

## CHAPTER 179

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**EDUCATION - UNIVERSITIES AND COLLEGES**


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**HOUSE BILL 04-1350**

BY REPRESENTATIVE(S) Berry, Hefley, Jahn, Marshall, Romanoff, Weddig, Williams S., Coleman, May M., and Paccione;  
also SENATOR(S) Anderson, Groff, and Keller.

**AN ACT****CONCERNING STATE PROGRAMS TO ASSIST HIGHER EDUCATION STUDENTS IN PAYING TUITION.**

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

**SECTION 1.** 23-3.1-102 (1), (6), and (8), 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:

(1) "Borrower" means any ~~resident~~ PERSON who receives a loan made, originated, disbursed, serviced, or guaranteed by the division, or made, purchased, originated, disbursed, or serviced by ~~the Colorado student obligation bond authority~~ COLLEGEINVEST, created by part 2 of this article, or made from or in anticipation of an ~~authority~~ INSTITUTIONAL loan as defined in section 23-3.1-202 by one or more institutions of higher education ~~located in Colorado~~ or a ~~Colorado~~ nonprofit corporation acting on behalf of one or more ~~such~~ INSTITUTIONS OF HIGHER EDUCATION.

(6) "Lender" means any bank operating under a national or state charter, any domestic savings and loan association operating under a national or state charter, ANY DOMESTIC BRANCH OR AGENCY OF A FOREIGN BANK DULY LICENSED BY A STATE OR THE UNITED STATES, any credit union established pursuant to federal law or the law of the state in which its principal place of operation is established, any insurance company authorized to do business within this state, any institution of higher education that applies for and receives formal approval of the division as an eligible lender pursuant to the rules of the division, any pension fund eligible under the federal "Higher Education Act of 1965", 20 U.S.C. 1071 et seq., as amended, any secondary market operation established pursuant to the federal "Education Amendments of 1972", as amended, or the authority created by part 2 of this article.

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

(8) "Student loan" means a loan made to ~~a resident~~ FINANCE HIGHER EDUCATION OPPORTUNITIES OR TO CONSOLIDATE OR REFINANCE LOANS MADE to finance higher education opportunities, which loan is made, originated, disbursed, or serviced by the division or by ~~the Colorado student obligation bond authority~~ COLLEGEINVEST, created pursuant to part 2 of this article, or which one or more institutions of higher education ~~located in Colorado~~ or a ~~Colorado~~ nonprofit corporation acting on behalf of one or more ~~such~~ institutions of higher education may make from or in anticipation of an ~~authority~~ INSTITUTIONAL loan as defined in section 23-3.1-202 or which is guaranteed by the division and may include guaranteed student loans and educational loans.

**SECTION 2.** 23-3.1-104 (2) (j) and (2) (o), Colorado Revised Statutes, are amended to read:

**23-3.1-104. Duties and powers of division.** (2) The division may:

(j) Contract with ~~eligible~~ institutions of higher education to originate, disburse, or guarantee student loans;

(o) Prescribe the terms and conditions by which loans from the proceeds of ~~authority~~ INSTITUTIONAL loans established under part 2 of this article are made, through either the promulgation of rules ~~and regulations~~ or otherwise;

**SECTION 3.** 23-3.1-106 (1) and (2), Colorado Revised Statutes, are amended to read:

**23-3.1-106. Student loan program established.** (1) (a) There is hereby established a student loan program, to be administered by the division, which shall guarantee, in accordance with applicable provisions of federal law, a percentage of the unpaid principal and interest on all guaranteed student loans approved by the division. No guaranteed student loan shall be guaranteed to a percentage or an amount in excess of the limits authorized by federal law, nor shall interest charged on any guaranteed student loan exceed the interest rate permitted by federal law, but each guaranteed student loan may carry a special loan insurance premium which shall not exceed that permitted by federal law. No guaranteed student loan shall be guaranteed or made to any ~~resident~~ borrower which would not be eligible for federal reinsurance as authorized by Title IV, Part B of the federal "Higher Education Act of 1965", as amended. A loan guarantee made by the division in good faith for a student loan which has been disbursed and which does not meet the requirements of this article, except for cases of misfeasance by the holder, shall not be invalidated.

(b) ON AND AFTER JULY 1, 2004, THE STUDENT LOAN PROGRAM ESTABLISHED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1) SHALL BE FORMALLY AND LEGALLY KNOWN AS AND DESIGNATED THE COLORADO COLLEGE ACCESS NETWORK. ON AND AFTER JULY 1, 2004, WHENEVER THE STUDENT LOAN PROGRAM OR THE GUARANTEED STUDENT LOAN PROGRAM IS REFERRED TO OR DESIGNATED BY A CONTRACT OR OTHER DOCUMENT, SUCH REFERENCE OR DESIGNATION SHALL BE DEEMED TO APPLY TO THE COLORADO COLLEGE ACCESS NETWORK. ALL CONTRACTS ENTERED INTO BY OR ON BEHALF OF THE STUDENT LOAN PROGRAM OR THE GUARANTEED STUDENT LOAN PROGRAM PRIOR TO JULY 1, 2004, ARE HEREBY

VALIDATED AS OBLIGATIONS OF THE COLORADO COLLEGE ACCESS NETWORK.

(2) It is the intent of the general assembly that the ~~guaranteed student loan program~~ COLORADO COLLEGE ACCESS NETWORK established by subsection (1) of this section shall operate in such a manner that its costs can be fully met by user fees and federal payments.

**SECTION 4.** 23-3.1-111 (1) and (2), Colorado Revised Statutes, are amended to read:

**23-3.1-111. Authority of division to enter into agreements to provide administrative and guarantee services.** (1) The division is hereby authorized to enter into contracts or other agreements or both contracts and other agreements with private or public entities to make, originate, disburse, or service guaranteed student loans, educational loans, and student loans. Such authorization includes but shall not be limited to the power to enter into agreements with ~~the Colorado student obligation bond authority~~ COLLEGEINVEST, established by part 2 of this article, to make, originate, disburse, or service ~~authority~~ "INSTITUTIONAL loans" and "student obligations" as those terms are defined in section 23-3.1-202, whether or not such ~~authority~~ "INSTITUTIONAL loans" and "student obligations" are eligible for federal reinsurance as authorized by Title IV, Part B of the federal "Higher Education Act of 1965", as amended.

(2) The division may enter into contracts or other agreements or both contracts and other agreements with private or public entities to guarantee or reinsure student loans or educational loans which may include but not be limited to guaranteeing or reinsuring the ~~authority~~ "INSTITUTIONAL loans" or "student obligations" as those terms are defined in section 23-3.1-202.

**SECTION 5.** 23-3.1-201, Colorado Revised Statutes, is amended to read:

**23-3.1-201. Legislative declaration.** The general assembly hereby declares that the availability of improved access to and choice of higher education opportunities in this state will benefit the residents of the state and that the establishment of a student obligation bond program, with proceeds of bonds to be used for the purchase or making of student obligations or the making of ~~authority~~ INSTITUTIONAL loans, and the establishment of a prepaid postsecondary education expense program will enhance the availability of student obligations and assist residents in meeting the expenses incurred in availing themselves of higher education opportunities. It is the intent of the general assembly in enacting this part 2 to create ~~the Colorado student obligation bond authority~~ COLLEGEINVEST, which shall be a division within the department of higher education and which authority shall make or purchase student obligations, shall make ~~authority~~ INSTITUTIONAL loans, and shall develop and administer a prepaid postsecondary education expense program. This part 2 shall be liberally construed to accomplish the intentions expressed in this section.

**SECTION 6.** 23-3.1-202, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, 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 (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.

(2) "AUTHORITY" MEANS COLLEGEINVEST, TRANSFERRED TO THE DEPARTMENT AND EXISTING AS A DIVISION OF THE DEPARTMENT PURSUANT TO SECTION 23-3.1-203.

(3) "BOARD" MEANS THE BOARD OF DIRECTORS OF THE AUTHORITY.

(4) "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.

(5) "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.

(6) "COLLEGEINVEST" MEANS:

(a) THE COLORADO STUDENT OBLIGATION BOND AUTHORITY, AS IT EXISTED PRIOR TO MAY 26, 2000, AS AN INDEPENDENT PUBLIC BODY POLITIC IN ACCORDANCE WITH SECTION 23-3.1-203, AS IT EXISTED PRIOR TO SAID DATE;

(b) ON AND AFTER MAY 26, 2000, BUT PRIOR TO JULY 1, 2004, THE COLORADO STUDENT OBLIGATION BOND AUTHORITY TRANSFERRED TO THE DEPARTMENT AND EXISTING AS A DIVISION OF THE DEPARTMENT PURSUANT TO SECTION 23-3.1-203, AS IT EXISTED PRIOR TO SAID DATE;

(c) ON AND AFTER JULY 1, 2004, THE SUCCESSOR TO THE COLORADO STUDENT OBLIGATION BOND AUTHORITY EXISTING AS A DIVISION OF THE DEPARTMENT PURSUANT TO SECTION 23-3.1-203, BUT DESIGNATED AND FORMALLY AND LEGALLY KNOWN, AS OF JULY 1, 2004, AS COLLEGEINVEST.

(7) "CONTRACT PRICE" MEANS THE AGGREGATE OF ALL PAYMENT AMOUNTS TO BE REMITTED DURING THE CONTRACT TERM BY PURCHASERS UNDER THE OUTSTANDING ADVANCE PAYMENT CONTRACTS AS PROVIDED ON THE RESPECTIVE DATES OF EXECUTION THEREOF.

(8) "DIRECTOR" MEANS THE EXECUTIVE OFFICER OF COLLEGEINVEST, APPOINTED IN ACCORDANCE WITH SECTION 23-3.1-203.

(9) "EXCESS AMOUNT" MEANS THE ASSETS IN THE COLORADO 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.

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

(11) "EXECUTIVE OFFICER" MEANS THE DIRECTOR OF COLLEGEINVEST, TRANSFERRED TO THE DEPARTMENT AND EXISTING AS A DIVISION OF THE DEPARTMENT PURSUANT TO SECTION 23-3.1-203.

(12) "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 COLORADO PREPAID POSTSECONDARY EDUCATION EXPENSE TRUST FUND.

(13) "INSTITUTIONAL LOAN" MEANS A LOAN MADE BY COLLEGEINVEST FROM BOND PROCEEDS, OR OTHER AVAILABLE MONEYS, TO ONE OR MORE INSTITUTIONS OF HIGHER EDUCATION, TO A NONPROFIT CORPORATION ACTING ON BEHALF OF ONE OR MORE 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.

(14) "INVESTABLE ASSETS" MEANS CASH AND CASH EQUIVALENTS ON DEPOSIT IN THE PREPAID EXPENSE TRUST FUND AND INVESTMENTS OF AMOUNTS DEPOSITED TO THE PREPAID EXPENSE TRUST FUND.

(15) "PREPAID EXPENSE PROGRAM" MEANS THE COLORADO PREPAID POSTSECONDARY EDUCATION EXPENSE PROGRAM AUTHORIZED IN SECTION 23-3.1-206.7.

(16) "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 MAY 26, 2000, PURSUANT TO SECTION 23-3.1-206.7 (5).

(17) "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.

(18) "QUALIFIED BENEFICIARY" MEANS A PERSON IDENTIFIED IN AN ADVANCE PAYMENT CONTRACT AS THE RECIPIENT OF MONEYS OR BENEFITS TO BE DISBURSED IN ACCORDANCE WITH AN ADVANCE PAYMENT CONTRACT.

(19) "STATE INSTITUTION" SHALL HAVE THE SAME MEANING AS PROVIDED IN SECTION 23-3.3-101 (4).

(20) "STUDENT" MEANS A STUDENT WHO, UNDER RULES PROMULGATED BY THE DIVISION, IS ENROLLED OR ACCEPTED FOR ENROLLMENT AT AN INSTITUTION OF HIGHER EDUCATION 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.

(21) "STUDENT OBLIGATIONS" MEANS STUDENT OBLIGATION NOTES AND OTHER DEBT OBLIGATIONS EVIDENCING LOANS MADE 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, OR A NONPROFIT CORPORATION ACTING ON BEHALF OF ONE OR MORE INSTITUTIONS OF HIGHER EDUCATION, OR THE DIVISION MAY MAKE FROM OR IN ANTICIPATION OF AN INSTITUTIONAL LOAN AND WHICH INCLUDE A DIRECT OR INDIRECT INTEREST, IN WHOLE OR PART, OF THE NOTES OR OBLIGATIONS.

(22) "TUITION" MEANS THE QUARTER, SEMESTER, OR TERM CHARGES IMPOSED BY AN INSTITUTION OF HIGHER EDUCATION AND SUCH FEES OR CHARGES AS MAY BE INCLUDED IN THE ADVANCE PAYMENT CONTRACT AT THE OPTION OF THE AUTHORITY.

**SECTION 7.** 23-3.1-203 (1), Colorado Revised Statutes, is amended, and the said 23-3.1-203 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**23-3.1-203. Authority - creation - membership - transfer of personnel.**

(1) Effective May 26, 2000, the ~~Colorado student obligation bond~~ authority 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 May 26, 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.

(3) (a) ON AND AFTER JULY 1, 2004, THE DIVISION OF THE DEPARTMENT OF HIGHER EDUCATION KNOWN PRIOR TO SAID DATE AS THE COLORADO STUDENT OBLIGATION BOND AUTHORITY SHALL BE FORMALLY AND LEGALLY KNOWN AS AND DESIGNATED COLLEGEINVEST.

(b) ON AND AFTER JULY 1, 2004, 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 A CONTRACT OR OTHER DOCUMENT, SUCH REFERENCE OR DESIGNATION SHALL BE DEEMED TO APPLY TO COLLEGEINVEST AS A DIVISION OF THE DEPARTMENT OF HIGHER EDUCATION PURSUANT TO THIS SECTION. ALL CONTRACTS ENTERED INTO BY OR ON BEHALF OF THE COLORADO STUDENT OBLIGATION BOND AUTHORITY OR ITS BOARD PRIOR TO JULY 1, 2004, ARE HEREBY VALIDATED AS OBLIGATIONS OF COLLEGEINVEST.

**SECTION 8.** 23-3.1-204 (3) and (4), Colorado Revised Statutes, are amended to read:

**23-3.1-204. Organizational meeting - chairperson - conflict of interest.**

(3) The board may delegate ~~by resolution~~, to one or more of its members or to its director such powers and duties as it may deem proper and to its 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 director shall 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 chairperson of the board shall execute a blanket bond covering each member of the board, the 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.~~

**SECTION 9.** 23-3.1-205 (1), Colorado Revised Statutes, is amended to read:

**23-3.1-205. Meetings of board - quorum - expenses.** (1) 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~~ A MAJORITY OF THE MEMBERS PRESENT AT ANY MEETING AT WHICH A QUORUM IS PRESENT. 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.

**SECTION 10.** 23-3.1-205.3 (1) and (3), Colorado Revised Statutes, are amended to read:

**23-3.1-205.3. Transfer of property.** (1) On May 26, 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.

(3) On and after May 26, 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 or on behalf of the Colorado student obligation bond authority or its board prior to May 26, 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.

**SECTION 11.** 23-3.1-205.4, Colorado Revised Statutes, is amended to read:

**23-3.1-205.4. Collegeinvest fund - creation - control - use.** (1) There is hereby created in the state treasury the Colorado student obligation bond authority fund, TO BE KNOWN AND REFERRED TO ON AND AFTER JULY 1, 2004, AS THE COLLEGEINVEST 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~~ COLLEGEINVEST 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, all moneys received or acquired by the authority, whether by appropriation, grant, contract, gift, sale or lease of surplus real or personal property, or 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~~ COLLEGEINVEST 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~~ COLLEGEINVEST 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.

(4) The authority may request authorization to transfer or loan moneys from the ~~Colorado student obligation bond authority~~ COLLEGEINVEST fund to the prepaid expense trust fund, created in section 23-3.1-206.7, or to any fund created for the implementation of the college savings program, established pursuant to part 3 of this article, as necessary to carry out the authority's powers and duties under this part 2 and part 3 of this article. The authority shall submit any such transfer or loan request to the executive director for approval. The authority shall not transfer or loan moneys from the ~~Colorado student obligation bond authority~~ COLLEGEINVEST fund to the prepaid expense trust fund or to any fund created for the implementation of the college savings program unless such transfer or loan is approved by the executive director.

**SECTION 12.** 23-3.1-205.5, Colorado Revised Statutes, is amended to read:

**23-3.1-205.5. Collegeinvest - enterprise status.** (1) ~~The authority~~ COLLEGEINVEST shall constitute an enterprise for the purposes of section 20 of article X of the state constitution, so long as ~~the authority~~ COLLEGEINVEST 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~~ COLLEGEINVEST shall not be subject to any provisions of section 20 of article X of the state constitution. Agreements between ~~the authority~~ COLLEGEINVEST 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~~ COLLEGEINVEST 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~~ COLLEGEINVEST and the board constitute an enterprise pursuant to subsection (1) of this section.

**SECTION 13.** 23-3.1-206 (1) (h), (1) (k), and (1) (l), Colorado Revised Statutes, are 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:

(h) To make or participate in the making of student obligations or ~~authority~~ INSTITUTIONAL loans;

(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~~ INSTITUTIONAL 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 insurance, guarantees, or other credit support with respect to all student obligations made or purchased or all ~~authority~~ INSTITUTIONAL loans made by the authority;

**SECTION 14.** 23-3.1-206.5, Colorado Revised Statutes, is amended to read:

**23-3.1-206.5. Origination, disbursement, and servicing of student obligations and institutional loans.** (1) ~~Unless the division and the authority agree otherwise, student obligations made or purchased by the authority which are not guaranteed student loans and authority loans made by the authority shall be originated and disbursed by the division upon such terms and conditions as the division may deem reasonable, including but not limited to the fees to be paid to the division for its services:~~

(2) The authority may contract with the division to originate, disburse, or service student obligations made or purchased by the authority. ~~which are guaranteed student loans and may contract with the division to service all other student obligations made or purchased by the authority or authority loans made by the authority.~~

**SECTION 15.** 23-3.1-206.7 (1), (5) (a), (5) (d), and (8), Colorado Revised Statutes, are amended to read:

**23-3.1-206.7. Prepaid expense program.** (1) The authority shall develop and administer, in accordance with this part 2, the Colorado prepaid postsecondary education expense program, which program is hereby created. Through the 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.~~

(5) (a) The Colorado prepaid postsecondary education expense trust fund is hereby created. The prepaid expense trust fund shall consist of moneys remitted by purchasers, moneys acquired from governmental and private sources, and general fund appropriations, if any. In addition, the prepaid expense trust fund may include any moneys transferred or loaned thereto pursuant to section 23-3.1-205.4. 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. On May 26, 2000, the 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 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. The state treasurer shall invest moneys in the prepaid expense trust fund based upon the ~~advice and recommendations~~ DIRECTION 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. 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.

(d) (I) The authority shall ~~annually~~ evaluate the actuarial soundness of the prepaid expense trust fund IF, ON THE LAST DAY OF THE FISCAL YEAR, THE AGGREGATE AMOUNT OF MONEYS OF THE PREPAID EXPENSE TRUST FUND INVESTED IN ANY OF THE FOLLOWING FORMS OF INVESTMENT EXCEEDS TEN PERCENT OF THE MARKET VALUE OF INVESTABLE ASSETS OF THE PREPAID EXPENSE TRUST FUND:

(A) COMMON OR PREFERRED STOCK; OR

(B) CORPORATE BONDS, NOTES, OR DEBENTURES THAT ARE CONVERTIBLE INTO COMMON OR PREFERRED STOCK; OR

(C) INVESTMENT TRUST SHARES.

(II) The authority ~~shall~~ MAY 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 an actuarial evaluation, the authority determines that the prepaid expense trust fund is not actuarially sound, the authority may direct the state treasurer to distribute the available assets of the prepaid expense trust fund in a manner permitted by outstanding advance payment 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.

(8) If, at any time, the authority determines that the 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 that particular aspect of the program and the execution of additional advance payment contracts. The state treasurer shall continue to invest moneys in the prepaid expense trust fund based upon the ~~advice and recommendations~~ DIRECTION 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 and qualified beneficiaries except as otherwise authorized.

**SECTION 16.** 23-3.1-207 (1), Colorado Revised Statutes, is amended to read:

**23-3.1-207. Notes.** (1) The authority may issue from time to time its negotiable notes for any ~~corporate purpose~~ OF ITS PURPOSES AS PROVIDED IN THIS PART 2, including purchase of student obligations or the making of student obligations or ~~authority~~ INSTITUTIONAL loans, and may renew from time to time any notes by the issuance of new notes, whether the notes to be renewed have or have not matured. The authority may issue notes partly to renew notes or to discharge other obligations then outstanding and partly for any other purpose. The notes may be authorized, sold, executed, and delivered in the same manner as bonds.

**SECTION 17.** 23-3.1-208 (1), (2), and (3), Colorado Revised Statutes, are amended to read:

**23-3.1-208. Bonds.** (1) (a) The authority may issue from time to time its bonds ~~for the purpose of~~ FOR ITS PURPOSES AS PROVIDED IN THIS PART 2, INCLUDING BUT NOT LIMITED TO purchasing or making student obligations or making ~~authority~~ INSTITUTIONAL loans, but the authority shall not have outstanding, at any one time, bonds, not including bond anticipation notes that have been refunded and bonds that have been refunded, in an aggregate principal amount exceeding one billion three hundred million dollars. The authority may not undertake the financing of the making or purchasing of student obligations unless, prior to the issuance of any bonds or notes, the board finds that there is insufficient access to student obligations from normal private market sources and that such financing will help alleviate such insufficient access.

(b) ~~Notwithstanding any other provision of this part 2 to the contrary, the authority shall neither undertake the financing of the making of student obligations, except student obligations which are guaranteed student loans, nor undertake the financing~~

of the making of authority loans, unless prior to and following the issuance of any bonds or notes, the proceeds of which are to be used for such purposes, the following requirements are met:

~~(f) At the regularly scheduled meeting of the commission immediately preceding the anticipated date of issuance of such bonds or notes, the authority shall submit to the commission a report setting forth the authority's then current proposals, plans, or expectations respecting:~~

~~(A) The principal amount of the financing;~~

~~(B) The interest rate or rates fixed for such bonds or notes;~~

~~(C) The specific intended uses of the proceeds of such bonds or notes;~~

~~(D) The provisions of the bond resolution or trust indenture securing the principal and interest on such bonds or notes, including but not limited to provisions pledging or assigning all or any part of the revenues or assets of the authority and provisions for insurance, letters of credit, stand-by credit agreements, take-out commitments, or other forms of credit insurance insuring against default or guaranteeing timely payment with respect to student obligations, authority loans, or bonds;~~

~~(E) The manner of award or sale of such bonds or notes;~~

~~(F) Any contracts or other agreements for the origination, disbursement, and servicing of student obligations or authority loans to be made by the authority from the proceeds of such bonds or notes or for the origination, disbursement, and servicing of student obligations to be made by or on behalf of any institution of higher education and funded from authority loans made by the authority from the proceeds of such bonds or notes;~~

~~(G) The terms and conditions of student obligations or authority loans to be made by the authority from the proceeds of such bonds or notes or of student obligations to be made by or on behalf of any institution of higher education and funded from authority loans made by the authority from the proceeds of such bonds or notes;~~

~~(H) At the earliest practicable date preceding the issuance of such bonds or notes, the authority shall submit to the executive director of the commission a copy of any preliminary official statement prepared in connection therewith.~~

~~(HH) At the regularly scheduled meeting of the commission immediately following the issuance of such bonds or notes, the authority shall submit to the commission a copy of any official statement prepared in connection therewith.~~

~~(IV) It shall not be a ground for invalidating or otherwise challenging the enforceability or legality of any bonds or notes subject to this subsection (1): That the final terms of such bonds or notes or of any trust indenture, agreement, or other matter with respect to which the authority is required to make a report under subparagraph (f) of this paragraph (b) differ from the proposals, plans, or expectations actually reported to the commission pursuant to said subparagraph (f); that the authority fails to make said reports in the time and manner required by this~~

~~paragraph (b); or that the preliminary official statement submitted to the executive director under subparagraph (H) of this paragraph (b) differs from the official statement submitted to the commission pursuant to subparagraph (H) of this paragraph (b).~~

(c) In anticipation of the sale of ~~such~~ ITS bonds, the authority may issue bond anticipation notes and may renew the same from time to time. Such notes shall be paid from any revenues of the authority or other moneys available for payments and not otherwise pledged or from proceeds of the sale of the bonds of the authority in anticipation of which they were issued. The bond anticipation notes shall be issued in the same manner as bonds. Such notes and the resolution authorizing them may contain any provisions, conditions, or limitations which a bond resolution of the authority contains.

~~(2) (a) Bonds may be issued as serial bonds, as term bonds, or as a combination of both types.~~ All bonds issued by the authority shall be payable solely out of the revenues and receipts of the authority as designated in the resolution of the authority under which the bonds are authorized to be issued or as designated in a trust indenture authorized by the authority which shall name a bank or trust company ~~in Colorado~~ as trustee or out of other moneys available for payments and not otherwise pledged.

(b) Bonds may be executed and delivered by the authority at such times, may be in such form and denominations and include such terms and maturities, may be in fully registered form or in bearer form registerable either as to principal or interest or both, may bear such conversion privileges, may be payable in such installments and at such time or times not exceeding forty years from the date thereof, may be payable at such place or places whether within or without the state of Colorado, may bear interest at such FIXED OR VARIABLE rate or rates per annum as determined by the authority OR IN ACCORDANCE WITH METHODS APPROVED BY THE AUTHORITY without regard to any interest rate limitation appearing in any other law of this state, may be evidenced in such manner, may be executed by such officers of the authority, including the use of one or more facsimile signatures so long as at least one manual signature appears on the bonds, which may be either an officer of the authority or an officer of the trustee authenticating the same, may be in the form of coupon bonds which have attached interest coupons bearing the facsimile signature of an authorized officer of the authority, and may contain such provisions not inconsistent with this part 2, all as provided in the resolution of the authority under which the bonds are authorized to be issued or as provided in a trust indenture authorized by the authority.

(3) If deemed advisable by the authority, there may be retained in the resolution or the trust indenture under which any bonds of the authority are authorized to be issued an option to redeem all or any part of said bonds as may be specified in such resolution or in such trust indenture, at such price or prices ~~after such notice or notices~~, and on such terms and conditions as may be set forth in such resolution or in such trust indenture. ~~and as may be briefly recited on the face of the bonds.~~ Nothing in this part 2 shall be construed to confer on the authority the right or option to redeem any bonds except as provided in the resolution or in such trust indenture under which they are issued.

**SECTION 18.** 23-3.1-210 (1) (a), (1) (c), (2), and (3), Colorado Revised

Statutes, are amended to read:

**23-3.1-210. Security for bonds and notes.** (1) (a) The principal and interest on any bonds or notes issued by the authority may be secured by a trust indenture by and between the authority and a corporate trustee. Such trust indenture or the resolution providing for the issuance of such obligations may pledge or assign all or any part of the revenues or assets of the authority, including, without limitation, student obligations, student obligation commitments, ~~authority~~ INSTITUTIONAL loans, moneys deposited or pledged by or on behalf of one or more institutions of higher education, ~~located in Colorado~~, moneys deposited or pledged by the division, temporary loans, contracts, agreements, and other security or investment obligations, the fees or charges made or received by the authority, the moneys received in payment of student obligations and ~~authority~~ INSTITUTIONAL loans and interest on such moneys, including the proceeds of insurance on such obligations and loans and any other moneys received or due to be received by the authority.

(c) In addition, any such trust indenture or resolution may contain such other provision as the authority may deem reasonable and proper for the security of the holders of any bonds or notes, including but not limited to provisions for insurance, letters of credit, standby credit agreements, take-out commitments, or other forms of credit insuring against default or guaranteeing timely payment with respect to student obligations, ~~authority~~ INSTITUTIONAL loans, or bonds. All expenses incurred in carrying out the provisions of such indenture or resolution may be paid from the revenues or assets pledged or assigned to the payment of the principal of and the interest on bonds or notes or from any other funds available to the authority.

(2) (a) Any pledge made by the authority, by one or more institutions of higher education, ~~located in Colorado~~, by a ~~Colorado~~ nonprofit corporation acting on behalf of one or more ~~of such~~ institutions of higher education, or by the division shall be valid and binding from the time when the pledge is made. The revenues and moneys so pledged and thereafter received by OR OTHERWISE CREDITED TO such pledging parties shall immediately be subject to lien of such pledge without any physical delivery, FILING, or further act, and the lien of such pledge shall ~~be valid and binding~~ HAVE PRIORITY OVER ANY AND ALL OTHER OBLIGATIONS AND LIABILITIES OF SUCH PLEDGING PARTIES, SUBJECT TO ANY CONTRACTUAL COVENANTS BY THE PLEDGING PARTIES AND ANY PRIOR PLEDGES AND LIENS, AND SHALL BE VALID, BINDING, AND ENFORCEABLE against all parties having claims of any kind in tort, contract, or otherwise against such pledging parties, irrespective of whether such claiming parties have notice of such lien. Neither the resolution nor any other instrument by which a pledge is created need be recorded. Each pledge, agreement, and indenture made for the benefit or security of any of the bonds of the authority shall continue to be effective until the principal of and interest on the bonds for the benefit of which the same are made has been fully paid or provision for such payment duly made.

(b) In the event of default in any such payment or in any agreements of the authority made as part of the contract under which the bonds were issued, whether contained in the ~~resolutions~~ RESOLUTION authorizing the bonds or in any trust indenture executed as security for such bonds, said payment or agreement may be enforced by suit, mandamus, or either of such remedies.

(3) Any bank or trust company ~~incorporated under the laws of this state which~~

THAT may act as depository of the proceeds of bonds or of revenues or other moneys may furnish such indemnifying bonds or pledge such securities as required by the authority.

**SECTION 19.** 23-3.1-211, Colorado Revised Statutes, is amended to read:

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

**SECTION 20.** 23-3.1-216 (1), Colorado Revised Statutes, is amended to read:

**23-3.1-216. Investment of funds.** (1) Funds of the authority, including the moneys held in the ~~Colorado student obligation bond authority~~ COLLEGEINVEST 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 that may be made only in those certificates of deposit or time deposits in banks or savings and loan associations 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. 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.

**SECTION 21.** 23-3.1-220, Colorado Revised Statutes, is amended to read:

**23-3.1-220. Bonds eligible for investment.** All banks, bankers, trust companies, savings and loan associations, investment companies, insurance companies and associations, executors, administrators, guardians, trustees, and other fiduciaries may legally invest any sinking funds, moneys, or other funds belonging to them or within their control in any bonds, NOTES, OR OTHER OBLIGATIONS, issued pursuant to this part 2. Public entities, as defined in section 24-75-601 (1), C.R.S., may invest public funds in such bonds, NOTES, OR OTHER OBLIGATIONS only if said bonds, NOTES, OR OTHER OBLIGATIONS satisfy the investment requirements established in part 6 of article 75 of title 24, C.R.S.

**SECTION 22.** 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 IF ONE WAS PREPARED, an accounting of any loans or transfers approved pursuant to section 23-3.1-205.4 (4), 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 department of higher education shall adopt and prepare a budget for the authority for the next fiscal year. Beginning July 1, 2000, the fiscal year of the authority shall begin on July 1 and shall end on June 30. The authority shall not be required to comply with fiscal rules of the state of Colorado until July 1, 2000.

**SECTION 23.** 23-3.1-224 (1) and (2), Colorado Revised Statutes, are amended to read:

**23-3.1-224. Contract powers of state-supported institutions of higher education - nonliability of state.** (1) For the purpose of funding student obligations, the governing board of any state-supported institution of higher education is authorized to enter into contracts with the authority for the making or securing of student obligations and ~~authority~~ INSTITUTIONAL loans, or the securing of authority bonds including, without limiting the generality of the foregoing, contracts which require such institutions to pledge certain revenues, pay fees, advance or loan funds to the authority, establish and maintain reserves, and make, sell, or purchase student obligations.

(2) For the purpose of making student obligations, the governing board of any state-supported institution of higher education is authorized to enter into contracts with the division for the origination, disbursement, servicing, or guarantee of any student obligation funded by an ~~authority~~ INSTITUTIONAL loan.

**SECTION 24.** 23-3.1-225 (3), Colorado Revised Statutes, is amended to read:

**23-3.1-225. Confidentiality of records.** (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 agents or representatives of professionals with whom the authority has contracted as provided in an advance payment contract or contracts, TO THE DEPARTMENT OF REVENUE, or to the state treasurer, or to other third parties if the purchaser or purchasers of the advance payment contract or contracts have consented in writing to such disclosure.

**SECTION 25.** 23-3.1-301, Colorado Revised Statutes, is amended to read:

**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~~ COLLEGEINVEST 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.

**SECTION 26.** 23-3.1-302 (3), Colorado Revised Statutes, is amended to read:

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

(3) "Authority" ~~prior to May 26, 2000, the effective date of Senate Bill 00-164, as enacted at the second regular session of the sixty-second general assembly, means the Colorado student obligation bond authority existing as an independent public body politic in accordance with section 23-3.1-203. On and after May 26, 2000, the effective date of Senate Bill 00-164, as enacted at the second regular session of the sixty-second general assembly, "authority" means the Colorado student obligation bond authority~~ MEANS COLLEGEINVEST, transferred to the department of higher education and existing as a division of that department pursuant to section 23-3.1-203.

**SECTION 27.** 23-3.1-307.1, Colorado Revised Statutes, is amended to read:

**23-3.1-307.1. Personal liability.** Neither the members of the board, employees OR AGENTS 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.

**SECTION 28.** 23-3.1-307.5 (3), Colorado Revised Statutes, is amended to read:

**23-3.1-307.5. Confidentiality of records.** (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 agents or representatives of professionals with whom the authority has contracted, TO THE DEPARTMENT OF REVENUE, or to the state treasurer, or to other third parties if the account owner and designated beneficiary have consented in writing to such disclosure.

**SECTION 29.** 4-3-506 (b) (2) (ii), Colorado Revised Statutes, is amended to read:

**4-3-506. Recording credit card or social security numbers prohibited.** (b) Subsection (a) of this section shall not prohibit:

(2) (ii) For the purposes of this paragraph (2), "student loan" means a loan to finance higher education opportunities that is made, originated, disbursed, guaranteed, or serviced by the department of higher education, ~~the Colorado student obligation bond authority~~ COLLEGEINVEST, an agency of another state, the federal government, or an institution of higher education, including, but not limited to, a loan that is secured pursuant to part 2 of article 3.1 of title 23, C.R.S., and a loan authorized by title IV, part B of the federal "Higher Education Act of 1965", as amended.

**SECTION 30.** 23-3.9-102 (1) (a), Colorado Revised Statutes, is amended to read:

**23-3.9-102. Teacher loan forgiveness pilot program - administration - fund - conditions.** (1) (a) The general assembly hereby authorizes the commission to develop and maintain a teacher loan forgiveness pilot program for implementation beginning in the 2001-02 academic year for payment of all or part of the principal and interest of the educational loans of each first-year teacher who is hired for a qualified position. Repayment of loans through the teacher loan forgiveness pilot program may be made using moneys in the teacher loan forgiveness fund, created in paragraph (b) of this subsection (1), or moneys allocated to the program by ~~the Colorado student obligation bond authority~~ COLLEGEINVEST. The commission is authorized to receive and expend gifts, grants, and donations for the teacher loan forgiveness pilot program. Only graduates of institutions of higher education whose loans have ~~Colorado student obligation bond authority~~ COLLEGEINVEST eligibility may receive repayment of their loans using moneys allocated to the program by ~~the Colorado student obligation bond authority~~ COLLEGEINVEST.

**SECTION 31.** 24-32-1705 (1) (a) (V), Colorado Revised Statutes, is amended to read:

**24-32-1705. Allocations to state issuing authorities.** (1) (a) Within thirty days after May 20, 1987, and as of January 15 in each year thereafter, fifty percent of the state ceiling shall be initially allocated among the following state issuing authorities in amounts established by the department:

(V) ~~The Colorado student obligation bond authority~~ COLLEGEINVEST, created by section 23-3.1-203, C.R.S.

**SECTION 32.** 24-36-114 (3) (g), Colorado Revised Statutes, is amended to read:

**24-36-114. How interest earnings credited - management fee - repeal.** (3) (g) This subsection (3) shall not apply to the student loan guarantee fund created in section 23-3.1-107, C.R.S., or to the ~~Colorado student obligation bond authority~~ COLLEGEINVEST fund created in section 23-3.1-205.4, C.R.S.

**SECTION 33.** 24-72-202 (6) (b) (III), Colorado Revised Statutes, is amended to read:

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

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

(III) Data, information, and records relating to ~~Colorado student obligation bond authority~~ COLLEGEINVEST programs pursuant to sections 23-3.1-225 and 23-3.1-307.5, C.R.S., as follows:

(A) Data, information, and records relating to individual purchasers and qualified beneficiaries of advance payment contracts under the prepaid expense trust fund and the prepaid expense program, including any records that reveal personally identifiable information about such individuals;

(B) Data, information, and records relating to designated beneficiaries of and

individual contributors to an individual trust account or savings account under the college savings program, including any records that reveal personally identifiable information about such individuals;

(C) Trade secrets and proprietary information regarding software, including programs and source codes, utilized or owned by ~~the authority~~ COLLEGEINVEST; and

(D) Marketing plans and the results of market surveys conducted by ~~the authority~~ COLLEGEINVEST.

**SECTION 34.** 29-1-102 (13), Colorado Revised Statutes, is amended to read:

**29-1-102. Definitions.** As used in this part 1, unless the context otherwise requires:

(13) "Local government" means any authority, county, municipality, city and county, district, or other political subdivision of the state of Colorado; any institution, department, agency, or authority of any of the foregoing; and any other entity, organization, or corporation formed by intergovernmental agreement or other contract between or among any of the foregoing. The office of the county public trustee shall be deemed an agency of the county for the purposes of this part 1. "Local government" does not include the Colorado educational and cultural facilities authority, the university of Colorado hospital authority, ~~the Colorado student obligation bond authority~~ COLLEGEINVEST, the Colorado health facilities authority, the Colorado housing and finance authority, the Colorado agricultural development authority, the Colorado sheep and wool authority, the Colorado beef council authority, the Colorado horse development authority, the fire and police pension association, any public entity insurance or investment pool formed pursuant to state law, any county or municipal housing authority, any association of political subdivisions formed pursuant to section 29-1-401, or any home rule city or town, home rule city and county, cities and towns operating under a territorial charter, school district, or junior college district.

**SECTION 35.** 39-21-108 (3) (a) (I), Colorado Revised Statutes, is amended to read:

**39-21-108. Refunds.** (3) (a) (I) (A) Whenever it is established that any taxpayer has, for any period open under the statutes, overpaid a tax covered by articles 22 and 26 to 29 of this title, article 60 of title 34, C.R.S., and article 3 of title 42, or part 4 of article 37.5 of title 11, C.R.S., and that there is an unpaid balance of tax and interest accrued, according to the records of the executive director, owing by such taxpayer for any other period or that there is an amount required to be repaid to the unemployment compensation fund pursuant to section 8-81-101 (4), C.R.S., the amount of which has been determined to be owing as a result of a final agency determination or judicial decision or which has been reduced to judgment by the division of employment and training in the department of labor and employment, or that there is any unpaid child support debt as set forth in section 14-14-104, C.R.S., or child support arrearages that are the subject of enforcement services provided pursuant to section 26-13-106, C.R.S., as certified by the department of human services, or that there are any unpaid obligations owing to the state as set forth in section 26-2-133, C.R.S., for overpayment of public assistance or medical assistance

benefits, the amount of which has been determined to be owing as a result of final agency determination or judicial decision or which has been reduced to judgment, as certified by the department of human services, or that there is any unpaid loan or other obligation due to a state-supported institution of higher education as set forth in section 23-5-115, C.R.S., the amount of which has been determined to be owing as a result of a final agency determination or judicial decision or which has been reduced to judgment, as certified by the appropriate institution, or that there is any unpaid loan due to the student loan division of the department of higher education as set forth in section 23-3.1-104 (1) (p), C.R.S., the amount of which has been determined to be owing as a result of a final agency determination or judicial decision or which has been reduced to judgment, as certified by the division, or there is any unpaid loan due to the ~~Colorado student obligation bond authority~~ COLLEGEINVEST division of the department of higher education as set forth in section 23-3.1-206, C.R.S., the amount of which has been determined to be owing as a result of a final agency determination or judicial decision or which has been reduced to judgment, or that there is any unpaid debt owing to the state or any agency thereof by such taxpayer, and which is found to be owing as a result of a final agency determination or the amount of which has been reduced to judgment and as certified by the controller, or that the taxpayer is a qualified individual identified pursuant to section 39-22-120 (10) or 39-22-2003 (9), so much of the overpayment of tax plus interest allowable thereon as does not exceed the amount of such unpaid balance or unpaid debt shall be credited first to the unpaid balance of tax and interest accrued and then to the unpaid debt, and any excess of the overpayment shall be refunded. If the taxpayer elects to designate his or her refund as a credit against a subsequent year's tax liability, the amount allowed to be so credited shall be reduced first by the unpaid balance of tax and interest accrued and then by the unpaid debt. If the taxpayer filed a joint return, the executive director shall notify the taxpayer's spouse that the portion of the overpayment that is generated by the spouse's income shall be refunded upon receipt of a request detailing said amount. As used in this section, unless the context otherwise requires, "agency" includes state-supported institutions of higher education.

(B) With respect to debts for any unpaid loan or other obligation due to a state-supported institution of higher education as set forth in section 23-5-115, C.R.S., or any unpaid loan due to the student loan division of the department of higher education as set forth in section 23-3.1-104 (1) (p), C.R.S., or any unpaid loan due to the ~~Colorado student obligation bond authority~~ COLLEGEINVEST division of the department of higher education as set forth in section 23-3.1-206, C.R.S., a debtor must be afforded his or her due process rights prior to a final agency determination.

**SECTION 36.** 39-22-104 (4) (i) (II), Colorado Revised Statutes, is amended to read:

**39-22-104. Income tax imposed on individuals, estates, and trusts - single rate - definitions.** (4) There shall be subtracted from federal taxable income:

(i) (II) For income tax years commencing on or after January 1, 2001, an amount equal to all payments or contributions made during the taxable year under an advance payment contract, to a savings trust account, or otherwise in connection with a qualified state tuition program established by the ~~Colorado student obligation bond authority~~ COLLEGEINVEST created in section 23-3.1-203, C.R.S., or to a qualified state tuition program that is affiliated with an educational institution in the state and

that is established and maintained pursuant to section 529 of the internal revenue code or any successor section;

**SECTION 37.** 23-3.1-110, Colorado Revised Statutes, is amended to read:

**23-3.1-110. Designation as sole state agency.** The division is the agency authorized to enter into contracts concerning the programs established by Title IV, Part B of the federal "Higher Education Act of 1965", 20 U.S.C. 1071, as amended. TO THE EXTENT ANY FISCAL POLICIES REQUIRED BY THE FEDERAL "HIGHER EDUCATION ACT OF 1965", 20 U.S.C. 1071, AS AMENDED, ARE IN CONFLICT WITH STATE FISCAL POLICIES, THE DIVISION SHALL COMPLY WITH THE REQUIRED FEDERAL POLICIES.

**SECTION 38.** The introductory portion to 23-3.1-104 (1) (a) and 23-3.1-104 (1) (a) (I), (1) (g), (1) (h), (1) (i), (1) (j), (1) (k), and (1) (l), Colorado Revised Statutes, are amended to read:

**23-3.1-104. Duties and powers of division.** (1) The division shall:

(a) Promulgate rules and regulations for administration of the ~~student loan program~~ COLORADO COLLEGE ACCESS NETWORK established by this article, including but not limited to the following:

(I) Criteria for eligibility of borrowers, lenders, and institutions of higher education to participate in the ~~program~~ NETWORK;

(g) Recruit lenders to participate in the ~~program~~ NETWORK;

(h) Train lenders in the requirements of the ~~program~~ NETWORK;

(i) Evaluate lender performance in the ~~program~~ NETWORK;

(j) Train personnel of institutions of higher education in the requirements of the ~~program~~ NETWORK;

(k) Evaluate the performance of institutions of higher education in the ~~program~~ NETWORK;

(l) Educate borrowers in the requirements of the ~~program~~ NETWORK;

**SECTION 39.** 23-3.1-108, Colorado Revised Statutes, is amended to read:

**23-3.1-108. Age qualification.** Any person otherwise qualifying for a student loan shall not be disqualified to receive a student loan under the ~~student loan program~~ COLORADO COLLEGE ACCESS NETWORK by reason of ~~his~~ being under the age of eighteen years. For the purpose of applying for, receiving, and repaying a student loan, any person shall be deemed to have full legal capacity to act and shall have all the rights, powers, privileges, and obligations of a person of legal age with respect thereto.

**SECTION 40.** 23-3.1-109, Colorado Revised Statutes, is amended to read:

**23-3.1-109. Subject to audit.** The ~~student loan program~~ COLORADO COLLEGE ACCESS NETWORK shall be audited annually by the state auditor.

**SECTION 41.** 23-60-704 (3) (b), Colorado Revised Statutes, is amended to read:

**23-60-704. Private occupational school board - established - membership.**

(3) The board shall consist of seven members appointed by the governor, with the consent of the senate, as follows:

(b) Four members shall be representatives of the general public, at least one of whom is employed by a lending institution located in Colorado and is familiar with the Colorado ~~student loan program~~ COLLEGE ACCESS NETWORK and at least two of whom are owners or operators of businesses within Colorado that employ students who are enrolled in schools that are subject to administration by the private occupational school division.

**SECTION 42. Effective date.** This act shall take effect July 1, 2004.

**SECTION 43. 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.

Approved: April 21, 2004