

CHAPTER 302

EDUCATION - UNIVERSITIES AND COLLEGES

HOUSE BILL 93-1355

BY REPRESENTATIVES Foster, Berry, Chlouber, Martin, and Schauer;
also SENATORS Wells, Bishop, Gallagher, Johnson, Mendez, Norton, Rizzuto, and Traylor.

AN ACT

CONCERNING THE ENTERPRISE STATUS OF HIGHER EDUCATION AUXILIARY FACILITIES FOR THE PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.

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

SECTION 1. Article 5 of title 23, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

23-5-101.5. Enterprise status of auxiliary facilities. (1) ANY AUXILIARY FACILITY OR GROUP OF AUXILIARY FACILITIES WITH SIMILAR FUNCTIONS WHICH IS MANAGED BY THE GOVERNING BODY OF AN INSTITUTION OF HIGHER EDUCATION OR BY THE BOARD OF DIRECTORS OF THE AURARIA HIGHER EDUCATION CENTER MAY BE DESIGNATED AS AN ENTERPRISE FOR THE PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION SO LONG AS THE GOVERNING BODY OF THE INSTITUTION OF HIGHER EDUCATION OR THE BOARD OF DIRECTORS OF THE AURARIA HIGHER EDUCATION CENTER, WHICHEVER MANAGES SUCH AUXILIARY FACILITY OR GROUP OF AUXILIARY FACILITIES, RETAINS THE AUTHORITY TO ISSUE REVENUE BONDS ON BEHALF OF SUCH AUXILIARY FACILITY OR GROUP OF AUXILIARY FACILITIES AND SUCH AUXILIARY FACILITY OR GROUP OF AUXILIARY FACILITIES RECEIVES LESS THAN TEN PERCENT OF ITS TOTAL ANNUAL REVENUES IN GRANTS FROM ALL COLORADO STATE AND LOCAL GOVERNMENTS COMBINED. THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT, FOR THE PURPOSES OF DETERMINING WHETHER AN AUXILIARY FACILITY OR GROUP OF AUXILIARY FACILITIES MAY BE DESIGNATED AS AN ENTERPRISE, IT IS SUFFICIENT THAT THE GOVERNING BODY OF AN INSTITUTION OF HIGHER EDUCATION OR THE BOARD OF DIRECTORS OF THE AURARIA HIGHER EDUCATION CENTER, WHICHEVER MANAGES SUCH AUXILIARY FACILITY OR GROUP OF AUXILIARY FACILITIES, HAS AUTHORITY TO ISSUE REVENUE BONDS ON BEHALF OF SUCH AUXILIARY FACILITY OR GROUP OF AUXILIARY FACILITIES. SO LONG AS IT IS DESIGNATED AS AN

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

ENTERPRISE PURSUANT TO THE PROVISIONS OF THIS SECTION, AN AUXILIARY FACILITY OR GROUP OF AUXILIARY FACILITIES SHALL NOT BE SUBJECT TO ANY OF THE PROVISIONS OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.

(2) AS USED IN THIS ARTICLE:

(a) "AUXILIARY FACILITY" MEANS ANY STUDENT OR FACULTY HOUSING FACILITY, STUDENT OR FACULTY DINING FACILITY, RECREATIONAL FACILITY, STUDENT ACTIVITIES FACILITY, CHILD CARE FACILITY, CONTINUING EDUCATION FACILITY OR ACTIVITY, INTERCOLLEGIATE ATHLETIC FACILITY OR ACTIVITY, HEALTH FACILITY, COLLEGE STORE, OR STUDENT OR FACULTY PARKING FACILITY OR ANY SIMILAR FACILITY OR ACTIVITY WHICH HAS BEEN HISTORICALLY MANAGED, AND WAS ACCOUNTED FOR IN INSTITUTIONAL FINANCIAL STATEMENTS PREPARED FOR FISCAL YEAR 1991-92, AS A SELF-SUPPORTING FACILITY OR ACTIVITY;

(b) (I) "GRANT" MEANS ANY DIRECT CASH SUBSIDY OR OTHER DIRECT CONTRIBUTION OF MONEY FROM THE STATE OR ANY LOCAL GOVERNMENT IN COLORADO WHICH IS NOT REQUIRED TO BE REPAYED.

(II) "GRANT" DOES NOT INCLUDE:

(A) ANY INDIRECT BENEFIT CONFERRED UPON AN AUXILIARY FACILITY FROM THE STATE OR ANY LOCAL GOVERNMENT IN COLORADO;

(B) ANY REVENUES RESULTING FROM RATES, FEES, ASSESSMENTS, OR OTHER CHARGES IMPOSED BY AN AUXILIARY FACILITY FOR THE PROVISION OF GOODS OR SERVICES BY SUCH AUXILIARY FACILITY;

(C) ANY FEDERAL FUNDS, REGARDLESS OF WHETHER SUCH FEDERAL FUNDS PASS THROUGH THE STATE OR ANY LOCAL GOVERNMENT IN COLORADO PRIOR TO RECEIPT BY AN AUXILIARY FACILITY.

(3) (a) THE GOVERNING BODY OF AN INSTITUTION OF HIGHER EDUCATION OR THE BOARD OF DIRECTORS OF THE AURARIA HIGHER EDUCATION CENTER MAY, BY RESOLUTION, DESIGNATE ANY AUXILIARY FACILITY OR GROUP OF AUXILIARY FACILITIES WITH SIMILAR FUNCTIONS MANAGED BY SUCH GOVERNING BODY OR BOARD OF DIRECTORS, AS APPLICABLE, AS AN ENTERPRISE SO LONG AS SUCH AUXILIARY FACILITY OR GROUP OF AUXILIARY FACILITIES MEETS THE REQUIREMENTS FOR AN ENTERPRISE AS STATED IN SUBSECTION (1) OF THIS SECTION. ALL DESIGNATIONS SHALL EXPIRE AT 11:59 P.M. ON JUNE 30 OF THE YEAR FOLLOWING THEIR ADOPTION UNLESS THE GENERAL ASSEMBLY, BY BILL, ACTS TO POSTPONE THE EXPIRATION OF A SPECIFIC DESIGNATION. THE POSTPONEMENT OF THE EXPIRATION OF A DESIGNATION SHALL NOT CONSTITUTE LEGISLATIVE APPROVAL OF THE DESIGNATION NOR BE ADMISSIBLE IN ANY COURT AS EVIDENCE OF LEGISLATIVE INTENT. THE POSTPONEMENT OF THE EXPIRATION DATE OF A SPECIFIC DESIGNATION SHALL NOT PROHIBIT ANY ACTION BY THE GENERAL ASSEMBLY PURSUANT TO THE PROVISIONS OF PARAGRAPH (b) OF THIS SUBSECTION (3) WITH RESPECT TO SUCH DESIGNATION.

(b) ALL DESIGNATIONS ADOPTED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (3) SHALL BE SUBMITTED BY THE ADOPTING BODY TO THE OFFICE OF THE STATE AUDITOR IN THE FORM AND MANNER PRESCRIBED BY THE LEGISLATIVE AUDIT

COMMITTEE. SAID DESIGNATIONS SHALL BE REVIEWED BY SAID OFFICE TO DETERMINE WHETHER SAID DESIGNATIONS ARE WITHIN THE AUTHORITY OF THE ADOPTING BODY PURSUANT TO THE PROVISIONS OF THIS SECTION AND FOR LATER REVIEW BY THE LEGISLATIVE AUDIT COMMITTEE FOR ITS OPINION AS TO WHETHER THE DESIGNATIONS CONFORM WITH THE PROVISIONS OF THIS SECTION. THE OFFICIAL CERTIFICATE OF THE STATE AUDITOR AS TO THE FACT OF SUBMISSION OR THE DATE OF SUBMISSION OF A DESIGNATION AS SHOWN BY THE RECORDS OF THE OFFICE OF THE STATE AUDITOR, AS WELL AS TO THE FACT OF NONSUBMISSION AS SHOWN BY THE NONEXISTENCE OF SUCH RECORDS, SHALL BE RECEIVED AND HELD IN ALL CIVIL CASES AS COMPETENT EVIDENCE OF THE FACTS CONTAINED THEREIN. ANY SUCH DESIGNATION ADOPTED BY A GOVERNING BODY OF AN INSTITUTION OF HIGHER EDUCATION OR BY THE BOARD OF DIRECTORS OF THE AURARIA HIGHER EDUCATION CENTER WITHOUT BEING SO SUBMITTED WITHIN TWENTY DAYS AFTER ADOPTION TO THE OFFICE OF THE STATE AUDITOR FOR REVIEW BY SAID OFFICE AND BY THE LEGISLATIVE AUDIT COMMITTEE SHALL BE VOID. THE FINDINGS OF THE OFFICE OF THE STATE AUDITOR SHALL BE PRESENTED TO SAID COMMITTEE AT A PUBLIC MEETING HELD AFTER TIMELY NOTICE TO THE PUBLIC AND AFFECTED ADOPTING BODIES. THE LEGISLATIVE AUDIT COMMITTEE SHALL, ON AFFIRMATIVE VOTE, SUBMIT SUCH DESIGNATIONS, COMMENTS, AND ANY PROPOSED LEGISLATION AT THE NEXT REGULAR SESSION OF THE GENERAL ASSEMBLY. ANY MEMBER OF THE GENERAL ASSEMBLY MAY INTRODUCE A BILL WHICH RESCINDS ANY DESIGNATION. REJECTION OF SUCH A BILL DOES NOT CONSTITUTE LEGISLATIVE APPROVAL OF SUCH DESIGNATION. EACH ADOPTING BODY SHALL REVISE ITS DESIGNATIONS TO CONFORM WITH THE ACTION TAKEN BY THE GENERAL ASSEMBLY. FOR THE PURPOSE OF PERFORMING THE FUNCTIONS ASSIGNED IT BY THIS PARAGRAPH (b), THE LEGISLATIVE AUDIT COMMITTEE, WITH THE APPROVAL OF THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE, MAY APPOINT SUBCOMMITTEES FROM THE MEMBERSHIP OF THE GENERAL ASSEMBLY.

SECTION 2. 23-5-102, Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

23-5-102. Funding for auxiliary facilities - loans - bonds. (1) For the purpose of obtaining funds for constructing, otherwise acquiring, and equipping ~~housing facilities, dining facilities, recreational facilities, health facilities, and parking facilities~~ AUXILIARY FACILITIES for the use of students and employees at any state educational institution or any branch thereof and for the acquisition of land for such purposes, the governing board of any state educational institution is authorized, after notification to the commission on higher education, to enter into contracts with any person, corporation, or state or federal government agency for the advancement of money for such purposes and providing for the repayment of such advancements with interest at a specified net effective interest rate.

(2) THE GOVERNING BODY OF ANY INSTITUTION OF HIGHER EDUCATION BY RESOLUTION MAY ISSUE REVENUE BONDS ON BEHALF OF ANY AUXILIARY FACILITY OR GROUP OF AUXILIARY FACILITIES MANAGED BY SUCH GOVERNING BODY FOR THE PURPOSE OF OBTAINING FUNDS FOR CONSTRUCTING, OTHERWISE ACQUIRING, EQUIPPING, OR OPERATING SUCH AUXILIARY FACILITY OR GROUP OF AUXILIARY FACILITIES. ANY BONDS ISSUED ON BEHALF OF ANY AUXILIARY FACILITY OR GROUP OF AUXILIARY FACILITIES OTHER THAN HOUSING FACILITIES, DINING FACILITIES, RECREATIONAL FACILITIES, HEALTH FACILITIES, PARKING FACILITIES, OR RESEARCH FACILITIES WHICH ARE FUNDED FROM A REVOLVING FUND MAY BE ISSUED ONLY AFTER

APPROVAL BY BOTH HOUSES OF THE GENERAL ASSEMBLY EITHER BY BILL OR BY JOINT RESOLUTION AND AFTER APPROVAL BY THE GOVERNOR IN ACCORDANCE WITH SECTION 39 OF ARTICLE V OF THE STATE CONSTITUTION. BONDS ISSUED PURSUANT TO THIS SUBSECTION (2) SHALL BE PAYABLE ONLY FROM REVENUES GENERATED BY THE AUXILIARY FACILITY OR GROUP OF AUXILIARY FACILITIES ON BEHALF OF WHICH SUCH BONDS ARE ISSUED. SUCH BONDS SHALL BE ISSUED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 23-5-103 (2). THE TERMINATION, RESCISSION, OR EXPIRATION OF THE ENTERPRISE DESIGNATION OF ANY AUXILIARY FACILITY OR GROUP OF AUXILIARY FACILITIES PURSUANT TO SECTION 23-5-101.5 (3) SHALL NOT ADVERSELY AFFECT THE VALIDITY OF OR SECURITY FOR ANY REVENUE BONDS ISSUED ON BEHALF OF SUCH AUXILIARY FACILITY OR GROUP OF AUXILIARY FACILITIES.

SECTION 3. 23-5-103 (1) and (3), Colorado Revised Statutes, 1988 Repl. Vol., are amended to read:

23-5-103. Pledge of income. (1) The governing board of any one or more state educational institutions, including, but not limited to, the colleges under the control and operation of the trustees of the state colleges in Colorado, which enters into such a contract for the advancement of moneys is authorized, in connection with or as a part of such contract, to pledge the net income derived or to be derived from such land or facilities so constructed, acquired, and equipped as security for the repayment of the moneys advanced therefor, together with interest thereon, and for the establishment and maintenance of reserves in connection therewith; and, for the same purpose, any such governing board is also authorized to pledge the net income derived or to be derived from other ~~housing facilities, dining facilities, recreational facilities, health facilities, and parking facilities, or other facilities of the institution~~ AUXILIARY FACILITIES WHICH ARE NOT INDIVIDUALLY DESIGNATED AS ENTERPRISES AND WHICH ARE not acquired and not to be acquired with moneys appropriated to the institution by the state of Colorado, and to pledge the net income, fees, and revenues derived from such sources, if unpledged, or, if pledged, the net income, fees, and revenues currently in excess of the amount required to meet principal, interest, and reserve requirements in connection with outstanding obligations to which such net income, fees, and revenues have theretofore been pledged.

(3) If the pledged net income, fees, and revenues exceed the amount required to meet principal, interest, and reserve requirements in connection with revenue bonds of the institution to which such income has been pledged, the governing board may retain such surplus and utilize the same in such manner as in its judgment is for the best interests of the educational institution. Such surplus shall be used by the governing board for the purposes of rehabilitating, altering, adding to, or equipping any existing AUXILIARY facilities acquired pursuant to the provisions of this article and for the acquisition of sites for constructing, acquiring, and equipping additional AUXILIARY facilities pursuant to such provisions or for prior redemption of outstanding bonds.

SECTION 4. 23-70-104 (1) (c), Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

23-70-104. Duties of the Auraria board. (1) The Auraria board has the duty:

(c) To facilitate effective coordination and economies of operation of physical

facilities by designating joint facilities of the constituent institutions, to include, but not be limited to, ~~dining facilities, student service facilities, library facilities, warehouse facilities, recreational facilities, health facilities, and parking facilities~~ AUXILIARY FACILITIES, AS DEFINED IN SECTION 23-5-101.5 (2) (a);

SECTION 5. 23-70-107, Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

23-70-107. Borrowing funds for auxiliary facilities. (1) For the purposes of obtaining funds for constructing, otherwise acquiring, and equipping ~~dining facilities, recreational facilities, health facilities, parking facilities, and student center~~ AUXILIARY facilities, AS DEFINED IN SECTION 23-5-101.5 (2) (a), for the use of students and employees at the center, the Auraria board is authorized, after approval by the Colorado commission on higher education and subsequent affirmative vote by the combined student bodies of the Auraria campus if student fees are to be used in financing such projects, to enter into contracts with any one or more persons or corporations or state or federal government agencies for the advancement of moneys for such purposes and to provide for the repayment of such advancements with interest at a specified net effective interest rate.

(2) THE AURARIA BOARD, BY RESOLUTION, MAY ISSUE REVENUE BONDS ON BEHALF OF ANY AUXILIARY FACILITY OR GROUP OF AUXILIARY FACILITIES MANAGED BY THE AURARIA BOARD FOR THE PURPOSE OF OBTAINING FUNDS FOR CONSTRUCTING, OTHERWISE ACQUIRING, EQUIPPING, OR OPERATING SUCH AUXILIARY FACILITY OR GROUP OF AUXILIARY FACILITIES. ANY BONDS ISSUED ON BEHALF OF ANY AUXILIARY FACILITY OR GROUP OF AUXILIARY FACILITIES OTHER THAN DINING FACILITIES, RECREATIONAL FACILITIES, HEALTH FACILITIES, PARKING FACILITIES, STUDENT CENTER FACILITIES, OR RESEARCH FACILITIES WHICH ARE FUNDED FROM A REVOLVING FUND MAY BE ISSUED ONLY AFTER APPROVAL BY BOTH HOUSES OF THE GENERAL ASSEMBLY EITHER BY BILL OR BY JOINT RESOLUTION AND AFTER APPROVAL BY THE GOVERNOR IN ACCORDANCE WITH SECTION 39 OF ARTICLE V OF THE STATE CONSTITUTION. BONDS ISSUED PURSUANT TO THIS SUBSECTION (2) SHALL BE PAYABLE ONLY FROM REVENUES GENERATED BY THE AUXILIARY FACILITY OR GROUP OF AUXILIARY FACILITIES ON BEHALF OF WHICH SUCH BONDS ARE ISSUED. SUCH BONDS SHALL BE ISSUED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 23-70-108 (2).

SECTION 6. 23-70-108 (1) and (3), Colorado Revised Statutes, 1988 Repl. Vol., are amended to read:

23-70-108. Pledge of income. (1) When the Auraria board enters into a contract for the advancement of moneys described in section 23-70-107, the board is authorized, in connection with or as a part of such contract, to pledge special student fees, or the net income derived or to be derived from such land or facilities so constructed, acquired, and equipped, or special student fees and said net income as security for the repayment of the moneys advanced therefor, together with interest thereon, and for the establishment and maintenance of reserves in connection therewith; and, for the same purpose, the Auraria board is also authorized to use the net income derived from the Tivoli brewery and parking areas associated with the Tivoli brewery and to pledge the net income derived from ANY other ~~dining facilities, recreational facilities, health facilities, parking facilities, and student center facilities~~ AUXILIARY FACILITY WHICH IS NOT INDIVIDUALLY DESIGNATED AS AN ENTERPRISE

AND WHICH IS not acquired and not to be acquired with moneys appropriated to the Auraria board by the state of Colorado and to pledge the net income, fees, and revenues derived from said sources, if such be unpledged, or, if pledged, the net income, fees, and revenues currently in excess of the amount required to meet principal, interest, and reserve requirements in connection with outstanding obligations to which such net income, fees, and revenues have theretofore been pledged.

(3) In the event that the pledged net income, fees, and revenues exceed the amount required to meet principal, interest, and reserve requirements in connection with revenue bonds of the institution to which such income has been pledged, the Auraria board may retain such surplus and utilize the same for such purposes as in its judgment shall be in the best interests of the center, including, but not limited to, rehabilitation, alteration, addition to, or equipping of any existing AUXILIARY facilities, AS DEFINED IN SECTION 23-5-101.5 (2) (a), acquired pursuant to the provisions of this section and the acquisition of sites for the construction, acquisition, and equipping of additional AUXILIARY facilities pursuant to such provisions, or for prior redemption of outstanding bonds. USE OF SUCH SURPLUS SHALL BE REVIEWED IN ADVANCE BY THE STUDENT ADVISORY COMMITTEE TO THE AURARIA BOARD.

SECTION 7. 23-70-112, Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

23-70-112. Limitation of actions. No action shall be brought questioning the legality of any contract, proceeding, or warrants or bonds executed or to be executed by the Auraria board in connection with the provision of any ~~dining, recreational, health, parking, or student center~~ AUXILIARY facilities, AS DEFINED IN SECTION 23-5-101.5 (2) (a), provided or to be provided for the purposes authorized by this article after thirty days have expired after the effective date of any resolution or other official action authorizing such contract, adopting such proceedings, or authorizing the issuance of such warrants or bonds.

SECTION 8. 23-1-106 (9), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

23-1-106. Duties and powers of the commission with respect to capital construction and long-range planning. (9) Prior to approving any plan for a capital construction project to be constructed, operated, and maintained solely from student fees, auxiliary ~~enterprise~~ FACILITY funds, wholly endowed gifts and bequests, research building revolving funds, or a combination of such sources, as provided in sections 23-5-102, 23-5-103, 23-5-112, 23-20-124, 23-31-129, and 23-41-117 and section 24-75-303 (3), C.R.S., the commission shall request and consider recommendations from the capital development committee and the joint budget committee. The commission, the capital development committee, and the joint budget committee shall by agreement adopt procedures governing the capital development committee and joint budget committee review of projects subject to this subsection (9), which agreement shall provide that, whenever possible, the capital development committee and joint budget committee will submit their recommendations to the commission within thirty days after each committee receives the information prescribed in the agreement as necessary for its review.

SECTION 9. 2-3-101 (3) (d) and (3) (e), Colorado Revised Statutes, 1980 Repl. Vol., are amended, and the said 2-3-101 (3), as amended, is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

2-3-101. Legislative audit committee - membership - meetings - powers and duties. (3) It is the function of the committee:

(d) To conduct such other activities as may be required by law or by joint resolution of the general assembly; ~~and~~

(e) Upon receipt of the investigation report as provided in section 24-50.5-106, C.R.S., ~~1973~~; to direct the state auditor to conduct a preliminary investigation to determine the need for a fiscal audit, performance audit, or management study of the matter set forth in such report. Upon receipt of the preliminary report from the state auditor, the committee may direct an immediate special audit or management study of the matter or may provide that such study shall be done in accordance with the scheduled audit of the agency cited in such report. Upon completion of any special audit or management study pursuant to this paragraph (e), the committee shall submit its findings to the governor and the members of the general assembly; AND

(f) TO REVIEW ENTERPRISE DESIGNATIONS OF AUXILIARY FACILITIES OR GROUPS OF AUXILIARY FACILITIES WHICH ARE SUBMITTED TO THE OFFICE OF THE STATE AUDITOR PURSUANT TO THE PROVISIONS OF SECTION 23-5-101.5, C.R.S., TO ENSURE THAT SUCH DESIGNATIONS CONFORM TO THE REQUIREMENTS OF SECTION 23-5-101.5, C.R.S., AND TO THE PROVISIONS OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, TO DETERMINE WHICH, IF ANY DESIGNATIONS, SHALL BE ALLOWED TO EXPIRE PURSUANT TO SECTION 23-5-101.5, C.R.S., AND TO RECOMMEND TO THE GENERAL ASSEMBLY SUCH LEGISLATION REGARDING SUCH DESIGNATIONS AS MAY BE NECESSARY.

SECTION 10. 2-3-103, Colorado Revised Statutes, 1980 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

2-3-103. Duties of state auditor. (8) THE STATE AUDITOR SHALL REVIEW OR CAUSE TO BE REVIEWED ALL ENTERPRISE DESIGNATIONS SUBMITTED TO THE OFFICE OF THE STATE AUDITOR PURSUANT TO THE PROVISIONS OF SECTION 23-5-101.5, C.R.S., TO ENSURE THAT SUCH DESIGNATIONS CONFORM TO THE REQUIREMENTS OF SECTION 23-5-101.5, C.R.S., AND TO THE PROVISIONS OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION. IN ADDITION, THE STATE AUDITOR SHALL RECOMMEND TO THE LEGISLATIVE AUDIT COMMITTEE THOSE DESIGNATIONS, IF ANY, WHICH, IN THE OPINION OF THE STATE AUDITOR, SHOULD BE ALLOWED TO EXPIRE AND SHALL OTHERWISE ASSIST THE LEGISLATIVE AUDIT COMMITTEE IN REVIEWING THE ENTERPRISE DESIGNATIONS SUBMITTED TO THE OFFICE OF THE STATE AUDITOR.

SECTION 11. Part 1 of article 3.1 of title 23, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

23-3.1-103.5. Enterprise status of division. (1) THE DIVISION SHALL CONSTITUTE AN ENTERPRISE FOR THE PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION SO LONG AS THE DIVISION RETAINS THE AUTHORITY TO ISSUE REVENUE BONDS AND THE DIVISION RECEIVES LESS THAN TEN PERCENT OF ITS TOTAL

ANNUAL REVENUES IN GRANTS FROM ALL COLORADO STATE AND LOCAL GOVERNMENTS COMBINED. SO LONG AS IT CONSTITUTES AN ENTERPRISE PURSUANT TO THE PROVISIONS OF THIS SECTION, THE DIVISION SHALL NOT BE SUBJECT TO ANY OF THE PROVISIONS OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.

(2) (a) AS USED IN THIS SECTION, "GRANT" MEANS ANY DIRECT CASH SUBSIDY OR OTHER DIRECT CONTRIBUTION OF MONEY FROM THE STATE OR ANY LOCAL GOVERNMENT IN COLORADO WHICH IS NOT REQUIRED TO BE REPAYED.

(b) "GRANT" DOES NOT INCLUDE:

(I) ANY INDIRECT BENEFIT CONFERRED UPON THE DIVISION FROM THE STATE OR ANY LOCAL GOVERNMENT IN COLORADO;

(II) ANY REVENUES RESULTING FROM RATES, FEES, ASSESSMENTS, OR OTHER CHARGES IMPOSED BY THE DIVISION FOR THE PROVISION OF GOODS OR SERVICES BY THE DIVISION;

(III) ANY FEDERAL FUNDS, REGARDLESS OF WHETHER SUCH FEDERAL FUNDS PASS THROUGH THE STATE OR ANY LOCAL GOVERNMENT IN COLORADO PRIOR TO RECEIPT BY THE DIVISION.

SECTION 12. 23-3.1-104.5, Colorado Revised Statutes, 1988 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to read:

23-3.1-104.5. Additional powers of division. (3) THE DIVISION IS HEREBY AUTHORIZED TO ISSUE REVENUE BONDS AFTER APPROVAL BY THE ADVISORY COMMITTEE ON STUDENT LOANS, CREATED IN SECTION 23-3.1-105, AND AFTER APPROVAL BY BOTH HOUSES OF THE GENERAL ASSEMBLY EITHER BY BILL OR BY JOINT RESOLUTION AND AFTER APPROVAL BY THE GOVERNOR IN ACCORDANCE WITH SECTION 39 OF ARTICLE V OF THE STATE CONSTITUTION.

SECTION 13. 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: June 6, 1993