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SENATE BILL 26-078

BY SENATOR(S) Amabile and Kirkmeyer, Kolker, Marchman, Pelton B., Coleman;
also REPRESENTATIVE(S) Smith and Taggart, Brown, Duran, Lieder, Nguyen.

CONCERNING MODIFICATIONS TO CERTAIN STATUTES RELATING TO INSTITUTIONS OF HIGHER EDUCATION, AND, IN CONNECTION THEREWITH, CHANGING PROCEDURES RELATING TO INFORMATION SHARING, DATA, AND CAPITAL CONSTRUCTION PROJECTS AND MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, 2-2-322, **add** (3.5) as follows:

2-2-322. Fiscal notes - definitions - repeal.

(3.5) (a) FOR INSTITUTIONS OF HIGHER EDUCATION THAT SUBMIT POTENTIAL LEGISLATIVE FISCAL IMPACTS TO THE STAFF OF THE LEGISLATIVE COUNCIL THROUGH THE DEPARTMENT OF HIGHER EDUCATION, THE DEPARTMENT OF HIGHER EDUCATION SHALL GRANT THE SUBMITTING

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

INSTITUTION OF HIGHER EDUCATION ACCESS TO THE OFFICIAL RESPONSES OF THE DEPARTMENT OF HIGHER EDUCATION AND EACH SUBMITTING INSTITUTION OF HIGHER EDUCATION AT THE TIME THAT THE FISCAL IMPACT INFORMATION IS SUBMITTED TO THE STAFF OF THE LEGISLATIVE COUNCIL FOR CONSIDERATION.

(b) AS USED IN THIS SUBSECTION (3.5):

(I) "DEPARTMENT OF HIGHER EDUCATION" MEANS THE DEPARTMENT OF HIGHER EDUCATION CREATED IN SECTION 24-1-114.

(II) "INSTITUTION OF HIGHER EDUCATION" MEANS:

(A) A STATE INSTITUTION OF HIGHER EDUCATION, AS DEFINED IN SECTION 23-18-102 (10);

(B) A LOCAL DISTRICT COLLEGE, AS DEFINED IN SECTION 23-71-102 (1)(a);

(C) AN AREA TECHNICAL COLLEGE, AS DEFINED IN SECTION 23-60-103 (1); AND

(D) THE AURARIA HIGHER EDUCATION CENTER CREATED IN ARTICLE 70 OF TITLE 23.

SECTION 2. In Colorado Revised Statutes, 12-115-103, **amend** (10) as follows:

12-115-103. Definitions.

As used in this article 115, unless the context otherwise requires:

(10) "Qualified state institution of higher education" means:

(a) One of the state institutions of higher education established under, specified in, and located upon the campuses described in sections 23-20-101 (1)(a), **23-20-101 (1)(d)**, and 23-31-101, limited to the buildings owned or leased by those institutions on the campuses; AND

(b) The institution whose campus is established under and specified

in section 23-20-101 (1)(b); ~~but limited to~~ EXCEPT THAT, FOR BUILDINGS LOCATED WITHIN THE GROUNDS OF THE AURARIA HIGHER EDUCATION CENTER CREATED IN ARTICLE 70 OF TITLE 23, "QUALIFIED STATE INSTITUTION OF HIGHER EDUCATION" MEANS ONLY THOSE BUILDINGS THAT ARE CONSTRUCTED OR WHOLLY RENOVATED FROM MONEY HELD BY THE UNIVERSITY OF COLORADO AT DENVER AND THAT ARE CURRENTLY OWNED, OPERATED, AND MAINTAINED BY THE UNIVERSITY OF COLORADO AT DENVER, INCLUDING the buildings located in Denver at ~~1380 Lawrence street, 1250 Fourteenth street, and 1475 Lawrence street;~~ and 1191 LARIMER STREET, 1201 LARIMER STREET, AND 1355 TWELFTH STREET.

~~(c) The institution whose campus is established under and specified in section 23-20-101 (1)(d), but limited to current and future buildings owned, leased, or built on land owned on or before January 1, 2015, by the university of Colorado on the campus described in section 23-20-101(1)(d).~~

SECTION 3. In Colorado Revised Statutes, 12-155-103, **amend** (12) as follows:

12-155-103. Definitions.

As used in this article 155, unless the context otherwise requires:

(12) "Qualified state institution of higher education" means:

(a) One of the state institutions of higher education established under, specified in, and located upon the campuses described in sections 23-20-101 (1)(a), ~~23-20-101 (1)(d)~~, and 23-31-101, limited to the buildings owned or leased by those institutions on those campuses; AND

(b) The institution whose campus is established under and specified in section 23-20-101 (1)(b); ~~but limited to~~ EXCEPT THAT, FOR BUILDINGS LOCATED WITHIN THE GROUNDS OF THE AURARIA HIGHER EDUCATION CENTER CREATED IN ARTICLE 70 OF TITLE 23, "QUALIFIED STATE INSTITUTION OF HIGHER EDUCATION" MEANS ONLY THOSE BUILDINGS THAT ARE CONSTRUCTED OR WHOLLY RENOVATED FROM MONEY HELD BY THE UNIVERSITY OF COLORADO AT DENVER AND THAT ARE CURRENTLY OWNED, OPERATED, AND MAINTAINED BY THE UNIVERSITY OF COLORADO AT DENVER, INCLUDING the buildings located in Denver at ~~1380 Lawrence street, 1250 Fourteenth street, and 1475 Lawrence street;~~ and 1191 LARIMER

STREET, 1201 LARIMER STREET, AND 1355 TWELFTH STREET.

~~(c) The institution whose campus is established under and specified in section 23-20-101 (1)(d), but limited to current and future buildings owned or leased or built on land owned on or before January 1, 2015, by the university of Colorado on the campus described in section 23-20-101(1)(d).~~

SECTION 4. In Colorado Revised Statutes, 23-1-101.1, **add** (1.5) as follows:

23-1-101.1. Definitions.

As used in this article 1, unless the context otherwise requires:

(1.5) "DATA ADVISORY GROUP" MEANS THE DATA ADVISORY GROUP CREATED IN SECTION 23-1-145.

SECTION 5. In Colorado Revised Statutes, 23-1-103, **amend** (1) introductory portion and (1)(b) as follows:

23-1-103. Advisory committee to the Colorado commission on higher education.

(1) There is ~~hereby~~ established an advisory committee to the commission for the purpose of suggesting solutions for the problems and needs of higher education and maintaining liaison with the general assembly and the governing boards for state-supported institutions of higher education. The advisory committee ~~shall consist~~ CONSISTS of not less than ~~thirteen~~ FOURTEEN members, to be designated as follows:

(b) ~~One member shall be selected and designated by~~ The commission SHALL SELECT AND DESIGNATE:

(I) ONE MEMBER to represent the faculty in the state; ~~and~~

(II) One member ~~shall be selected and designated by the commission~~ to represent the students in the state;

(III) On and after August 5, 2009, ~~the commission shall select and designate~~ one member who, at the time of designation, is a parent of a

student who is enrolled in a state-supported institution of higher education in Colorado to represent the parents of students; AND

(IV) ON AND AFTER JULY 1, 2026, ONE MEMBER WHO IS A CURRENT MEMBER OF THE DATA ADVISORY GROUP AND WHO WORKS AT A PUBLIC INSTITUTION OF HIGHER EDUCATION.

SECTION 6. In Colorado Revised Statutes, 23-1-103, **amend** (1) introductory portion and (1)(b) as follows:

23-1-103. Advisory committee to the Colorado commission on higher education.

(1) There is ~~hereby~~ established an advisory committee to the commission for the purpose of suggesting solutions for the problems and needs of higher education and maintaining liaison with the general assembly and the governing boards for state-supported institutions of higher education. The advisory committee ~~shall consist~~ CONSISTS of not less than thirteen members, to be designated as follows:

(b) ~~One member shall be selected and designated by~~ The commission SHALL SELECT AND DESIGNATE:

(I) ONE MEMBER to represent the faculty in the state; ~~and one member shall be selected and designated by the commission to represent the students in the state. On and after August 5, 2009, the commission shall select and designate~~

(II) One member who, at the time of designation, is a parent of a student who is enrolled in a state-supported institution of higher education in Colorado to represent the parents of students; AND

(III) ON AND AFTER JULY 1, 2026, ONE MEMBER WHO IS A CURRENT MEMBER OF THE DATA ADVISORY GROUP AND WHO WORKS AT A PUBLIC INSTITUTION OF HIGHER EDUCATION.

SECTION 7. In Colorado Revised Statutes, 23-1-106, **amend** (5)(b), (6)(b), (9)(d)(II), and (11)(a)(III) as follows:

23-1-106. Duties and powers of the commission with respect to

capital construction and long-range planning - report - legislative declaration - definitions.

(5) (b) The commission may except from the requirements for program and physical planning any project that requires ~~two~~ FIVE million dollars or less if the capital construction project is for new construction and funded solely from cash funds held by the institution or the project is funded through the higher education revenue bond intercept program established pursuant to section 23-5-139, or ten million dollars or less if the project is not for new construction and is funded solely from cash funds held by the institution.

(6) (b) The commission shall review, at its next available meeting, any two-year projection of capital construction projects submitted by a state institution of higher education to be undertaken pursuant to subsection (9) of this section and estimated to require total project expenditures exceeding ~~two~~ FIVE million dollars if the capital construction project is for new acquisitions of real property or new construction and funded solely from cash funds held by the institution or the project is funded through the higher education revenue bond intercept program established pursuant to section 23-5-139, or exceeding ten million dollars if the project is not for new acquisitions of real property or new construction and is funded solely from cash funds held by the institution. The projection must include the estimated cost, the method of funding, and a schedule for project completion for each project.

(9) (d) (II) A plan for a capital construction or capital renewal project is not subject to review or approval by the commission if such project is:

(A) Estimated to require total expenditures of ~~two~~ FIVE million dollars or less if the capital construction project is for new acquisitions of real property or for new construction and funded solely from cash funds held by the institution or the project is funded through the higher education revenue bond intercept program established pursuant to section 23-5-139; ~~or~~

(B) Estimated to require total expenditures of ten million dollars or less if the project is not for new acquisitions of real property or for new construction and is funded solely from cash funds held by the institution; ~~OR~~

(C) FUNDED SOLELY FROM CASH FUNDS HELD BY THE INSTITUTION THAT ARE NOT DERIVED FROM STUDENT FEES, SO LONG AS THE INSTITUTION HAS NOT PARTICIPATED IN THE HIGHER EDUCATION REVENUE BOND INTERCEPT PROGRAM ESTABLISHED PURSUANT TO SECTION 23-5-139 FOR AT LEAST THE PRECEDING FIVE YEARS.

(11)(a) Each state institution of higher education shall submit to the commission on or before September 1 of each year a list and description of each project for which an expenditure was made during the immediately preceding fiscal year that:

(III) Was estimated to require total expenditures of ~~two~~ FIVE million dollars or less if the capital construction project is for new acquisitions of real property or for new construction and was funded solely from cash funds held by the institution or the project was funded through the higher education revenue bond intercept program established pursuant to section 23-5-139, or was estimated to require total expenditures of ten million dollars or less if the project was not for new acquisitions of real property or for new construction and was funded solely from cash funds held by the institution; or

SECTION 8. In Colorado Revised Statutes, **add** 23-1-145 as follows:

23-1-145. Department and commission directives - creation of data advisory group - development of data policies - definitions.

(1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "INSTITUTION OF HIGHER EDUCATION" MEANS:

(I) A STATE INSTITUTION OF HIGHER EDUCATION, AS DEFINED IN SECTION 23-18-102 (10);

(II) A LOCAL DISTRICT COLLEGE, AS DEFINED IN SECTION 23-71-102 (1)(a);

(III) AN AREA TECHNICAL COLLEGE, AS DEFINED IN SECTION 23-60-103 (1); AND

(IV) A PARTICIPATING PRIVATE INSTITUTION OF HIGHER EDUCATION, AS DEFINED IN SECTION 23-18-102 (7).

(b) (I) "STATEWIDE INSTITUTIONAL AND STUDENT DATA" MEANS DATA, IN ANY FORMAT, PROVIDED BY AN INSTITUTION OF HIGHER EDUCATION TO THE DEPARTMENT OR ANOTHER STATE AGENCY.

(II) "STATEWIDE INSTITUTIONAL AND STUDENT DATA" DOES NOT INCLUDE NEW DATA POINTS CREATED THROUGH THE COMBINATION OF INSTITUTIONAL AND STUDENT DATA WITH OTHER STATE ADMINISTRATIVE DATA OR PUBLICLY AVAILABLE INFORMATION.

(2) (a) THIS SUBSECTION (2) CODIFIES THE DATA ADVISORY GROUP THAT EXISTS AS OF THE EFFECTIVE DATE OF THIS SECTION AND THAT IS FACILITATED BY THE DEPARTMENT. THE DATA ADVISORY GROUP SHALL CONTINUE TO OPERATE TO SERVE IN AN ADVISORY CAPACITY TO THE DEPARTMENT AND THE COMMISSION REGARDING DATA COLLECTION, REPORTING, ACCESS, AND USE OF STATEWIDE INSTITUTIONAL AND STUDENT DATA.

(b) THE DATA ADVISORY GROUP CONSISTS OF REPRESENTATIVES FROM INSTITUTIONS OF HIGHER EDUCATION AND THE DEPARTMENT, AS FOLLOWS:

(I) (A) ONE REPRESENTATIVE FROM EACH GOVERNING BOARD OF A STATE INSTITUTION OF HIGHER EDUCATION;

(B) GOVERNING BOARDS THAT HAVE A SYSTEM COMPRISED OF MORE THAN ONE CAMPUS MAY HAVE ADDITIONAL REPRESENTATIVES FOR EACH CAMPUS AND SYSTEM OFFICE;

(II) AT LEAST ONE REPRESENTATIVE FROM THE LOCAL DISTRICT COLLEGES;

(III) AT LEAST ONE REPRESENTATIVE FROM THE AREA TECHNICAL COLLEGES;

(IV) ONE REPRESENTATIVE FROM EACH PARTICIPATING PRIVATE INSTITUTION OF HIGHER EDUCATION, AS DEFINED IN SECTION 23-18-102 (7); AND

(V) AT LEAST ONE REPRESENTATIVE FROM THE DEPARTMENT.

(c) PARTICIPATION FROM EACH INSTITUTION OF HIGHER EDUCATION IN THE DATA ADVISORY GROUP IS VOLUNTARY.

(d) THE DATA ADVISORY GROUP IS ADVISORY ONLY AND DOES NOT HAVE DECISION-MAKING OR BINDING AUTHORITY OVER THE DEPARTMENT OR THE COMMISSION.

(3) (a) THE DUTIES AND RESPONSIBILITIES OF THE DATA ADVISORY GROUP INCLUDE ADVISING ON:

(I) THE DEVELOPMENT AND MAINTENANCE OF POLICIES AND PROCEDURES FOR THE COLLECTION, STORAGE, AND USE OF STATEWIDE INSTITUTIONAL AND STUDENT DATA;

(II) THE IMPLEMENTATION OF NEW DATA COLLECTION AND REPORTING REQUIREMENTS RESULTING FROM LEGISLATION;

(III) THE SHARING OF STATEWIDE INSTITUTIONAL AND STUDENT DATA, EXCEPT THAT THE DATA ADVISORY GROUP SHALL ONLY ADVISE ON THE SHARING OF STATEWIDE INSTITUTIONAL AND STUDENT DATA THAT IS USED BY THE DEPARTMENT FOR ITS STATUTORY DUTIES IF SUCH ADVICE IS REQUESTED BY THE DEPARTMENT OR THE COMMISSION;

(IV) LEGISLATION THAT AFFECTS INSTITUTIONAL DATA COLLECTION AND REPORTING; AND

(V) THE DEVELOPMENT OF GUIDELINES FOR DATA AGGREGATION AND SUPPRESSION WITHIN DATA PRIVACY LAWS AND INDUSTRY BEST PRACTICES REGARDING PERSONALLY IDENTIFYING INFORMATION.

(4) (a) THE COMMISSION SHALL, SUBJECT TO AVAILABLE APPROPRIATIONS, CONSULT WITH THE DATA ADVISORY GROUP TO ESTABLISH POLICIES THAT:

(I) INCLUDE PROCEDURES FOR THE DATA ADVISORY GROUP TO DEVELOP AND SUBMIT RECOMMENDATIONS;

(II) ARTICULATE HOW THE DATA ADVISORY GROUP WILL HAVE THE

DATA, REPORTING, AND INFORMATION NECESSARY TO PERFORM THEIR ADVISORY ROLE;

(III) INCLUDE A PROCESS FOR SHARING AGGREGATED STATEWIDE DATA DERIVED FROM STATEWIDE INSTITUTIONAL AND STUDENT DATA;

(IV) INCLUDE A PROCESS FOR SHARING DE-IDENTIFIED STATEWIDE DATA DERIVED FROM STATEWIDE INSTITUTIONAL AND STUDENT DATA;

(V) INCLUDE PROCEDURES THAT ENSURE SUFFICIENT TIME TO REVIEW DRAFT REPORTING AND SUPPORTING DATA THAT IS DERIVED FROM STATEWIDE INSTITUTIONAL AND STUDENT DATA AND THAT IS RELATED TO FUNDING OR RESOURCE ALLOCATION, LEGISLATIVE REPORTS, OR STRATEGIC PLANNING; AND

(VI) ENSURE THAT ALL DATA AND REPORTING SHARED BETWEEN THE DEPARTMENT, THE DATA ADVISORY GROUP, AND THE COMMISSION:

(A) SEEKS TO MAXIMIZE DATA TRANSPARENCY BETWEEN ENTITIES;

(B) SEEKS TO MINIMIZE THE TIME LAPSED BETWEEN DATA SUBMISSIONS AND AVAILABILITY OF DATA AND REPORTING;

(C) INCLUDES DATA FROM ALL PARTICIPATING INSTITUTIONS;

(D) PROVIDES DETAIL BY INSTITUTION AND GOVERNING BOARD; AND

(E) IS SUFFICIENT TO ALLOW FOR VALIDATION BY INSTITUTIONAL STAFF.

(b) THE COMMISSION RETAINS FINAL AUTHORITY OVER DATA POLICY AND MAY PROVIDE REASONING OF FINAL DECISIONS TO THE DATA ADVISORY GROUP.

(c) TO ACCOMPLISH ITS DUTIES, THE DATA ADVISORY GROUP SHALL MEET AT LEAST QUARTERLY.

(5) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, ANY ACTION REQUIRED BY THIS SECTION ON THE PART OF THE DEPARTMENT OR THE COMMISSION IS SUBJECT TO AVAILABLE

APPROPRIATIONS.

SECTION 9. In Colorado Revised Statutes, 23-20-129.5, **amend** (2) as follows:

23-20-129.5. Enterprise auxiliary facility bonds.

(2) The policies and procedures adopted pursuant to subsection (1) of this section ~~shall~~ **MUST** include ~~but need not be limited to~~, the following requirements:

(a) That, upon issuance of revenue bonds pursuant to section 23-5-102, the university shall identify the primary revenue sources for payment of principal and interest on the bonds from among those revenues and other ~~moneys~~ **MONEY** pledged for payment of principal and interest on the revenue bonds;

(b) That, upon issuance of revenue bonds pursuant to section 23-5-102, the university shall perform a financial analysis ~~based upon assumptions approved by the board of regents and the state auditor~~, that demonstrates that revenues expected to be annually available from the sources identified under ~~paragraph (a) of this subsection (2)~~ **SUBSECTION (2)(a) OF THIS SECTION** will be sufficient to pay ~~at least one hundred twenty-five percent of the annual principal and interest on the revenue bonds~~; **AND**

(c) That the university shall annually review the revenue sources identified under ~~paragraph (a) of this subsection (2)~~ **SUBSECTION (2)(a) OF THIS SECTION** to determine if the financial analysis required in ~~paragraph (b) of this subsection (2)~~ **SUBSECTION (2)(b) OF THIS SECTION** shows sufficient revenues for payment of principal and interest on the revenue bonds and, if the revenues are not sufficient, take such action as the board of regents ~~and the state auditor shall require~~ **REQUIRES** to assure that adequate revenues are available to pay the principal and interest on the revenue bonds.

(d) ~~That the maximum annual debt service on all revenue bonds issued pursuant to section 23-5-102, except as provided for in sections 23-5-101.8 and 23-5-103, outstanding at any time for the university shall not exceed ten percent of the university's unrestricted current fund~~

~~expenditures plus mandatory transfers;~~

~~(e) That the university shall establish and maintain such debt service reserves and such reserves for repair and replacement of any auxiliary facility or group of auxiliary facilities on behalf of which revenue bonds are issued pursuant to section 23-5-102 and as may be required by the terms of the resolution, indenture, or other document authorizing or executed in connection with the issuance of the revenue bonds and subject to review and approval by the state auditor; and~~

~~(f) That the university shall annually report to the state auditor regarding compliance with the requirements specified in this subsection (2) and any additional requirements that may be imposed by the board of regents.~~

SECTION 10. Appropriation. For the 2026-27 state fiscal year, \$48,098 is appropriated to the department of higher education for use by the Colorado commission on higher education and higher education special purpose programs. This appropriation is from the general fund and is based on an assumption that the commission will require an additional 0.5 FTE. To implement this act, the commission may use this appropriation for administration.

SECTION 11. Effective date. (1) Except as otherwise provided in this section, this act takes effect upon passage.

(2) Section 5 of this act takes effect only if House Bill 26-1029 does not become law, in which case section 5 takes effect upon passage.

(3) Section 6 of this act takes effect only if House Bill 26-1029 becomes law, in which case section 6 takes effect upon passage or on the effective date of House Bill 26-1029, whichever is later.

SECTION 12. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for

the support and maintenance of the departments of the state and state institutions.

James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Esther van Mourik
SECRETARY OF
THE SENATE

Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO