

CHAPTER 28

EDUCATION - UNIVERSITIES AND COLLEGES

HOUSE BILL 94-1180

BY REPRESENTATIVES Foster, Berry, and Williams;
also SENATORS Bishop, Meiklejohn, and Norton.

AN ACT**CONCERNING DESIGNATION OF THE STUDENT LOAN DIVISION IN THE DEPARTMENT OF HIGHER
EDUCATION AS AN ENTERPRISE.**

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

SECTION 1. 2-3-101 (3) (e) and (3) (f), Colorado Revised Statutes, 1980 Repl. Vol., as amended, are amended, and the said 2-3-101 (3) 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:

(e) Upon receipt of the investigation report as provided in section 24-50.5-106, C.R.S., 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

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

general assembly such legislation regarding such designations as may be necessary;
AND

(g) TO REVIEW ANY ENTERPRISE DESIGNATION OF THE STUDENT LOAN DIVISION THAT IS SUBMITTED TO THE OFFICE OF THE STATE AUDITOR PURSUANT TO THE PROVISIONS OF SECTION 23-3.1-103.5, C.R.S., TO ENSURE THAT THE DESIGNATION CONFORMS TO THE REQUIREMENTS OF SECTION 23-3.1-103.5, C.R.S., AND TO THE PROVISIONS OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, TO DETERMINE WHETHER THE DESIGNATION SHALL BE ALLOWED TO EXPIRE PURSUANT TO SECTION 23-3.1-103.5, C.R.S., AND TO RECOMMEND TO THE GENERAL ASSEMBLY SUCH LEGISLATION REGARDING THE DESIGNATION AS MAY BE NECESSARY.

SECTION 2. 2-3-103 (8), Colorado Revised Statutes, 1980 Repl. Vol., as amended, is amended 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~~ SECTIONS 23-3.1-103.5 AND 23-5-101.5, C.R.S., to ensure that such designations conform to the requirements of ~~section 23-5-101.5~~ 23-3.1-103.5 OR 23-5-101.5, C.R.S., WHICHEVER IS APPLICABLE, 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 3. 23-3.1-103.5 (1), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

23-3.1-103.5. Enterprise status of division. (1) (a) THE ADVISORY COMMITTEE ON STUDENT LOANS CREATED IN SECTION 23-3.1-105 MAY, BY RESOLUTION, DESIGNATE the division ~~shall constitute~~ AS 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. ON OR BEFORE JUNE 30, 1994, THE ADVISORY COMMITTEE ON STUDENT LOANS SHALL PASS A RESOLUTION DESIGNATING THE DIVISION AS AN ENTERPRISE OR INDICATING THAT THE ADVISORY COMMITTEE ON STUDENT LOANS HAS DETERMINED NOT TO DESIGNATE THE DIVISION AS AN ENTERPRISE. So long as it ~~constitutes~~ IS DESIGNATED AS 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.

(b) DESIGNATION OF THE DIVISION AS AN ENTERPRISE EXPIRES AT 11:59 P.M. ON JUNE 30 OF THE YEAR FOLLOWING THE DESIGNATION UNLESS THE GENERAL ASSEMBLY, BY BILL, ACTS TO POSTPONE THE EXPIRATION OF THE DESIGNATION. THE POSTPONEMENT OF THE EXPIRATION OF THE DESIGNATION DOES NOT CONSTITUTE LEGISLATIVE APPROVAL OF THE DESIGNATION AND IS NOT ADMISSIBLE IN ANY COURT AS EVIDENCE OF LEGISLATIVE INTENT. THE POSTPONEMENT OF THE EXPIRATION DATE OF THE DESIGNATION DOES NOT PROHIBIT ANY ACTION BY THE GENERAL ASSEMBLY PURSUANT TO THE PROVISIONS OF PARAGRAPH (c) OF THIS SUBSECTION (1) WITH RESPECT TO THE DESIGNATION.

(c) THE DESIGNATION ADOPTED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1) SHALL BE SUBMITTED BY THE ADVISORY COMMITTEE ON STUDENT LOANS TO THE OFFICE OF THE STATE AUDITOR IN THE FORM AND MANNER PRESCRIBED BY THE LEGISLATIVE AUDIT COMMITTEE. SAID DESIGNATION SHALL BE REVIEWED BY SAID OFFICE TO DETERMINE WHETHER SAID DESIGNATION COMPLIES WITH THE REQUIREMENTS OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION AND IS WITHIN THE AUTHORITY OF THE ADVISORY COMMITTEE ON STUDENT LOANS PURSUANT TO THE PROVISIONS OF THIS SECTION AND FOR LATER REVIEW BY THE LEGISLATIVE AUDIT COMMITTEE FOR ITS OPINION AS TO WHETHER THE DESIGNATION COMPLIES WITH THE REQUIREMENTS OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION AND CONFORMS 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 THE 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 DESIGNATION ADOPTED BY THE ADVISORY COMMITTEE ON STUDENT LOANS 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 THE LEGISLATIVE AUDIT COMMITTEE AT A PUBLIC MEETING HELD AFTER TIMELY NOTICE TO THE PUBLIC AND THE ADVISORY COMMITTEE ON STUDENT LOANS. THE LEGISLATIVE AUDIT COMMITTEE SHALL, ON AFFIRMATIVE VOTE, SUBMIT SUCH DESIGNATION, 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 THE DESIGNATION OF THE DIVISION. REJECTION OF SUCH A BILL DOES NOT CONSTITUTE LEGISLATIVE APPROVAL OF SUCH DESIGNATION. THE ADVISORY COMMITTEE ON STUDENT LOANS SHALL REVISE ITS DESIGNATION TO CONFORM WITH THE ACTION TAKEN BY THE GENERAL ASSEMBLY. FOR THE PURPOSE OF PERFORMING THE FUNCTIONS ASSIGNED TO THE LEGISLATIVE AUDIT COMMITTEE BY THIS PARAGRAPH (c), 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.

(d) (I) NOTWITHSTANDING THE OTHER PROVISIONS OF THIS SUBSECTION (1), THE DIVISION SHALL CONTINUE TO CONSTITUTE AN ENTERPRISE UNTIL 11:59 P.M. ON JUNE 30, 1994, 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.

(II) THIS PARAGRAPH (d) IS REPEALED, EFFECTIVE JULY 1, 1994.

SECTION 4. 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: March 18, 1994