

## CHAPTER 135

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**EDUCATION - UNIVERSITIES AND COLLEGES**


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**HOUSE BILL 06-1260**

BY REPRESENTATIVE(S) Jahn, Borodkin, Buescher, Kerr J., Marshall, Riesberg, and Todd;  
also SENATOR(S) Veiga, Groff, Lamborn, May R., Owen, and Tochtrop.

**AN ACT**

**CONCERNING STUDENT LOAN PROGRAMS IN THE DEPARTMENT OF HIGHER EDUCATION.**

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

**SECTION 1.** 23-3.1-103 (1), Colorado Revised Statutes, is amended to read:

**23-3.1-103. Division created - director - staff.** (1) There is hereby created the student loan division in the department of higher education and the office of director of the division. The division and the director shall exercise their powers and perform their functions under this article as if the same were transferred to the department by a **type 2** transfer. The director OF COLLEGEINVEST shall be **appointed** by the ~~executive~~ director of the ~~commission~~ DIVISION. The director, with the approval of the executive director of the commission, shall employ such professional and clerical personnel as deemed necessary to carry out the duties and functions of the division. The director and professional personnel are declared to hold educational offices and to be exempt from the state personnel system.

**SECTION 2.** 23-3.1-103.5 (1) (a), (1) (b), and (1) (c), Colorado Revised Statutes, are 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 **as** 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. ~~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~~

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*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. So long as it 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.

**SECTION 3. Repeal.** 23-3.1-105, Colorado Revised Statutes, is repealed.

**SECTION 4. Repeal.** 2-3-1203 (3) (aa) (I), Colorado Revised Statutes, is repealed.

**SECTION 5.** The introductory portion to 23-3.1-104 (1) (a), Colorado Revised Statutes, is amended to read:

**23-3.1-104. Duties and powers of division.** (1) The division shall:

(a) Promulgate rules and regulations for administration of the Colorado ~~college access network~~ STUDENT LOAN PROGRAM established by this article, including but not limited to the following:

**SECTION 6.** 23-3.1-104.5 (3), Colorado Revised Statutes, is amended 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 7.** 23-3.1-106 (1) (b) and (2), Colorado Revised Statutes, are amended to read:

**23-3.1-106. Student loan program established.** (1) (b) On and after July 1, ~~2004~~ 2006, the student loan program established pursuant to paragraph (a) of this subsection (1) shall be formally and legally known as and designated the Colorado ~~college access network~~ STUDENT LOAN PROGRAM. On and after July 1, ~~2004~~ 2006, whenever the student loan program or the guaranteed student loan program is referred to or designated by a contract or other document, such reference or designation shall be deemed to apply to the Colorado ~~college access network~~ STUDENT LOAN PROGRAM. All contracts entered into by or on behalf of the student loan program or the guaranteed student loan program prior to July 1, ~~2004~~ 2006, are hereby validated as obligations of the Colorado ~~college access network~~ STUDENT LOAN PROGRAM.

(2) It is the intent of the general assembly that the Colorado ~~college access network~~ STUDENT LOAN PROGRAM established by subsection (1) of this section shall operate in such a manner that its costs can be fully met by user fees and federal payments.

**SECTION 8.** 23-3.1-108, Colorado Revised Statutes, is amended to read:

**23-3.1-108. Age qualification.** Any person otherwise qualifying for a student loan shall not be disqualified to receive a student loan under the Colorado ~~college access network~~ STUDENT LOAN PROGRAM by reason of being under the age of eighteen years. For the purpose of applying for, receiving, and repaying a student loan, any person shall be deemed to have full legal capacity to act and shall have all the rights, powers, privileges, and obligations of a person of legal age with respect thereto.

**SECTION 9.** 23-3.1-109, Colorado Revised Statutes, is amended to read:

**23-3.1-109. Subject to audit.** The Colorado ~~college access network~~ STUDENT LOAN PROGRAM shall be audited annually by the state auditor.

**SECTION 10.** 23-3.1-203 (1), Colorado Revised Statutes, is amended to read:

**23-3.1-203. Authority - creation - membership - transfer of personnel.**

(1) Effective May 26, 2000, the authority shall be transferred to the department of higher education, and shall become a division thereof. Except as otherwise provided in this article, on and after May 26, 2000, the authority shall exercise its powers, duties, and functions under the department of higher education as if it were transferred by a **type 2** transfer under the provisions of the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S. The director shall be appointed by the executive director, ~~and~~ shall function as the executive officer of the authority, AND SHALL ALSO BE DIRECTOR OF THE STUDENT LOAN DIVISION. The director, with the approval of the executive director, shall employ such professional and clerical personnel as may be deemed necessary to carry out the duties and functions of the authority. Such personnel shall receive compensation for their services as determined by the director. The director and all personnel of the authority are declared to hold educational offices and to be exempt from the state personnel system.

**SECTION 11.** 23-60-704 (3) (b), Colorado Revised Statutes, is amended to read:

**23-60-704. Private occupational school board - established - membership.**

(3) The board shall consist of seven members appointed by the governor, with the consent of the senate, as follows:

(b) Four members shall be representatives of the general public, at least one of whom is employed by a lending institution located in Colorado and is familiar with the Colorado ~~college access network~~ STUDENT LOAN PROGRAM and at least two of whom are owners or operators of businesses within Colorado that employ students who are enrolled in schools that are subject to administration by the private occupational school division.

**SECTION 12.** 23-3.1-208 (1) (a), Colorado Revised Statutes, is amended to read:

**23-3.1-208. Bonds.** (1) (a) The authority may issue from time to time its bonds for its purposes as provided in this part 2, including but not limited to purchasing or making student obligations or making institutional loans, but the authority shall not have outstanding, at any one time, bonds, not including bond anticipation notes that have been refunded and bonds that have been refunded, in an aggregate principal amount exceeding ~~one~~ TWO billion ~~three hundred million~~ dollars. The authority may not undertake the financing of the making or purchasing of student obligations unless, prior to the issuance of any bonds or notes, the board finds that there is insufficient access to student obligations from normal private market sources and that such financing will help alleviate such insufficient access.

**SECTION 13.** 23-3.1-205.4 (1), Colorado Revised Statutes, is amended to read:

**23-3.1-205.4. Collegeinvest fund - creation - control - use.** (1) (a) There is hereby created in the state treasury the Colorado student obligation bond authority fund, to be known and referred to on and after July 1, 2004, as the collegeinvest fund, which shall be under the control of the authority in accordance with the provisions of this part 2 and part 3 of this article. The moneys in the collegeinvest fund shall be invested by the state treasurer. Except as otherwise allowed by section

24-36-103 (2), C.R.S., and except for amounts received in connection with the prepaid expense program and the program in part 3 of this article, all moneys received or acquired by the authority, whether by appropriation, grant, contract, gift, sale or lease of surplus real or personal property, or any other means, whose disposition is not otherwise provided for by law or by a trust indenture, and all interest derived from the deposit and investment of moneys in the fund shall be credited to said fund, including moneys received pursuant to sections 23-3.1-206 (1) (k) and 23-3.1-304 (1) (h). EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (1), the moneys in the fund are hereby continuously appropriated to the authority and shall remain in the fund and shall not be transferred or revert to the general fund of the state at the end of any fiscal year.

(b) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (1), IF THE AUTHORITY SELLS, TRANSFERS, OR ENTERS INTO A CONTRACT WITH ANOTHER ENTITY CONCERNING ALL OR A SUBSTANTIAL PORTION OF THE AUTHORITY'S POWER TO MAKE, ORIGINATE, DISBURSE, OR SERVICE LOANS, THE PROCEEDS OF THE SALE, TRANSFER, OR CONTRACT SHALL NOT BE USED BY THE AUTHORITY WITHOUT FURTHER APPROPRIATION BY THE GENERAL ASSEMBLY.

**SECTION 14. Effective date.** This act shall take effect July 1, 2006.

**SECTION 15. 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: April 18, 2006