

CHAPTER 370

EDUCATION - UNIVERSITIES AND COLLEGES

SENATE BILL 07-182

BY SENATOR(S) Bacon, Boyd, Fitz-Gerald, Hagedorn, Morse, Sandoval, Schwartz, Shaffer, Veiga, Wiens, Williams, and Windels;
also REPRESENTATIVE(S) Pommer, Buescher, Casso, Fischer, Hodge, Madden, Merrifield, Rice, Stafford, Summers, and Todd.

AN ACT

CONCERNING STATE MATCHING FUNDS FOR COMPETITIVE FEDERALLY SPONSORED RESEARCH PROJECTS AT COLORADO PUBLIC UNIVERSITIES, AND, IN CONNECTION THEREWITH, CREATING THE HIGHER EDUCATION COMPETITIVE RESEARCH AUTHORITY AND THE INNOVATIVE HIGHER EDUCATION RESEARCH FUND, AND MAKING AN APPROPRIATION.

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

SECTION 1. Title 23, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 19.7**Higher Education Competitive Research Authority**

23-19.7-101. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) DURING THE PEER REVIEW PROCESS FOR AWARDING FEDERALLY SPONSORED RESEARCH PROJECTS, THE FEDERAL GOVERNMENT OFTEN REQUIRES PROJECT APPLICANTS TO PROVIDE STATE MATCHING MONEYS OR GIVES PREFERENCE TO APPLICANTS THAT DEMONSTRATE AN ABILITY TO PROVIDE SUCH MONEYS.

(b) COLORADO, UNLIKE MANY OTHER STATES, DOES NOT HAVE A DEDICATED SOURCE OF MATCHING MONEYS FOR FEDERALLY SPONSORED RESEARCH PROJECTS.

(c) FEDERAL REQUIREMENTS AND PREFERENCES FOR STATE MATCHING MONEYS DISADVANTAGE COLORADO PUBLIC UNIVERSITIES WHEN COMPETING AGAINST UNIVERSITIES IN OTHER STATES THAT CAN ACCESS DEDICATED SOURCES OF STATE MATCHING MONEYS.

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

(d) IT IS THEREFORE NECESSARY AND APPROPRIATE FOR THE STATE TO PROVIDE A DEDICATED SOURCE OF MATCHING MONEYS THAT WILL ALLOW COLORADO PUBLIC UNIVERSITIES TO COMPETE ON EQUAL FOOTING WITH OUT-OF-STATE UNIVERSITIES WHEN APPLYING FOR FEDERALLY SPONSORED RESEARCH PROJECTS AND TO CREATE AN AUTHORITY TO OVERSEE THE USE OF THE MATCHING MONEYS.

23-19.7-102. Higher education competitive research authority - creation - board of directors. (1) THE HIGHER EDUCATION COMPETITIVE RESEARCH AUTHORITY, REFERRED TO IN THIS ARTICLE AS THE "AUTHORITY", IS HEREBY CREATED AS A BODY CORPORATE AND A POLITICAL SUBDIVISION OF THE STATE. THE AUTHORITY SHALL NOT BE AN AGENCY OF STATE GOVERNMENT AND, EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, SHALL NOT BE SUBJECT TO ADMINISTRATIVE DIRECTION BY ANY DEPARTMENT, COMMISSION, BOARD, BUREAU, OR AGENCY OF THE STATE.

(2) THE POWERS OF THE AUTHORITY SHALL BE VESTED IN A BOARD OF DIRECTORS, REFERRED TO IN THIS ARTICLE AS THE "BOARD". THE BOARD SHALL CONSIST OF ONE MEMBER APPOINTED BY THE GOVERNOR WITH THE CONSENT OF THE SENATE AND THE FOLLOWING FOUR EX OFFICIO MEMBERS: THE PRESIDENT OF THE UNIVERSITY OF COLORADO, THE PRESIDENT OF COLORADO STATE UNIVERSITY, THE PRESIDENT OF THE COLORADO SCHOOL OF MINES, AND THE PRESIDENT OF THE UNIVERSITY OF NORTHERN COLORADO. THE TERM OF THE APPOINTED MEMBER OF THE BOARD SHALL BE FOUR YEARS, AND THE APPOINTED MEMBER SHALL BE ELIGIBLE FOR REAPPOINTMENT. THE APPOINTED MEMBER SHALL HOLD OFFICE UNTIL A SUCCESSOR HAS BEEN APPOINTED AND THE SENATE HAS CONFIRMED THE APPOINTMENT. A VACANCY IN THE SEAT OF THE APPOINTED BOARD MEMBER OCCURRING OTHER THAN BY EXPIRATION OF TERM SHALL BE FILLED IN THE SAME MANNER AS THE ORIGINAL APPOINTMENT, BUT FOR THE UNEXPIRED TERM ONLY. THE APPOINTED MEMBER MAY BE REMOVED FROM OFFICE BY THE GOVERNOR FOR CAUSE, AFTER A PUBLIC HEARING, AND MAY BE SUSPENDED BY THE GOVERNOR PENDING THE COMPLETION OF THE HEARING.

(3) THE MEMBERS OF THE BOARD SHALL ELECT A CHAIR AND A VICE-CHAIR. THE MEMBERS OF THE BOARD SHALL ALSO ELECT A SECRETARY AND A TREASURER, WHO NEED NOT BE MEMBERS OF THE BOARD, AND MAY ELECT THE SAME PERSON TO SERVE AS BOTH SECRETARY AND TREASURER. THE POWERS OF THE BOARD MAY BE VESTED IN THE OFFICERS FROM TIME TO TIME. THREE MEMBERS OF THE BOARD SHALL CONSTITUTE A QUORUM. A VACANCY IN THE MEMBERSHIP OF THE BOARD SHALL NOT IMPAIR THE RIGHT OF A QUORUM OF THE MEMBERS TO EXERCISE ALL POWERS AND PERFORM ALL DUTIES OF THE BOARD PURSUANT TO SECTION 23-19.7-103.

(4) EACH MEMBER OF THE BOARD NOT OTHERWISE IN FULL-TIME EMPLOYMENT OF THE STATE SHALL RECEIVE PER DIEM COMPENSATION IN THE AMOUNT OF FIFTY DOLLARS FOR EACH DAY ACTUALLY AND NECESSARILY SPENT IN THE DISCHARGE OF OFFICIAL DUTIES, AND ALL MEMBERS SHALL RECEIVE TRAVELING AND OTHER NECESSARY EXPENSES ACTUALLY INCURRED IN THE PERFORMANCE OF OFFICIAL DUTIES.

23-19.7-103. Higher education competitive research authority - powers and duties. (1) EXCEPT AS OTHERWISE LIMITED BY THIS ARTICLE, THE AUTHORITY,

ACTING THROUGH THE BOARD, HAS THE POWER:

(a) TO HAVE THE DUTIES, PRIVILEGES, IMMUNITIES, RIGHTS, LIABILITIES, AND DISABILITIES OF A BODY CORPORATE AND POLITICAL SUBDIVISION OF THE STATE;

(b) TO SUE AND BE SUED;

(c) TO HAVE AN OFFICIAL SEAL AND TO ALTER THE SAME AT THE BOARD'S PLEASURE;

(d) TO MAKE AND ALTER BYLAWS FOR ITS ORGANIZATION AND INTERNAL MANAGEMENT AND FOR THE CONDUCT OF ITS AFFAIRS AND BUSINESS;

(e) TO MAINTAIN AN OFFICE AT SUCH PLACE OR PLACES WITHIN THE STATE AS IT MAY DETERMINE;

(f) TO ACQUIRE, HOLD, USE, AND DISPOSE OF ITS MONEYS;

(g) TO MAKE AND ENTER INTO ALL CONTRACTS, LEASES, AND AGREEMENTS THAT ARE NECESSARY OR INCIDENTAL TO THE PERFORMANCE OF ITS DUTIES AND THE EXERCISE OF ITS POWERS UNDER THIS ARTICLE;

(h) TO DEPOSIT ANY MONEYS OF THE AUTHORITY IN ANY BANKING INSTITUTION WITHIN OR OUTSIDE THE STATE;

(i) TO FIX THE TIME AND PLACE OR PLACES AT WHICH ITS REGULAR AND SPECIAL MEETINGS ARE TO BE HELD;

(j) TO ACCEPT GIFTS, GRANTS, AND DONATIONS; AND

(k) TO DO ALL THINGS NECESSARY OR CONVENIENT TO CARRY OUT ITS PURPOSES AND EXERCISE THE POWERS GRANTED IN THIS ARTICLE.

(2) THE AUTHORITY SHALL DIRECT THE ALLOCATION OF MONEYS IN THE INNOVATIVE HIGHER EDUCATION RESEARCH FUND CREATED IN SECTION 23-19.7-104 TO THE EXTENT REQUIRED, AS DETERMINED BY THE BOARD, TO PROVIDE MATCHING FUNDS FOR ONE OR MORE PROPOSALS OF PUBLIC INSTITUTIONS OF HIGHER EDUCATION IN COLORADO FOR FEDERAL RESEARCH FUNDING.

(3) NOTWITHSTANDING THE PROVISIONS OF SECTION 24-1-136(11)(a)(I), C.R.S., ON OR BEFORE MARCH 1, 2008, AND ON OR BEFORE MARCH 1 OF EACH YEAR THEREAFTER, THE AUTHORITY SHALL SUBMIT A REPORT TO THE EDUCATION COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR COMMITTEES, THAT DESCRIBES THE RESEARCH PROJECTS THAT RECEIVED FUNDING UNDER THIS ARTICLE DURING THE PRECEDING CALENDAR YEAR. AT A MINIMUM, THE REPORT SHALL SPECIFY THE FOLLOWING INFORMATION WITH REGARD TO EACH PROJECT:

(a) A DESCRIPTION OF THE PROJECT, THE PRINCIPAL PERSONS OR ENTITIES INVOLVED IN THE PROJECT, AND THE AMOUNT OF FUNDING ALLOCATED TO EACH PRINCIPAL PERSON OR ENTITY;

(b) THE MANNER IN WHICH EACH PRINCIPAL PERSON OR ENTITY APPLIED THE FUNDING IN CONNECTION WITH THE PROJECT; AND

(c) THE RESULTS ACHIEVED BY THE PROJECT.

23-19.7-104. Innovative higher education research fund - funding. THERE IS HEREBY CREATED IN THE STATE TREASURY THE INNOVATIVE HIGHER EDUCATION RESEARCH FUND, WHICH SHALL CONSIST OF MONEYS TRANSFERRED TO THE RESEARCH FUND FROM THE WASTE TIRE RECYCLING DEVELOPMENT CASH FUND CREATED IN SECTION 25-17-202 (3)(a), C.R.S., PURSUANT TO SECTION 25-17-202 (3) (b) (III), C.R.S., AND THE ADVANCED TECHNOLOGY FUND CREATED IN SECTION 25-16.5-105 (2) (a), C.R.S., PURSUANT TO SECTION 25-16.5-105 (2) (f), C.R.S., ANY MONEYS THAT THE GENERAL ASSEMBLY MAY APPROPRIATE TO THE RESEARCH FUND, ANY MONEYS RECEIVED PURSUANT TO SECTION 23-19.7-103 (1) (j), AND ALL INCOME AND INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THE RESEARCH FUND. MONEYS IN THE RESEARCH FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY FOR THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH THE IMPLEMENTATION OF THIS ARTICLE. UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE RESEARCH FUND AT THE END OF ANY FISCAL YEAR SHALL REMAIN IN THE RESEARCH FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND.

SECTION 2. 25-16.5-105 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

25-16.5-105. Powers and duties of the advisory board - advanced technology fund. (1) The advisory board shall have the following powers and duties:

(j.5) TO RECEIVE AND EXPEND GIFTS, GRANTS, AND BEQUESTS FROM ANY SOURCE, PUBLIC OR PRIVATE, SPECIFICALLY INCLUDING STATE AND FEDERAL MONEYS AND OTHER AVAILABLE MONEYS, TO PROVIDE RESEARCH FUNDING AND TECHNOLOGY TRANSFER CAPITAL FROM THE ADVANCED TECHNOLOGY FUND PURSUANT TO PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION.

SECTION 3. 25-16.5-105, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION CONTAINING RELOCATED PROVISIONS, WITH AMENDMENTS, to read:

25-16.5-105. [Formerly 23-1-106.5 (9)] Powers and duties of the advisory board - advanced technology fund. (2) (a) There is hereby created in the state treasury the advanced technology fund. The fund shall consist of moneys transferred thereto pursuant to section 25-17-202 (3), ~~C.R.S.~~, any moneys available to the ~~commission~~ BOARD pursuant to ~~subsection (4)~~ PARAGRAPH (j.5) OF SUBSECTION (1) of this section that the ~~commission~~ BOARD transmits to the state treasurer to be credited to the fund, and any moneys appropriated to the fund by the general assembly. All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. The moneys in the fund are hereby continuously appropriated to the ~~commission~~ BOARD for the purposes specified in paragraph (b) of this ~~subsection (9)~~ SUBSECTION (2).

(b) The ~~commission~~ BOARD shall expend moneys in the advanced technology

fund to finance research, development, and technology transfer with regard to waste diversion and recycling strategies or environmental alternatives by providing research funding and technology transfer capital to individuals or public or private entities seeking to develop or implement waste diversion or recycling projects for materials or products of any kind, strategies pertaining to waste tires, including RESEARCH REGARDING the use of waste tires for noise mitigation along state highways as prioritized by the department of transportation pursuant to section 43-2-402 (5) (b), C.R.S., or environmental, research, development, and technology transfer programs in the state for materials and products of any kind THAT WILL INCREASE OR IMPROVE RECYCLING TECHNIQUES AND TECHNOLOGY OR CREATE MARKETABLE USES FOR DISCARDED MATERIALS, INCLUDING STRATEGIES PERTAINING TO WASTE TIRES, AND ADDRESS PROBLEMS CAUSED BY INAPPROPRIATE DISPOSAL OF SOLID WASTE MATERIALS, INCLUDING WASTE TIRE STOCKPILES, MAKING USE WHERE POSSIBLE OF THE RESEARCH CAPACITIES OF COLORADO INSTITUTIONS OF HIGHER EDUCATION. GRANT AWARDS SHALL BE MADE, AND THE CRITERIA FOR AWARDING GRANTS SHALL BE DEVELOPED IN CONSULTATION WITH THE POLLUTION PREVENTION ADVISORY BOARD ASSISTANCE COMMITTEE CREATED IN SECTION 25-16.5-105.5 (2), ENACTED BY HOUSE BILL 07-1288, ENACTED AT THE FIRST REGULAR SESSION OF THE SIXTY-SIXTH GENERAL ASSEMBLY. The ~~commission~~ BOARD, IN CONSULTATION WITH THE COMMITTEE shall adopt a policy for the expenditure of such moneys, which shall contain priorities and the criteria for providing research funding and technology transfer.

~~(c) (Deleted by amendment, L. 2006, p. 175, § 5, effective July 1, 2006.)~~

~~(d)~~ (c) NOTWITHSTANDING THE PROVISIONS OF SECTION 24-1-136 (11), C.R.S., the ~~commission~~ BOARD shall biennially report to the general assembly about the status of financing the efforts described in ~~paragraphs (b) and (c) of this subsection (9)~~ PARAGRAPH (b) OF THIS SUBSECTION (2), including an assessment of the activities of individuals or entities receiving grants from the ADVANCED TECHNOLOGY fund.

~~(e)~~ (d) Notwithstanding any provision of this ~~subsection (9)~~ SUBSECTION (2) to the contrary, on March 5, 2003, the state treasurer shall deduct eight hundred eighty-six thousand one hundred eighty-nine dollars and fifty-one cents from the advanced technology fund and transfer such sum to the general fund.

(e) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBSECTION (2), ON THE EFFECTIVE DATE OF THIS PARAGRAPH (e), THE STATE TREASURER SHALL TRANSFER FORTY PERCENT OF THE UNENCUMBERED BALANCE OF THE ADVANCED TECHNOLOGY FUND TO THE INNOVATIVE HIGHER EDUCATION RESEARCH FUND CREATED IN SECTION 23-19.7-104, C.R.S.

SECTION 4. 25-17-202 (3) (b) (II) (A), Colorado Revised Statutes, is amended, and the said 25-17-202 (3) (b) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

25-17-202. Waste tire recycling development fee - cash fund created - repeal.
(3) (b) On and after July 1, 2000, the remaining moneys in the fund shall be subject to annual appropriation or transfer by the general assembly as follows:

(II) (A) BEFORE JULY 1, 2007, the remaining ~~funds~~ MONEYS shall be transferred

to the advanced technology fund on a quarterly basis, for the purposes described in ~~section 23-1-106.5 (9), C.R.S.~~ SECTION 25-16.5-105 (2). The transfer of ~~funds~~ MONEYS shall be made on June 1, 2001, and at the end of each quarter of each successive fiscal year. Such additional transfers as may be necessary to bring the waste tire recycling development cash fund into compliance with the limit on uncommitted cash fund reserves, as specified in section 24-75-402, C.R.S., may also be made during the fiscal year.

(III) ON AND AFTER JULY 1, 2007, SIXTY PERCENT OF THE REMAINING MONEYS SHALL BE TRANSFERRED TO THE ADVANCED TECHNOLOGY FUND CREATED IN SECTION 25-16.5-106.5 (2) (a) ON A QUARTERLY BASIS FOR THE PURPOSES SPECIFIED IN SECTION 25-16.5-106.5 (2) (b). THE OTHER FORTY PERCENT OF THE REMAINING MONEYS SHALL BE TRANSFERRED TO THE INNOVATIVE HIGHER EDUCATION RESEARCH FUND CREATED IN SECTION 23-19.7-104, C.R.S., ON A QUARTERLY BASIS FOR THE PURPOSES SPECIFIED IN SECTIONS 23-19.7-103 (2) AND 23-19.7-104, C.R.S. TRANSFERS OF MONEYS SHALL BE MADE AT THE END OF EACH QUARTER. SUCH ADDITIONAL TRANSFERS AS MAY BE NECESSARY TO BRING THE WASTE TIRE RECYCLING DEVELOPMENT CASH FUND INTO COMPLIANCE WITH THE LIMIT ON UNCOMMITTED CASH FUND RESERVES, AS SPECIFIED IN SECTION 24-75-402, C.R.S., MAY ALSO BE MADE DURING THE FISCAL YEAR.

SECTION 5. Repeal of provisions being relocated in this act. 23-1-106.5 (9), Colorado Revised Statutes, is repealed.

SECTION 6. Appropriation - anticipated transfer. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the innovative higher education research fund created in section 23-19.7-104, Colorado Revised Statutes, for the fiscal year beginning July 1, 2007, the sum of nine hundred one thousand eight hundred fifty-four dollars (\$901,854), or so much thereof as may be necessary, to the department of higher education, for distribution to the higher education competitive research authority, for the implementation of this act.

(2) The general assembly anticipates that, for the fiscal year beginning July 1, 2007, the sum of four hundred ninety-five thousand dollars (\$495,000) shall be transferred from the waste tire recycling development cash fund created in section 25-17-202, Colorado Revised Statutes, to the advanced technology fund created in section 23-16.5-105, Colorado Revised Statutes, and shall be available for expenditure by the department of public health and environment, for the implementation of this act. Moneys in the advanced technology fund are continuously appropriated to the department of public health and environment pursuant to section 25-16.5-105, Colorado Revised Statutes.

SECTION 7. Part VI (2) (C) and the affected totals of section 2 of Senate Bill 07-239, enacted at the First Regular Session of the Sixty-sixth General Assembly, are amended to read:

APPROPRIATION FROM

ITEM & SUBTOTAL	TOTAL	GENERAL FUND	GENERAL FUND EXEMPT	CASH FUNDS	CASH FUNDS EXEMPT	FEDERAL FUNDS
\$	\$	\$	\$	\$	\$	\$

**PART VI
DEPARTMENT OF HIGHER EDUCATION**

(2) COLORADO COMMISSION ON HIGHER EDUCATION

(C) Special Purpose

Western Interstate Commission for Higher Education (WICHE)	116,000			116,000(T) ^a		
WICHE - Optometry	399,000			399,000(T) ^a		
Advanced Technology Grants	825,000				825,000(T)^a	
Veterinary School Program Needs	285,000			285,000 ^c		
Enrollment/Tuition and Stipend Contingency ¹²	20,000,000				20,000,000 ^d	
	<u>21,625,000</u>					
	20,800,000					
	43,366,000					
	42,541,000					

^a These amounts shall be from statewide and departmental indirect cost recoveries.

^c ~~This amount shall be from Waste Tire Recycling Development Cash Fund moneys deposited in the Advanced Technology Fund, and it is shown for informational purposes only, since moneys in the Advanced Technology Fund are continuously appropriated pursuant to Section 23-1-106.5 (9), C.R.S.~~

ITEM & SUBTOTAL	TOTAL	APPROPRIATION FROM				
		GENERAL FUND	GENERAL FUND EXEMPT	CASH FUNDS	CASH FUNDS EXEMPT	FEDERAL FUNDS
\$	\$	\$	\$	\$	\$	\$
TOTALS PART VI (HIGHER EDUCATION)^{4, 5}	<u>\$2,516,664,410</u> <u>\$2,515,839,410</u>	<u>\$435,528,032</u>	<u>\$310,700,000^a</u>	<u>\$22,329,472^b</u>	<u>\$1,727,628,670^a</u> <u>\$1,726,803,670^b</u>	<u>\$20,478,236</u>

^c Of this amount, \$122,600 shall be from the Western Interstate Commission on Higher Education, and \$162,400(T) shall be from statewide and departmental indirect cost recoveries.

^d This amount shall be from tuition and stipend revenue from the governing boards, in addition to what is appropriated to the governing boards. This spending authority may be transferred to the governing boards.

^a This amount shall be from the General Fund Exempt Account created in Section 24-77-103.6 (2), C.R.S.

^b Of these amounts, ~~\$675,035,433~~ \$674,210,433 contains a (T) notation.

SECTION 8. 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: May 31, 2007