

CHAPTER 151

EDUCATION - UNIVERSITIES AND COLLEGES

HOUSE BILL 05-1041

BY REPRESENTATIVE(S) Knoedler, Berens, Buescher, Hefley, Jahn, Penry, Stafford, Stengel, Boyd, Kerr, Madden, Marshall, May M., and Sullivan;
also SENATOR(S) Tupa, Bacon, and Groff.

AN ACT

CONCERNING THE FINANCIAL EXPENDITURES OF A NONPROFIT ENTITY ORGANIZED FOR THE BENEFIT OF A STATE INSTITUTION OF HIGHER EDUCATION.

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

SECTION 1. 24-72-202 (2), Colorado Revised Statutes, is amended, and the said 24-72-202 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

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

(1.6) "INSTITUTIONALLY RELATED FOUNDATION" MEANS A NONPROFIT CORPORATION, FOUNDATION, INSTITUTE, OR SIMILAR ENTITY THAT IS ORGANIZED FOR THE BENEFIT OF ONE OR MORE INSTITUTIONS AND THAT HAS AS ITS PRINCIPAL PURPOSE RECEIVING OR USING PRIVATE DONATIONS TO BE HELD OR USED FOR THE BENEFIT OF AN INSTITUTION. AN INSTITUTIONALLY RELATED FOUNDATION SHALL BE DEEMED NOT TO BE A GOVERNMENTAL BODY, AGENCY, OR OTHER PUBLIC BODY FOR ANY PURPOSE.

(1.8) "INSTITUTIONALLY RELATED HEALTH CARE FOUNDATION" MEANS A NONPROFIT CORPORATION, FOUNDATION, INSTITUTE, OR SIMILAR ENTITY THAT IS ORGANIZED FOR THE BENEFIT OF ONE OR MORE INSTITUTIONS AND THAT HAS AS ITS PRINCIPAL PURPOSE RECEIVING OR USING PRIVATE DONATIONS TO BE HELD OR USED FOR MEDICAL OR HEALTH CARE RELATED PROGRAMS OR SERVICES AT AN INSTITUTION. AN INSTITUTIONALLY RELATED HEALTH CARE FOUNDATION SHALL BE DEEMED NOT TO BE A GOVERNMENTAL BODY, AGENCY, OR OTHER PUBLIC BODY FOR ANY PURPOSE.

(1.9) "INSTITUTIONALLY RELATED REAL ESTATE FOUNDATION" MEANS A

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

NONPROFIT CORPORATION, FOUNDATION, INSTITUTE, OR SIMILAR ENTITY THAT IS ORGANIZED FOR THE BENEFIT OF ONE OR MORE INSTITUTIONS AND THAT HAS AS ITS PRINCIPAL PURPOSE RECEIVING OR USING PRIVATE DONATIONS TO BE HELD OR USED FOR THE ACQUISITION, DEVELOPMENT, FINANCING, LEASING, OR DISPOSITION OF REAL PROPERTY FOR THE BENEFIT OF AN INSTITUTION. AN INSTITUTIONALLY RELATED REAL ESTATE FOUNDATION SHALL BE DEEMED NOT TO BE A GOVERNMENTAL BODY, AGENCY, OR OTHER PUBLIC BODY FOR ANY PURPOSE.

(2) "Official custodian" means and includes any officer or employee of the state, of any agency, institution, or political subdivision of the state, OF ANY INSTITUTIONALLY RELATED FOUNDATION, OF ANY INSTITUTIONALLY RELATED HEALTH CARE FOUNDATION, OF ANY INSTITUTIONALLY RELATED REAL ESTATE FOUNDATION, or of any local government-financed entity, who is responsible for the maintenance, care, and keeping of public records, regardless of whether the records are in his or her actual personal custody and control.

SECTION 2. 24-72-202 (6) (a), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

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

(6) (a) (IV) "PUBLIC RECORDS" MEANS, EXCEPT AS PROVIDED IN SUBPARAGRAPHS (VIII) AND (IX) OF PARAGRAPH (b) OF THIS SUBSECTION (6), FOR AN INSTITUTIONALLY RELATED FOUNDATION, AN INSTITUTIONALLY RELATED HEALTH CARE FOUNDATION, OR AN INSTITUTIONALLY RELATED REAL ESTATE FOUNDATION, ALL WRITINGS RELATING TO THE REQUESTS FOR DISBURSEMENT OR EXPENDITURE OF FUNDS, THE APPROVAL OR DENIAL OF REQUESTS FOR DISBURSEMENT OR EXPENDITURE OF FUNDS, OR THE DISBURSEMENT OR EXPENDITURE OF FUNDS, BY THE INSTITUTIONALLY RELATED FOUNDATION, THE INSTITUTIONALLY RELATED HEALTH CARE FOUNDATION, OR THE INSTITUTIONALLY RELATED REAL ESTATE FOUNDATION ,TO, ON BEHALF OF, OR FOR THE BENEFIT OF THE INSTITUTION OR ANY EMPLOYEE OF THE INSTITUTION. FOR PURPOSES OF THIS SUBPARAGRAPH (IV), "EXPENDITURE" SHALL BE DEFINED IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.

SECTION 3. 24-72-202 (6) (b), Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBPARAGRAPHS to read:

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

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

(VI) FOR PURPOSES OF AN INSTITUTIONALLY RELATED FOUNDATION, ANY DOCUMENTS, AGREEMENTS, OR OTHER RECORDS OR INFORMATION OTHER THAN THE WRITINGS RELATING TO THE FINANCIAL EXPENDITURE RECORDS SPECIFIED IN SUBPARAGRAPH (IV) OF PARAGRAPH (a) OF THIS SUBSECTION (6).

(VII) FOR PURPOSES OF AN INSTITUTION OR AN INSTITUTIONALLY RELATED FOUNDATION:

(A) THE IDENTITY OF, OR RECORDS OR INFORMATION IDENTIFYING OR LEADING TO THE IDENTIFICATION OF, ANY DONOR OR PROSPECTIVE DONOR TO AN INSTITUTION OR AN INSTITUTIONALLY RELATED FOUNDATION;

(B) THE AMOUNT OF ANY ACTUAL OR PROSPECTIVE GIFT OR DONATION FROM A DONOR OR PROSPECTIVE DONOR TO AN INSTITUTIONALLY RELATED FOUNDATION;

(C) PROPRIETARY FUNDRAISING INFORMATION OF AN INSTITUTION OR AN INSTITUTIONALLY RELATED FOUNDATION; OR

(D) AGREEMENTS OR OTHER DOCUMENTS RELATING TO GIFTS OR DONATIONS OR PROSPECTIVE GIFTS OR DONATIONS TO AN INSTITUTION OR AN INSTITUTIONALLY RELATED FOUNDATION FROM A DONOR OR PROSPECTIVE DONOR.

(VIII) FOR PURPOSES OF AN INSTITUTIONALLY RELATED HEALTH CARE FOUNDATION, EXPENDITURES BY AN INSTITUTIONALLY RELATED HEALTH CARE FOUNDATION TO AN INSTITUTION FOR MEDICAL OR HEALTH CARE RELATED PROGRAMS OR SERVICES;

(IX) FOR PURPOSES OF AN INSTITUTIONALLY RELATED REAL ESTATE FOUNDATION, PRIOR TO THE COMPLETION OF ANY TRANSACTION FOR THE ACQUISITION, DEVELOPMENT, FINANCING, LEASING, OR DISPOSITION OF REAL PROPERTY, ALL WRITINGS RELATING TO SUCH TRANSACTION.

SECTION 4. 24-75-104 (3) (a), Colorado Revised Statutes, is amended to read:

24-75-104. Gifts and bequests to state institutions of higher education - effect.

(3) (a) On January 30, 1997, and January 30 of each ~~odd-numbered~~ year thereafter, each state institution of higher education shall submit to the governor and general assembly a complete listing, IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES, of all endowments, gifts, and bequests made to OR EXPENDITURE IN EXCESS OF TWO HUNDRED FIFTY DOLLARS MADE ON BEHALF OF said state institution of higher education during the immediately preceding ~~two~~ state fiscal ~~years~~ YEAR.

SECTION 5. 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 24, 2005