, A DEBT, OR A LIABILITY OF THE STATE, NOR SHALL THE STATE BE LIABLE ON THE SAVINGS CONTRACTS, EXCEPT TO THE EXTENT OF THE AMOUNTS ON DEPOSIT IN THE ACCOUNTS, NOR SHALL A SAVINGS CONTRACT CONSTITUTE THE GIVING, PLEDGING, OR LOANING OF THE FULL FAITH AND CREDIT OF THE STATE.

(4) ~~Section 23-3.1-211, relating to personal liability, section 23-3.1-217.5, relating to claims of creditors, and section 23-3.1-225, relating to confidentiality of records, shall apply to this part 3.~~

23-3.1-307.1. Personal liability. NEITHER THE MEMBERS OF THE BOARD, EMPLOYEES OF THE AUTHORITY, NOR ANY PERSON EXECUTING SAVINGS CONTRACTS SHALL BE LIABLE PERSONALLY ON SAVINGS CONTRACTS OR BE SUBJECT TO ANY PERSONAL LIABILITY OR ACCOUNTABILITY AS A RESULT OF THE SAVINGS PROGRAM.

23-3.1-307.3. Proceeds as trust funds. EXCEPT AS OTHERWISE PROVIDED IN THIS PART 3, ALL MONEYS RECEIVED PURSUANT TO THIS PART 3, INCLUDING MONEYS RECEIVED UNDER SAVINGS CONTRACTS, SHALL BE DEEMED TO BE TRUST FUNDS TO BE HELD AND APPLIED SOLELY AS PROVIDED IN THIS PART 3. ANY OFFICER, BANK, OR TRUST COMPANY WITH WHICH SUCH MONEYS ARE DEPOSITED SHALL ACT AS TRUSTEE OF SUCH MONEYS AND SHALL HOLD AND APPLY THE SAME FOR THE PURPOSES OF THIS PART 3, SUBJECT TO SUCH POLICIES AND GUIDELINES AS THE AUTHORITY AND THE RESOLUTION AUTHORIZING THE BONDS, NOTES, OR OTHER OBLIGATIONS OF ANY ISSUE OR THE TRUST AGREEMENT SECURING SUCH OBLIGATIONS PROVIDES.

23-3.1-307.5. Claims of creditors - exemption. MONEYS

CREDITED TO OR EXPENDED FROM THE SAVINGS TRUST FUND BY OR ON BEHALF OF AN ACCOUNT OWNER, DEPOSITOR, OR DESIGNATED BENEFICIARY OF A SAVINGS CONTRACT MADE UNDER THIS PART 3, WHICH CONTRACT HAS NOT BEEN TERMINATED, ARE EXEMPT FROM ALL CLAIMS OF CREDITORS OF THE ACCOUNT OWNER, DEPOSITOR, DESIGNATED BENEFICIARY, OR THE AUTHORITY.

23-3.1-307.7. Confidentiality of records. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS SECTION, ALL DATA, INFORMATION, AND RECORDS RELATING TO THE COLLEGE SAVINGS PROGRAM ARE PUBLIC RECORDS AND ARE SUBJECT TO INSPECTION PURSUANT TO THE PROVISIONS OF PART 2 OF ARTICLE 72 OF TITLE 24, C.R.S.

(2) THE FOLLOWING DATA, INFORMATION, AND RECORDS RELATING TO THE COLLEGE SAVINGS PROGRAM SHALL BE KEPT CONFIDENTIAL BY THE AUTHORITY AND THE AUTHORITY SHALL DENY THE RIGHT OF ACCESS TO OR INSPECTION OF SUCH DATA, INFORMATION, AND RECORDS EXCEPT AS PROVIDED IN SUBSECTION (3) OF THIS SECTION:

(a) DATA, INFORMATION AND RECORDS RELATING TO DESIGNATED BENEFICIARIES AND CONTRIBUTORS TO AN INDIVIDUAL TRUST ACCOUNT OR SAVINGS ACCOUNT INCLUDING ANY RECORDS THAT REVEAL PERSONALLY IDENTIFIABLE INFORMATION ABOUT SUCH INDIVIDUALS;

(b) TRADE SECRETS AND PROPRIETARY INFORMATION REGARDING SOFTWARE, INCLUDING PROGRAMS AND SOURCE CODES, UTILIZED OR OWNED BY THE AUTHORITY; AND

(c) MARKETING PLANS AND THE RESULTS OF MARKET SURVEYS CONDUCTED BY OR ON BEHALF OF THE AUTHORITY.

(3) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (2) OF THIS SECTION, THE AUTHORITY MAY DISCLOSE AND MAY PROVIDE THE RIGHT OF ACCESS TO OR INSPECTION OF ANY DATA, INFORMATION, OR RECORDS TO:

(a) ACCOUNT OWNERS, DEPOSITORS, AND DESIGNATED BENEFICIARIES INVOLVED IN THE PROGRAM, AS THE DATA, INFORMATION, AND RECORDS PERTAIN TO SUCH PERSONS;

(b) AGENTS OR REPRESENTATIVES OF PROFESSIONALS WITH WHOM THE AUTHORITY HAS CONTRACTED;

(c) THE STATE TREASURER'S OFFICE, AS NECESSARY TO CARRY OUT THE FUNCTIONS OF THE STATE TREASURER'S OFFICE PURSUANT TO THIS PART 3; OR

(d) OTHER THIRD PARTIES IF THE ACCOUNT OWNERS, DEPOSITORS, AND DESIGNATED BENEFICIARIES, AS APPLICABLE, HAVE CONSENTED IN WRITING TO SUCH DISCLOSURE.

(4) NO CAUSE OF ACTION SHALL ARISE AGAINST A PERSON FOR DISCLOSING CONFIDENTIAL INFORMATION IN VIOLATION OF SUBSECTION (2) OF THIS SECTION UNLESS THE ACT OR OMISSION GIVING RISE TO THE CAUSE OF ACTION WAS INTENTIONAL OR GROSSLY NEGLIGENT.

23-3.1-307.9. Policies for promotion and disclosure of program information. (1) THE AUTHORITY SHALL DESIGN A POLICY RELATED TO THE PROMOTION OF THE COLLEGE SAVINGS PROGRAM AND A POLICY RELATED TO THE DISCLOSURE OF PROGRAM-RELATED INFORMATION TO ACCOUNT OWNERS, DEPOSITORS, AND DESIGNATED BENEFICIARIES IN A MANNER CONSISTENT WITH THIS PART 3 AND CONSISTENT WITH THE REQUIREMENTS OF SECTION 529 OF THE INTERNAL REVENUE CODE IN ORDER TO REQUIRE THAT:

(a) PROMOTIONAL MATERIAL AND PROGRAM-RELATED INFORMATION DISCLOSE THAT NO MONEYS INVESTED IN THE COLLEGE SAVINGS PROGRAM ARE INSURED BY THE STATE OF COLORADO AND THAT NEITHER THE PRINCIPAL DEPOSITED NOR THE INVESTMENT RETURNED IS GUARANTEED BY THE STATE OF COLORADO; AND

(b) ANY FEES PAID FROM MONEYS COLLECTED PURSUANT TO THIS PART 3 ARE DISCLOSED IN PROMOTIONAL MATERIAL AND PROGRAM-RELATED INFORMATION PROVIDED TO THE PUBLIC AND TO ACCOUNT OWNERS, DEPOSITORS, AND DESIGNATED BENEFICIARIES.

23-3.1-308. Residency. Both resident and nonresident owners and designated beneficiaries shall be eligible to participate in and benefit from the college savings program.

23-3.1-309. Tax exemption. Notwithstanding any other law to the contrary, the amount of any distribution to a designated beneficiary, as defined in section 529 (e) (1) of the internal revenue code, from an account established under this part 3 shall be exempt from state income taxation to the extent that this income is used to pay qualified higher education expenses of the designated beneficiary.

SECTION 18. The introductory portion to 23-3.1-102 and 23-3.1-102 (3), Colorado Revised Statutes, are amended to read:

23-3.1-102. Definitions. As used in this article OR IN THE SPECIFIED PORTION OF THIS ARTICLE, unless the context otherwise requires:

(3) "Director", AS USED IN THIS PART 1, means the director of the division.

SECTION 19. 24-77-102 (15) (b) (VII), Colorado Revised Statutes, is amended to read:

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

(15) (b) "Special purpose authority" includes, but is not limited to:

(VII) ~~The Colorado student obligation bond authority created pursuant to section 23-3.1-203, C.R.S.;~~

SECTION 20. Effective date. This act shall take effect July 1, 2000.

SECTION 21. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety."

State,
Veterans,
and Military
Affairs

After consideration on the merits, the committee recommends that HB00-1095 be amended as follows and, as so amended, be referred to the Committee of the Whole with favorable recommendation:

Amend reengrossed bill, page 3, line 1, after "(2),", insert "(3),";
strike line 13 and substitute the following:

"(3) If the electors are to consider the election of persons to office and ballot issues or ballot questions, the election may be canceled by the governing body only in the event that all of the conditions of ~~both subsections (1) and (2)~~ SUBSECTION (1) of this section exist AND THAT ALL BALLOT ISSUES OR BALLOT QUESTIONS HAVE BEEN WITHDRAWN FROM THE BALLOT PURSUANT TO SUBSECTION (2) OF THIS SECTION.

(4) EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS SECTION, no election may be canceled in part.";

line 18, strike "canceled election" and substitute "canceled election OR";
strike lines 20 through 26.

Renumber succeeding sections accordingly.

Page 4, strike lines 1 through 12.

Page 8, strike lines 17 and 18 and substitute the following:

"office in which such petition has been filed by some registered elector of the municipality or territory proposed to be incorporated within thirty".

Page 13, after line 2, insert the following:

"SECTION 11. 31-4-504 (5) (c), Colorado Revised Statutes, is amended to read:

31-4-504. Resignation - vacancy filled - election - ballot - nomination. (5) (c) The absentee polling place in the office of the municipal clerk shall be open during regular business hours between the tenth and fifth ~~business days~~ DAY preceding the recall election.

SECTION 12. 31-4-505 (1), Colorado Revised Statutes, is amended to read:

31-4-505. Recall after six months - second petition. (1) No recall petition shall be circulated or ~~signed~~ FILED AND NO PENDING RECALL PROCEEDINGS SHALL BE CONTINUED against any officer ~~until he has actually held his office for at least~~ DURING THE six months ~~unless he holds his office by virtue of appointment to fill a vacancy~~ FOLLOWING THE OFFICER'S ELECTION OR REELECTION."

Renumber succeeding sections accordingly.

Page 14, line 13, strike "THE REGISTERED";

line 14, strike the first "ELECTOR,".

State,
Veterans,
and Military
Affairs

After consideration on the merits, the committee recommends that the following be referred favorably to the Committee of the Whole: HB00-1293

Health,
Environment,
Welfare and
Institutions

After consideration on the merits, the committee recommends that SB00-180 be amended as follows and, as so amended, be referred to the Committee on Appropriations with favorable recommendation:

Amend printed bill, page 3, line 16, strike "A NEW SUBSECTION" and substitute "THE FOLLOWING NEW SUBSECTIONS";

after line 18, insert the following:

"(3.5) "BOARD" MEANS THE STATE BOARD OF HEALTH CREATED PURSUANT TO SECTION 25-1-103."

Page 8, line 24, strike "(1)".

Page 9, line 3, strike "Colorado" and substitute "~~Colorado~~";

line 4, strike "license and, if possible," and substitute "license and if possible,";

strike lines 7 and 8, and substitute the following:

"~~county in which the ambulance is based~~ OTHER REQUIREMENTS TO BE ESTABLISHED BY THE BOARD BY RULE PURSUANT TO SECTION 25-3.5-308; for";

strike lines 24 through 26.

Strike pages 10 through 12.

Page 13, strike lines 1 through 21;

line 24, strike "A NEW SUBSECTION" and substitute "THE FOLLOWING NEW SUBSECTIONS".

Page 14, line 2, strike "SUPERVISION" and substitute "MEDICAL DIRECTION";

after line 16, insert the following:

"(5) FOR THE PURPOSES OF THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES, "MEDICAL DIRECTION" INCLUDES, BUT IS NOT LIMITED TO, THE FOLLOWING:

(a) APPROVAL OF THE MEDICAL COMPONENTS OF TREATMENT PROTOCOLS AND APPROPRIATE PREARRIVAL INSTRUCTIONS;

(b) ROUTINE REVIEW OF PROGRAM PERFORMANCE AND MAINTENANCE OF ACTIVE INVOLVEMENT IN QUALITY IMPROVEMENTS ACTIVITIES, INCLUDING ACCESS TO DISPATCH TAPES AS NECESSARY FOR THE EVALUATION OF PROCEDURES;

(c) AUTHORITY TO RECOMMEND APPROPRIATE CHANGES TO PROTOCOLS FOR THE IMPROVEMENT OF PATIENT CARE; AND

(d) PROVIDE OVERSIGHT FOR THE ONGOING EDUCATION, TRAINING, AND QUALITY ASSURANCE FOR PROVIDERS OF EMERGENCY CARE."

Page 15, line 17, strike "**ambulances.**" and substitute "**ambulances - cash fund created.** (1)";

strike line 18, and substitute the following:

"SHALL BE LICENSED BY THE DEPARTMENT. THE BOARD SHALL PROMULGATE RULES FOR";

line 20, after the period, add the following:

"ALL RULES SHALL BE PROMULGATED IN CONSULTATION WITH THE PROVIDERS OF FIXED-WING AND ROTOR-WING AMBULANCE SERVICES. THE BOARD SHALL COMPLETE ITS RULE-MAKING NO LATER THAN JANUARY 1, 2002.

(2) (a) FEES COLLECTED BY THE DEPARTMENT PURSUANT TO THIS SECTION SHALL COVER THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH SUCH LICENSURE AND SHALL BE TRANSMITTED TO THE STATE TREASURER WHO SHALL CREDIT THE SAME TO THE FIXED-WING AND ROTOR-WING AMBULANCES CASH FUND, WHICH FUND IS HEREBY CREATED IN THE STATE TREASURY.

(b) ANY INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THE FIXED-WING AND ROTOR-WING AMBULANCES CASH FUND SHALL BE CREDITED TO SUCH FUND. ANY UNEXPENDED OR UNENCUMBERED MONEYS REMAINING IN SUCH FUND AT THE END OF A FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT REVERT OR BE TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND OF THE STATE.";

line 22, before "AMBULANCE", insert "GROUND, FIXED-WING, AND ROTOR-WING".

Page 16, strike lines 1 through 3, and substitute the following:

"SECTION 25-3.5-104;"

line 12, strike "ambulance service" and substitute "~~ambulance~~ service AGENCY THAT TRANSPORTS PATIENTS OR INJURED PERSONS";

line 13, strike "records," and substitute "records OR DATA FILES,";

line 14, strike "department," and substitute "~~department~~ BOARD,";

line 16, strike "system" and substitute "system, AS SPECIFIED IN SECTION 25-3.5-704 (2) (h) (I),";

line 17, after the period, add "THE BOARD SHALL SPECIFY THE FORMAT, TIME FRAME, AND DATA ELEMENTS OF THE RECORDS AND DATA FILES THAT THE SERVICE AGENCIES SHALL SUBMIT TO THE DEPARTMENT. SUCH RECORDS AND DATA FILES SHALL BE STRICTLY CONFIDENTIAL PURSUANT TO SECTION 25-3.5-704 (2) (h) (II).".

Page 18, line 8, strike "THROUGH JUNE 30, 2003," and substitute "TO JUNE 30, 2002,".

Page 19, line 18, strike "MONEYS" and substitute "ON AND AFTER JULY 1, 2002, MONEYS";

line 20, strike "ON OR AFTER JULY 1, 2003, TO" and substitute "To".

Page 20, line 14, strike "FROM JULY 1, 2003, THROUGH JUNE 30, 2005, TO" and substitute "To";

line 15, strike "TO COUNTIES NO LESS THAN SEVEN" and substitute "FOR EACH COLORADO COUNTY WITHIN A RETAC NO LESS THAN FIFTEEN";

line 16, strike "FIVE HUNDRED DOLLARS" and substitute "DOLLARS AND SEVENTY-FIVE THOUSAND DOLLARS TO EACH RETAC,";

line 20 after the period, add "IN THE EVENT THAT A RETAC IS COMPOSED OF LESS THAN FIVE COUNTIES AS OF JULY 1, 2002, THE COUNCIL SHALL RECOMMEND THAT FOR EACH COLORADO COUNTY WITHIN SUCH RETAC, THE RETAC SHALL RECEIVE FIFTEEN THOUSAND DOLLARS IN ACCORDANCE WITH SECTION 25-3.5-605 FOR PLANNING AND, TO THE EXTENT POSSIBLE, COORDINATION OF EMERGENCY MEDICAL AND TRAUMA SERVICES IN THE COUNTY AND BETWEEN COUNTIES WHEN SUCH COORDINATION WOULD PROVIDE FOR BETTER SERVICE GEOGRAPHICALLY. ANY RETAC MAY APPLY FOR ADDITIONAL MONEYS AND MAY RECEIVE SUCH MONEYS IF THE REQUEST IS APPROVED BY THE COUNCIL, SO LONG AS THE MONEYS ARE USED IN ACCORDANCE WITH SECTION 25-3.5-605 FOR PLANNING AND, TO THE EXTENT POSSIBLE, COORDINATION OF EMERGENCY MEDICAL AND TRAUMA SERVICES IN THE COUNTY AND BETWEEN COUNTIES WHEN SUCH COORDINATION WOULD PROVIDE FOR BETTER SERVICE GEOGRAPHICALLY.";

strike lines 21 through 26, and substitute the following:

"(II) A COUNTY MAY REQUEST TO THE COUNCIL THAT THE COUNTY'S REPRESENTATIVE FIFTEEN THOUSAND DOLLARS BE DIVIDED BETWEEN TWO DIFFERENT RETACS PURSUANT TO SECTION 25-3.5-704 (2) (c) (IV) (B).".

Page 21, strike lines 1 and 2;

line 3, strike "ON AND AFTER JULY 1, 2003, TO" and substitute "To";

line 18, strike "amended" and substitute "amended, and the said 25-3.5-604 is further amended BY THE ADDITION OF A NEW SUBSECTION,";

line 19, after "**program -**", insert "**EMS account -**";

line 21, strike "on rules" and substitute "~~on rules~~";

line 24, after "MONEYS", insert "FROM THE EMS ACCOUNT".

Page 22, after line 17, insert the following:

"(4) THE COUNCIL SHALL REVIEW THE ADEQUACY OF FUNDING FOR EACH RETAC FOR THE PERIOD BEGINNING JULY 1, 2002. THE REVIEW SHALL BE COMPLETED BY DECEMBER 31, 2005. THE COUNCIL MAY RECOMMEND ANY NECESSARY CHANGES TO THE DEPARTMENT AS A RESULT OF THE REVIEW CONDUCTED PURSUANT TO THIS SUBSECTION (4).";

line 19, strike "amended" and substitute "amended, and the said

25-3.5-605 is further amended BY THE ADDITION OF A NEW SUBSECTION,";

line 23, strike "2005," and substitute "2002,".

Page 23, line 2, strike "2005," and substitute "2002,".

Page 24, line 20, strike "2005." and substitute "2002.";

strike lines 21 through 24, and substitute the following:

"(2.5) (a) ON AND AFTER OCTOBER 1, 2003, AND EACH OCTOBER 1 THEREAFTER, EACH RETAC SHALL SUBMIT TO THE COUNCIL AN ANNUAL FINANCIAL REPORT THAT DETAILS THE";

line 25, strike "AND PLAN".

Page 25, after line 3, insert the following:

"(b) ON AND AFTER JULY 1, 2003, AND EVERY OTHER JULY 1 THEREAFTER, EACH RETAC SHALL SUBMIT TO THE COUNCIL A BIENNIAL PLAN THAT DETAILS THE RETAC'S EMTS PLAN AND ANY REVISIONS PURSUANT TO SECTION 25-3.5-704 (2) (c) (I) (B). IF THE RETAC INCLUDES A COUNTY THAT HAS BEEN DIVIDED GEOGRAPHICALLY PURSUANT TO SECTION 25-3.5-704 (2) (c) (IV), THE PLAN SHALL INCLUDE AN EVALUATION OF SUCH DIVISION. SUCH PLAN SHALL BE IN A FORMAT SPECIFIED BY THE COUNCIL AND THE DEPARTMENT. IN INSTANCES WHERE THE COUNCIL FINDS SUCH PLAN INADEQUATE, THE RETAC SHALL RESUBMIT THE PLAN TO THE COUNCIL BY AUGUST 1 OF THE SAME YEAR.";

line 12, strike "January 1" and substitute "January 1 NOVEMBER 1".

Page 26, line 22, strike "and (4) (d)," and substitute "(4) (d), and (4) (f),".

Page 27, line 11, strike "appropriate;" and substitute "appropriate DETERMINED BY RULES PROMULGATED BY THE BOARD;".

Page 28, after line 21, insert the following:

"(f) Regional pediatric trauma center, which is a facility that provides comprehensive pediatric trauma care, including acute management of the most severely injured pediatric trauma patients, and is a facility that may serve as an ultimate resource for lower level facilities on pediatric trauma care, and which is a facility that performs pediatric trauma research and provides pediatric trauma education for health care professionals. NO FACILITY SHALL BE DEEMED A REGIONAL PEDIATRIC TRAUMA CENTER UNLESS THE FACILITY PREDOMINATELY SERVES CHILDREN AND IS A FACILITY WHERE AT LEAST EIGHTY-FIVE PERCENT OF HOSPITAL ADMISSIONS ARE FOR INDIVIDUALS WHO ARE UNDER EIGHTEEN YEARS OF AGE. A SEPARATE ADMINISTRATIVE UNIT WITHIN A GENERAL HOSPITAL OR HOSPITAL SYSTEM SHALL NOT BE DEEMED A REGIONAL PEDIATRIC TRAUMA CENTER.";

line 24, after "(IV),", insert "(2) (d) (V),".

Page 29, line 1, strike "amended" and substitute "amended, and the said 25-3.5-704 (2) (h) (I) is further amended BY THE ADDITION OF A NEW SUB-SUBPARAGRAPH,".

Page 30, line 4, strike "FIVE" and substitute "FOUR";

line 18, after "RETAC.", insert "EACH COUNTY WITHIN A RETAC SHALL BE LOCATED IN REASONABLE GEOGRAPHIC PROXIMITY TO THE OTHER COUNTIES WITHIN THE SAME RETAC.";

strike lines 23 through 26, and substitute the following:

~~"sub-subparagraph (A), the department shall designate an established ATAC to serve as that county's or city and county's ATAC JULY 1, 2001, A COUNTY WITH A POPULATION OF AT LEAST _____ RESIDENTS MAY APPLY TO THE COUNCIL FOR ESTABLISHMENT OF A RETAC OF LESS THAN FIVE COUNTIES. THE COUNCIL SHALL CONDUCT A HEARING WITH ALL COUNTIES~~

THAT MAY BE AFFECTED BY THE ESTABLISHMENT OF A RETAC WITH LESS THAN FIVE COUNTIES BEFORE DECIDING WHETHER TO GRANT SUCH APPLICATION. THE DECISION ON SUCH AN APPLICATION SHALL BE COMPLETED WITHIN SIXTY DAYS AFTER THE DATE OF APPLICATION. FOR ALL OTHER COUNTIES WITH A POPULATION LESS THAN _____ RESIDENTS THAT HAVE NOT ESTABLISHED A RETAC BY JULY 1, 2001, THE COUNCIL SHALL DESIGNATE AN ESTABLISHED RETAC TO SERVE AS THE COUNTY'S OR CITY AND COUNTY'S RETAC.

~~(B) On and after January 1, 1998, but No later than July 1, 1998, after obtaining input from its ATAC, the governing body for a single county or city and county or 2003, EACH RETAC WITH APPROVAL FROM the governing bodies for".~~

Page 31, strike lines 1 and 2;

line 4, after "plan", insert "TO THE COUNCIL".

Page 32, line 18, after the period, add the following:

"THE DEPARTMENT SHALL PROVIDE TECHNICAL ASSISTANCE TO ANY RETAC FOR PREPARATION, IMPLEMENTATION, AND MODIFICATION, AS NECESSARY, OF REGIONAL EMERGENCY MEDICAL AND TRAUMA SYSTEM PLANS.

(IV) (A) A COUNTY MAY REQUEST THAT THE COUNTY BE INCLUDED IN TWO SEPARATE RETACs BECAUSE OF GEOGRAPHICAL CONCERNS. THE COUNCIL SHALL REVIEW AND APPROVE ANY REQUEST THAT A COUNTY BE DIVIDED PRIOR TO INCLUSION WITHIN TWO SEPARATE RETACs IF THE COUNTY DEMONSTRATES SUCH A DIVISION WILL NOT ADVERSELY IMPACT THE EMERGENCY MEDICAL AND TRAUMA NEEDS FOR THE COUNTY, THAT SUCH A DIVISION IS BENEFICIAL TO BOTH RETACs, AND THAT SUCH DIVISION DOES NOT CREATE A RETAC WITH LESS THAN FIVE CONTIGUOUS COUNTIES, EXCEPT FOR RETACs THAT CONTAIN A COUNTY WITH A POPULATION OF AT LEAST _____ RESIDENTS PURSUANT TO SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (c).

(B) A COUNTY THAT IS INCLUDED IN TWO SEPARATE RETACs MAY REQUEST THAT THE COUNCIL ALLOCATE ANY PORTION OF THE FIFTEEN THOUSAND DOLLARS RECEIVED BY A RETAC, PURSUANT TO SECTION 25-3.5-603, BETWEEN THE TWO SEPARATE RETACs."

Page 34, after line 2, insert the following:

"(V) Disciplinary sanctions, which shall be limited to the revocation of a designation, ~~or~~ TEMPORARY SUSPENSION WHILE THE FACILITY TAKES REMEDIAL STEPS TO CORRECT THE CAUSE OF THE DISCIPLINE, redesignation, or assignment of nondesignation status to a facility;".

Page 36, after line 11, insert the following:

"(E) THAT THE DEPARTMENT BE ALLOWED ACCESS TO PREHOSPITAL, HOSPITAL, AND CORONER RECORDS OF EMERGENCY MEDICAL AND TRAUMA PATIENTS TO ASSESS THE CONTINUING QUALITY IMPROVEMENT SYSTEM OR THE AREA AND STATE-BASED INJURY PREVENTION AND PUBLIC INFORMATION AND EDUCATION PROGRAMS PURSUANT TO PARAGRAPH (g) OF THIS SUBSECTION (2). ALL INFORMATION PROVIDED TO THE DEPARTMENT SHALL BE CONFIDENTIAL PURSUANT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH (h). TO THE GREATEST EXTENT POSSIBLE, PATIENT IDENTIFYING INFORMATION SHALL NOT BE GATHERED. IF PATIENT IDENTIFYING INFORMATION IS NECESSARY, THE DEPARTMENT SHALL KEEP SUCH INFORMATION STRICTLY CONFIDENTIAL, AND SUCH INFORMATION MAY ONLY BE RELEASED OUTSIDE OF THE DEPARTMENT UPON WRITTEN AUTHORIZATION OF THE PATIENT. THE DEPARTMENT SHALL PREPARE AN ANNUAL REPORT THAT INCLUDES AN EVALUATION OF THE STATEWIDE EMERGENCY MEDICAL AND TRAUMA SERVICES SYSTEM. SUCH REPORT SHALL BE DISTRIBUTED TO ALL DESIGNATED TRAUMA CENTERS, AMBULANCE SERVICES, AND SERVICE AGENCIES AND TO THE CHAIRPERSONS OF THE COMMITTEES ON HEALTH, ENVIRONMENT, WELFARE, AND INSTITUTIONS FOR THE HOUSE OF REPRESENTATIVES AND THE SENATE."

Page 38, line 10, strike "January 1" and substitute "~~January 1~~ NOVEMBER 1".

Page 39, after line 5, insert the following:

"**SECTION 23.** 25-1-108, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

25-1-108. Powers and duties of the state board of health - report - repeal. (4) (a) THE BOARD, IN CONSULTATION WITH THE STATE EMERGENCY MEDICAL AND TRAUMA SERVICES ADVISORY COUNCIL ESTABLISHED IN SECTION 25-3.5-104 AND THE COLORADO BUREAU OF INVESTIGATION, SHALL EVALUATE AND FORMULATE A REPORT FOR THE IMPLEMENTATION OF CRIMINAL BACKGROUND CHECKS FOR EMERGENCY MEDICAL TECHNICIANS WHO HAVE DIRECT ACCESS TO PATIENTS. THE BOARD SHALL CONDUCT PUBLIC HEARINGS WITH ANY INTERESTED PARTY, INCLUDING, BUT NOT LIMITED TO, PUBLIC OR PRIVATE NONPROFIT, NOT-FOR-PROFIT, FOR-PROFIT, OR VOLUNTEER ORGANIZATIONS THAT FUNCTION AS RESCUE UNITS, SERVICE AGENCIES, OR AMBULANCE SERVICES THAT EMPLOY A PERSON AS OR ALLOW A PERSON TO VOLUNTEER AS AN EMERGENCY MEDICAL TECHNICIAN, WHERE THE EMERGENCY MEDICAL TECHNICIAN IS IN A POSITION THAT WOULD REQUIRE DIRECT CONTACT WITH ANY PATIENT, AS PART OF THE FORMULATION OF ANY REPORT.

(b) THE REPORT SHALL BE GIVEN TO THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, PRESIDENT OF THE SENATE, MINORITY LEADER IN THE HOUSE OF REPRESENTATIVES, MINORITY LEADER IN THE SENATE, AND CHAIRPERSONS FOR THE JUDICIARY COMMITTEES IN THE HOUSE OF REPRESENTATIVES AND THE SENATE NO LATER THAN DECEMBER 1, 2000.

(c) THE REPORT SHALL INCLUDE LEGISLATIVE RECOMMENDATIONS FOR:

(I) IMPLEMENTING A PROGRAM TO REQUIRE THE CRIMINAL BACKGROUND CHECKS FOR EMERGENCY MEDICAL TECHNICIANS WITH DIRECT PATIENT CONTACT;

(II) DETERMINING IF PARTICULAR CRIMES SHOULD DISQUALIFY AN EMERGENCY MEDICAL TECHNICIAN FROM EMPLOYMENT OR CERTIFICATION;

(III) DETERMINING HOW CRIMINAL BACKGROUND CHECKS WOULD AFFECT THE RECRUITING OF VOLUNTEER EMERGENCY MEDICAL TECHNICIANS;

(IV) ENSURING CONFIDENTIALITY AND PROPER HANDLING OF ALL INFORMATION RELATED TO CRIMINAL BACKGROUND CHECKS; AND

(V) DETERMINING WHETHER AN EMPLOYER, EMPLOYEE, OR SOME OTHER ENTITY OR PARTY SHALL BEAR THE COST OF HAVING THE CRIMINAL BACKGROUND CHECKS PERFORMED.

(d) THIS SUBSECTION (4) IS REPEALED, EFFECTIVE DECEMBER 31, 2000."

Renumber succeeding sections accordingly.

MESSAGE FROM THE HOUSE

March 6, 2000

Mr. President:

The House has passed on Third Reading and returns herewith SB00-127, 130.

The House has passed on Third Reading and transmitted to the Revisor of Statutes; SB00-047, amended as printed in House Journal, March 3, page 816. SB00-066, amended as printed in House Journal, March 3, page 815. SB00-087, amended as printed in House Journal, March 3, pages 812-814.

The House has voted to concur in the Senate amendments to HB00-1036, 1088, 1190, and has repassed the bills as so amended.

The House has voted not to concur in the Senate amendments to HB00-1179 and requests that a conference committee be appointed. The Speaker has appointed Representatives Kester, chairman, Smith, and Miller as House conferees on the First Conference Committee on HB00-1179. The House has granted authorization to go beyond the scope of the differences. The bill is transmitted herewith.

MESSAGE FROM THE REVISOR

March 6, 2000

We herewith transmit:

without comment, as amended, SB00-047, 066 and 087.

SENATE SERVICES REPORT

Senate
Services

Correctly engrossed: SB 00-195.

Correctly revised: HB 00-1038, 1047, 1058, 1138, 1151, 1172, 1191, 1211, 1271, 1286, 1290, 1324, 1325.

On motion of Senator Blickensderfer, the Senate adjourned until 9:00 a.m., Tuesday, March 7, 2000.

Approved:

Ray Powers
President of the Senate

Attest:

Patricia K. Dicks
Secretary of the Senate

