

CHAPTER 258

EDUCATION - UNIVERSITIES AND COLLEGES

SENATE BILL 05-132

BY SENATOR(S) Windels, Bacon, Tupa, Hanna, and Tochtrop;
also REPRESENTATIVE(S) Paccione, Butcher, Frangas, Gallegos, Knoedler, May M., Merrifield, Pommer, Solano, and Todd.

AN ACT

**CONCERNING HIGHER EDUCATION, AND, IN CONNECTION THEREWITH, MAKING MODIFICATIONS TO THE
"COLLEGE OPPORTUNITY FUND ACT", AND MAKING AN APPROPRIATION.**

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

SECTION 1. 23-18-102 (5) (b) and (11), Colorado Revised Statutes, are amended to read:

23-18-102. Definitions. As used in this article, unless the context otherwise requires:

(5) (b) ~~"Eligible undergraduate student" shall not mean a student enrolled in an off-campus, extended campus, or continuing education class, that is not supported by state general fund moneys, except as approved by the commission.~~

(11) "Stipend" means the amount of money per credit hour specified pursuant to section 23-18-202 (2) (b) held in trust for and paid on behalf of an eligible undergraduate student pursuant to section 23-18-202 (5). "STIPEND" SHALL ALSO INCLUDE PAYMENT ON BEHALF OF AN ELIGIBLE UNDERGRADUATE STUDENT FOR A PART OF A CREDIT HOUR.

SECTION 2. 23-18-201 (1), Colorado Revised Statutes, is amended to read:

23-18-201. College opportunity fund program - creation - eligibility - guidelines. (1) There is hereby created in the department of higher education the college opportunity fund program, which shall be administered by the Colorado student loan program. The college opportunity fund, created in section 23-18-202, shall be a trust fund for the benefit of eligible undergraduate students. It shall consist of a stipend for each undergraduate student in Colorado who applies for the stipend

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

and who is admitted and registers to attend a state or participating private institution of higher education and is determined to be eligible by the Colorado student loan program to receive a stipend. An eligible undergraduate student may use the stipend for undergraduate courses AND GRADUATE-LEVEL COURSES THAT APPLY TOWARD THE STUDENT'S UNDERGRADUATE DEGREE THAT ARE taken at a state or participating private institution of higher education at a fixed rate per credit hour, set annually by the general assembly.

SECTION 3. 23-18-202 (2) (a), (4), (5) (c), (5) (d), and (5) (f), Colorado Revised Statutes, are amended, and the said 23-18-202 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

23-18-202. College opportunity fund - appropriations - payment of stipends - reimbursement - repeal. (2) (a) For the state fiscal year commencing July 1, 2005, and for each state fiscal year thereafter, the commission, in consultation with the governing boards and participating private institutions, shall annually estimate the number of undergraduate full-time equivalent students who are eligible for stipends under this part 2 at each state institution of higher education and each participating private institution of higher education. The commission shall ANNUALLY report the numbers ~~during the annual budget cycle~~ BY FEBRUARY 15 to the governor and to the joint budget committee of the general assembly for inclusion in the annual general appropriations act.

(4) (a) Regardless of when an institution receives moneys in the form of a stipend on behalf of a student, or if the stipend amount is reduced by the general assembly, a state institution of higher education shall not increase the student's share of in-state tuition to make up for an actual or effective reduction during the same fiscal year in the stipend amount from which the total in-state tuition amount was calculated or for issues relating to the timing of stipend payments.

(b) IF MONEYS IN THE COLLEGE OPPORTUNITY FUND IN ANY FISCAL YEAR ARE NOT SUFFICIENT TO PAY THE RATE PER CREDIT HOUR ESTABLISHED PURSUANT TO PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION, THEN THE COLORADO STUDENT LOAN PROGRAM SHALL REDUCE THE AMOUNT OF THE STIPEND PER CREDIT HOUR FOR ALL STUDENTS TO MATCH THE AVAILABLE FUNDS, SUBJECT TO JOINT BUDGET COMMITTEE APPROVAL. THIS PARAGRAPH (b) SHALL NOT BE CONSTRUED TO LIMIT THE DEPARTMENT'S ABILITY TO REQUEST AN ADJUSTMENT TO, OR THE GENERAL ASSEMBLY'S ABILITY TO ADJUST, THE AMOUNT OF THE STIPEND DURING THE BUDGET PROCESS.

(5) (c) (I) An eligible undergraduate student shall not receive a stipend from the college opportunity fund for more than one hundred forty-five credit hours during the eligible undergraduate student's lifetime; except that:

(A) If an eligible undergraduate student has received ~~payment for a~~ stipend PAYMENTS for one hundred forty-five credit hours and the student has received a bachelor's degree, the eligible undergraduate student is eligible to receive stipend payments for an additional thirty undergraduate credit hours; AND

(B) FOR CREDIT HOURS INITIATED ON OR AFTER JULY 1, 2006, AN ELIGIBLE UNDERGRADUATE STUDENT MAY RECEIVE STIPEND PAYMENTS FOR BASIC SKILLS

COURSES, AS DEFINED IN SECTION 23-1-113 (1) (b) (II) (A.7); COURSES TAKEN PURSUANT TO THE "POSTSECONDARY ENROLLMENT OPTIONS ACT", ARTICLE 35 OF TITLE 22, C.R.S.; AND HIGH SCHOOL FAST-TRACK COURSES TAKEN PURSUANT TO SECTION 22-34-101, C.R.S. STIPEND PAYMENTS RECEIVED FOR THE BASIC SKILLS COURSES SPECIFIED IN THIS SUB-SUBPARAGRAPH (B) SHALL NOT APPLY TO THE LIFETIME LIMITATION OF ONE HUNDRED FORTY-FIVE CREDIT HOURS.

(II) For an eligible undergraduate student who is enrolled as a continuing student AT A STATE INSTITUTION OF HIGHER EDUCATION OR A PARTICIPATING PRIVATE INSTITUTION OF HIGHER EDUCATION as of July 1, 2005, the commission shall determine the number of credit hours for which the student may receive a stipend from the college opportunity fund, based on the number of credit hours the eligible undergraduate student has earned.

(d) (I) AN ELIGIBLE UNDERGRADUATE STUDENT AND an institution of higher education shall not receive the payment of a stipend on behalf of an eligible undergraduate student for:

(A) Basic skills courses, as defined in section 23-1-113 (1) (b) (II) (A.7). THIS SUB-SUBPARAGRAPH (A) IS REPEALED, EFFECTIVE JULY 1, 2006.

(B) Courses taken pursuant to the "Postsecondary Enrollment Options Act", article 35 of title 22, C.R.S. THIS SUB-SUBPARAGRAPH (B) IS REPEALED, EFFECTIVE JULY 1, 2006.

(C) High school fast-track courses taken pursuant to section 22-34-101, C.R.S. THIS SUB-SUBPARAGRAPH (C) IS REPEALED, EFFECTIVE JULY 1, 2006.

(D) International baccalaureate courses; ~~or~~

(E) Advanced placement courses; OR

(F) OFF-CAMPUS, EXTENDED CAMPUS, OR CONTINUING EDUCATION CLASSES THAT ARE NOT SUPPORTED BY STATE GENERAL FUND MONEYS, EXCEPT AS APPROVED BY THE COMMISSION.

(II) (A) The institution of higher education in which an eligible undergraduate student enrolls may contract with the department pursuant to section 23-5-130 to provide the courses specified in sub-subparagraphs (A) to (C) of subparagraph (I) of this paragraph (d) for a fee.

(B) THIS SUBPARAGRAPH (II) IS REPEALED, EFFECTIVE JULY 1, 2006.

(f) Notwithstanding the lifetime-credit-hour limitation established pursuant to paragraph (c) of this subsection (5) and in addition to the provisions of paragraph (e) of this subsection (5), a state institution of higher education may annually grant a one-year waiver of the lifetime-credit-hour limitation for up to five percent of the eligible undergraduate students enrolled in the state institution of higher education. In granting the waivers under this paragraph (f), the state institution of higher education shall, UPON REQUEST, GRANT A WAIVER TO AN ELIGIBLE UNDERGRADUATE STUDENT FOR COURSES TAKEN PURSUANT TO THE "POSTSECONDARY ENROLLMENT

OPTIONS ACT", ARTICLE 35 OF TITLE 22, C.R.S., AND HIGH SCHOOL FAST-TRACK COURSES TAKEN PURSUANT TO SECTION 22-34-101, C.R.S. FOR ANY REMAINING PORTION OF THE INSTITUTION'S FIVE PERCENT OF ELIGIBLE UNDERGRADUATE STUDENTS WHO MAY RECEIVE WAIVERS, THE INSTITUTION SHALL give priority to students who are seeking job retraining.

(9) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE COLLEGE OPPORTUNITY FUND AND FEE-FOR-SERVICE CONTRACTS AUTHORIZED PURSUANT TO SECTION 23-5-130 BE FULLY FUNDED FOR ENROLLMENT GROWTH.

SECTION 4. Part 2 of article 18 of title 23, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

23-18-208. Advance - cash flow management. NOTWITHSTANDING ANY PROVISION OF SECTION 24-75-203 (1), C.R.S., TO THE CONTRARY, THE COLORADO STUDENT LOAN PROGRAM MAY AUTHORIZE AND, UPON SUCH AUTHORIZATION, THE STATE TREASURER SHALL MAKE AN ADVANCE WITHOUT INTEREST FROM THE COLLEGE OPPORTUNITY FUND TO A GOVERNING BOARD TO ASSIST THE GOVERNING BOARD IN MANAGING ITS CASH FLOW. AN ADVANCE MADE PURSUANT TO THIS SECTION SHALL BE REPAID WITHIN THE SAME STATE FISCAL YEAR IN WHICH THE ADVANCE IS MADE.

SECTION 5. 23-1-113.3 (2) (a), Colorado Revised Statutes, as it will become effective July 1, 2005, is amended to read:

23-1-113.3. Commission directive - basic skills courses. (2) (a) Adams state college, Mesa state college, any local community college, and any community college governed by the state board for community colleges and occupational education may offer BASIC SKILLS COURSES, AS DEFINED IN SECTION 23-1-113 (1) (b) (II) (A.7), and receive ~~fee-for-service contract payments~~ STIPEND PAYMENTS from the state for ON BEHALF OF ELIGIBLE UNDERGRADUATE STUDENTS, AS DEFINED IN SECTION 23-18-102 (5), ENROLLED IN basic skills courses. ~~as defined in section 23-1-113 (1) (b) (II) (A.7).~~

SECTION 6. 23-1-109.7 (1) (b), (1) (c), (1) (d), and (1) (h), Colorado Revised Statutes, are amended to read:

23-1-109.7. Duties and powers of the commission with regard to the provision of educational services - repeal. (1) Beginning July 1, 2005, the commission shall be responsible for ensuring the provision of specific postsecondary educational services in the state. These educational services shall include but need not be limited to:

(b) (I) Basic skills courses, as defined in section 23-1-113 (1) (b) (II) (A.7).

(II) THIS PARAGRAPH (b) IS REPEALED, EFFECTIVE JULY 1, 2006.

(c) (I) Educational services associated with the "Postsecondary Enrollment Options Act", article 35 of title 22, C.R.S.

(II) THIS PARAGRAPH (c) IS REPEALED, EFFECTIVE JULY 1, 2006.

(d) (I) Educational services associated with the high school fast track program pursuant to section 22-34-101, C.R.S.

(II) THIS PARAGRAPH (d) IS REPEALED, EFFECTIVE JULY 1, 2006.

(h) Specialized educational services and professional degrees, including but not limited to the areas of dentistry, medicine, veterinary medicine, nursing, law, forestry, and engineering AND PROGRAMS THAT ADDRESS IDENTIFIED STATE OR NATIONAL PRIORITIES.

SECTION 7. 23-5-130 (2) (b), (2) (c), (2) (d), and (2) (h), Colorado Revised Statutes, are amended to read:

23-5-130. Governing boards - fee-for-service contracts - authorization - repeal. (2) Beginning July 1, 2005, the governing board of a state institution of higher education may annually negotiate a fee-for-service contract with the department for the delivery of higher education services by the institution to the residents of the state of Colorado. These services may include, but need not be limited to:

(b) (I) Basic skills courses, as defined in section 23-1-113 (1) (b) (II) (A.7).

(II) THIS PARAGRAPH (b) IS REPEALED, EFFECTIVE JULY 1, 2006.

(c) (I) Educational services associated with the "Postsecondary Enrollment Options Act", article 35 of title 22, C.R.S.

(II) THIS PARAGRAPH (c) IS REPEALED, EFFECTIVE JULY 1, 2006.

(d) (I) Educational services associated with the high school fast track program pursuant to section 22-34-101, C.R.S.

(II) THIS PARAGRAPH (d) IS REPEALED, EFFECTIVE JULY 1, 2006.

(h) Specialized educational services and professional degrees, including but not limited to the areas of dentistry, medicine, veterinary medicine, nursing, law, forestry, and engineering AND PROGRAMS THAT ADDRESS IDENTIFIED STATE OR NATIONAL PRIORITIES.

SECTION 8. 23-5-129 (2) (e) and (6) (c), Colorado Revised Statutes, are amended to read:

23-5-129. Governing boards - performance contract - authorization - operations. (2) (e) Notwithstanding any other provision of this section to the contrary, increasing enrollment of underserved students, including low-income individuals, ~~males, and~~ minority groups, AND MALES WHERE UNDERSERVED, shall be addressed in each performance contract.

(6) While operating pursuant to a performance contract negotiated pursuant to this section, the governing board of a state institution of higher education:

(c) Shall report to the Colorado commission on higher education its plans for any tuition OR OTHER PROPOSED increases for the following ~~academic~~ FISCAL year, USING APPROVED FORMS, for the commission to ~~forward~~ REVIEW AND MAKE RECOMMENDATIONS to the general assembly during the annual budget process.

SECTION 9. 23-1-106 (5) (a), (9) (a), and (10), Colorado Revised Statutes, are amended to read:

23-1-106. Duties and powers of the commission with respect to capital construction and long-range planning. (5) (a) The commission shall approve plans for any capital construction project at any institution, including a community college, regardless of the source of funds; except that the commission need not approve plans for any capital construction project at a local district college or area vocational school or for any capital construction project described in subsection (9) or (10) of this section. ~~that is estimated to require total expenditures of two hundred fifty thousand dollars or less.~~

(9) (a) The commission shall review and approve any plan for a capital construction project that is estimated to require total expenditures exceeding ~~two hundred fifty thousand~~ ONE MILLION dollars and that is to be constructed, operated, and maintained solely from student fees, auxiliary 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. Any such plan for a capital construction project that is estimated to require total expenditures of ~~two hundred fifty thousand~~ ONE MILLION dollars or less shall not be subject to review or approval by the commission.

(10) The commission shall review and approve any plan for a capital construction project that is estimated to require total expenditures exceeding ~~two hundred fifty thousand~~ FIVE HUNDRED THOUSAND dollars and that is to be constructed solely from cash funds held by the institution other than those funds specified in paragraph (a) of subsection (9) of this section and operated and maintained from such cash funds or from state moneys appropriated for such purpose, or both. Any plan for any such capital construction project that is estimated to require total expenditures of ~~two hundred fifty thousand~~ FIVE HUNDRED THOUSAND dollars or less shall not be subject to review or approval by the commission.

SECTION 10. 23-60-104.5 (3) (a) and (3) (b) (III), Colorado Revised Statutes, are amended to read:

23-60-104.5. Recommendations of governor's task force - legislative declaration. (3) (a) ~~Pursuant to the recommendations of the task force;~~ For the state fiscal year commencing on July 1, 2004, and ending on June 30, 2005, the board shall reduce the STATE-FUNDED administrative costs of the system office by at least ~~thirty-five~~ TWENTY percent.

(b) The moneys available because of the reductions required by paragraph (a) of this subsection (3) shall be used to finance the following recommendations of the task force:

(III) ~~By July 1, 2004, limiting institutional research to the colleges themselves and developing and maintaining one universal database with individual college partitions for virtual privacy, to be used by the system office, with all data governed by standardized definitions, guidelines, and reporting standards and procedures; and~~

SECTION 11. 23-18-202 (1) (b), Colorado Revised Statutes, is amended to read:

23-18-202. College opportunity fund - appropriations - payment of stipends - reimbursement - repeal. (1) (b) (I) The Colorado student loan program shall administer and disburse the funds in the college opportunity fund on behalf of eligible undergraduate students as provided in this part 2. Each state institution of higher education and participating private institution of higher education that does not receive loan origination and disbursement services through the Colorado student loan program shall pay an implementation fee and an on-going disbursement fee, the amounts of which shall be determined by the Colorado student loan program but shall not exceed the actual cost of the implementation and on-going disbursement.

(II) (A) THE COLORADO STUDENT LOAN PROGRAM MAY CHARGE A ONE-TIME FEE TO THE STATE BOARD OF COMMUNITY COLLEGES AND OCCUPATIONAL EDUCATION FOR THE ACTUAL COST RELATED TO THE COMPUTER SYSTEM CHANGES NECESSARY TO ALLOW STIPEND PAYMENTS FOR BASIC SKILLS COURSES, AS DEFINED IN SECTION 23-1-113 (1) (b) (II) (A.7); COURSES TAKEN PURSUANT TO THE "POSTSECONDARY ENROLLMENT OPTIONS ACT", ARTICLE 35 OF TITLE 22, C.R.S.; AND HIGH SCHOOL FAST-TRACK COURSES TAKEN PURSUANT TO SECTION 22-34-101, C.R.S.

(B) THIS SUBPARAGRAPH (II) IS REPEALED, EFFECTIVE JULY 1, 2007.

SECTION 12. Article 5 of title 23, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

23-5-132. Governing boards - travel policies - exemption from state travel rules. EACH GOVERNING BOARD SHALL ADOPT TRAVEL POLICIES FOR THE INSTITUTIONS OF HIGHER EDUCATION UNDER ITS CONTROL, INCLUDING BUT NOT LIMITED TO THE USE OF TRAVEL SERVICES OR TRAVEL AGENCIES BY THE EMPLOYEES OF THE GOVERNING BOARD OR SAID INSTITUTIONS. ANY RULES ADOPTED BY THE STATE CONTROLLER PURSUANT TO SECTION 24-30-202 (26), C.R.S., OR BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PERSONNEL AND ADMINISTRATION PURSUANT TO SECTION 24-102-401, C.R.S., THAT IMPOSE RESTRICTIONS OR REQUIREMENTS PERTAINING TO THE USE OF TRAVEL SERVICES OR TRAVEL AGENCIES SHALL NOT APPLY TO A GOVERNING BOARD OR STATE INSTITUTION OF HIGHER EDUCATION.

SECTION 13. 23-3.1-206 (1) (x), Colorado Revised Statutes, as enacted by Senate Bill 05-003, enacted at the First Regular Session of the Sixty-fifth General Assembly, is amended to read:

23-3.1-206. General powers and duties of the authority. (1) In addition to any other powers and duties specifically granted to the authority in this part 2, the authority has the following powers:

(x) To organize entities pursuant to ~~articles 121 and 137~~ of title 7, C.R.S., with

approval of ~~the board and~~ the executive director, and transfer funds to such entities for the purpose of investing the Colorado achievement scholarship trust fund and any other trusts and funds under the authority's control.

SECTION 14. 23-18-205, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

23-18-205. College opportunity fund - information - notification. (3) ON AND AFTER JULY 1, 2005, IF THE DEPARTMENT AND THE COMMISSION ADVERTISE AND PUBLICIZE A SPECIFIC STIPEND DOLLAR AMOUNT, THE DOLLAR AMOUNT MAY NOT EXCEED THE AMOUNT MOST RECENTLY SET BY THE JOINT BUDGET COMMITTEE OR ADOPTED BY THE GENERAL ASSEMBLY AND THE ADVERTISEMENT OR PUBLICATION MATERIALS SHALL NOTE THAT THE STIPEND AMOUNT IS SUBJECT TO CHANGE BY THE GENERAL ASSEMBLY.

SECTION 15. Appropriation - adjustment in 2005 long bill. (1) For the implementation of this act, appropriations made in the annual general appropriation act to the department of higher education, for the fiscal year beginning July 1, 2005, shall be adjusted as follows:

(a) The appropriation to the Colorado commission on higher education, for administration, from cash funds exempt indirect cost recoveries, is decreased by eight thousand five hundred fifty-three dollars (\$8,553) and 0.3 FTE.

(b) Of the amount of the appropriation to the division of occupational education, for administrative costs, the amount from cash funds exempt indirect cost recoveries is increased by eight thousand five hundred fifty-three dollars (\$8,553) and the amount from the general fund is decreased by eight thousand five hundred fifty-three dollars (\$8,553).

SECTION 16. Effective date. (1) Except as otherwise specified in subsection (2) of this section, this act shall take effect upon passage.

(2) Sections 5 and 11 of this act shall take effect on July 1, 2006.

SECTION 17. 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 2, 2005