

CHAPTER 49

EDUCATION - UNIVERSITIES AND COLLEGES

SENATE BILL 08-126

BY SENATOR(S) Johnson, Keller, Morse, Schwartz, Tapia, Williams, and Windels;
also REPRESENTATIVE(S) White, Buescher, Pommer, McFadyen, and Todd.

AN ACT

CONCERNING CASH FUNDS OF STATE-SUPPORTED INSTITUTIONS OF HIGHER EDUCATION, AND, IN CONNECTION THEREWITH, REPEALING THE PROVISION THAT LIMITS THE AMOUNT OF CASH FUND REVENUES SUBJECT TO THE CONSTITUTIONAL LIMITATION ON STATE FISCAL YEAR SPENDING THAT A STATE-SUPPORTED INSTITUTION OF HIGHER EDUCATION MAY RAISE, SPEND, OR TRANSFER TO RESERVES DURING A FISCAL YEAR TO THE AMOUNT OF CASH FUNDS APPROPRIATED IN THE LONG APPROPRIATIONS BILL TO THE GOVERNING BOARD OR BOARD OF TRUSTEES OF THE INSTITUTION FOR THE FISCAL YEAR.

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

SECTION 1. Repeal. 23-1-103.5, Colorado Revised Statutes, is repealed as follows:

23-1-103.5. Establishment of annual allowable cash fund revenues and expenditures by general assembly. (1) ~~The general assembly hereby finds and declares that:~~

~~(a) Section 20 of article X of the state constitution limits state fiscal year spending;~~

~~(b) Subject to certain exclusions specified in section 20 of article X of the state constitution, all state general fund expenditures and all state cash fund expenditures, including expenditures of state-supported institutions of higher education, are included in the limitation on state fiscal year spending;~~

~~(c) The legislative powers of the general assembly, including but not limited to its plenary power of appropriation, authorize and require the general assembly to assure compliance with the limitation on state fiscal year spending and to make fundamental fiscal policy decisions establishing the level of activity of all~~

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

departments and agencies of state government, including state-supported institutions of higher education; and

~~(d) Consonant with the exercise of such legislative powers, the general assembly must establish limits on the amount of cash funds, as defined in subsection (2) of this section, which shall be raised, spent, or transferred to reserves by the governing boards and boards of trustees of all state-supported institutions of higher education and exercise any other necessary controls on cash fund revenues including, but not limited to, the power of appropriation.~~

~~(2) (a) For the 1993-94 fiscal year and fiscal years thereafter, the amount of cash funds appropriated in the general appropriation bill by the general assembly for the governing boards and the boards of trustees for all state-supported institutions of higher education shall equal the maximum amount of cash funds that such governing boards and boards of trustees shall raise, spend, or transfer to reserves for that fiscal year.~~

~~(b) For the purposes of this section, "cash funds" means funds received from tuition income, fees, indirect cost recoveries, and other sources of funds that can be appropriated as cash funds for state-supported institutions of higher education, excepting those funds derived from gifts, federal funds, or other sources which any expenditure or reserve increase therefrom is not subject to the provisions of section 20 of article X of the state constitution.~~

~~(c) In addition to the funds described in paragraph (b) of this subsection (2), for the 2002-03 fiscal year and fiscal years thereafter, for the purposes of this section, "cash funds" includes funds credited to the accounts of students from student financial aid, tuition assistance, and scholarships to the extent such funds are included in the scholarship allowance for financial reporting purposes. Nothing in this paragraph (c) shall be construed to alter or supersede the definition of "state fiscal year spending" contained in section 24-77-102 (17), C.R.S.~~

SECTION 2. 23-1-104 (1) (a) (II), Colorado Revised Statutes, is amended to read:

23-1-104. Financing the system of postsecondary education. (1) (a) (II) The general assembly shall make annual appropriations of cash funds, other than cash funds received as tuition income, pursuant to the provisions of section 23-1-103.5 as a single line item to each governing board for the operation of its campuses. Each governing board shall allocate said cash fund appropriations to the institutions under its control in the manner deemed most appropriate by such governing board.

SECTION 3. 23-20-112, Colorado Revised Statutes, is amended to read:

23-20-112. General powers of the board. The board of regents shall enact laws for the government of the university; appoint the requisite number of professors, tutors, and all other officers; and determine the salaries of such officers and the amount to be paid for tuition in accordance with the level of cash fund appropriations set by the general assembly for the university pursuant to ~~section 23-1-103.5~~ SECTION 23-1-104 (1) (a) (I). It shall remove any officer connected with the university when in its judgment the good of the institution requires it.

SECTION 4. 23-30-112, Colorado Revised Statutes, is amended to read:

23-30-112. Tuition fees - discrimination. The board of governors of the Colorado state university system shall fix tuition in accordance with the level of cash fund appropriations set by the general assembly for the entities it governs pursuant to ~~section 23-1-103.5~~ SECTION 23-1-104 (1) (a) (I). The board may discriminate in regard to tuition between students from this state and students from other states.

SECTION 5. 23-41-107, Colorado Revised Statutes, is amended to read:

23-41-107. Tuition - school open to all. The Colorado school of mines is open for instruction to all bona fide residents of this state, without regard to sex or color, upon the payment of such reasonable tuition fees as may be prescribed by the board of trustees. With the consent of such board, students from other states, territories, or countries may receive education thereat upon such terms and at such rates of tuition as such board may determine. The board shall fix tuition in accordance with the level of cash fund appropriations set by the general assembly for such institution pursuant to ~~section 23-1-103.5~~ SECTION 23-1-104 (1) (a) (I).

SECTION 6. 23-52-105 (1) (b), Colorado Revised Statutes, is amended to read:

23-52-105. Tuition fees - Indians. (1) (b) On and after September 1, 2002, the board of trustees shall fix tuition in accordance with the level of cash fund appropriations set by the general assembly for ~~the~~ FORT LEWIS college pursuant to ~~section 23-1-103.5~~ SECTION 23-1-104 (1) (a) (I), subject to the restriction that all qualified Indian pupils shall at all times be admitted to such college free of charge for tuition and on terms of equality with other pupils. The general assembly shall appropriate from the state general fund one hundred percent of the moneys required for tuition for such qualified Indian pupils.

SECTION 7. 23-60-202 (1) (c), Colorado Revised Statutes, is amended to read:

23-60-202. Duties of board with respect to state system. (1) With respect to the community and technical colleges within the state system, the board has the authority, responsibility, rights, privileges, powers, and duties customarily exercised by the governing boards of institutions of higher education, including the following:

(c) To fix the tuition and fees to be charged in the community and technical colleges. The board shall fix tuition in accordance with the level of cash fund appropriations set by the general assembly for such institutions pursuant to ~~section 23-1-103.5~~ SECTION 23-1-104 (1) (a) (I).

SECTION 8. 24-77-102 (17) (a) (II), Colorado Revised Statutes, is amended to read:

24-77-102. Definitions. As used in this article, unless the context otherwise requires:

(17) (a) "State fiscal year spending" means all state expenditures and reserve increases occurring during any given fiscal year as established by section 24-30-204,

including, but not limited to, state expenditures or reserve increases from:

(II) Cash funds of state institutions of higher education. ~~as defined in section 23-1-103.5, C.R.S.~~ FOR PURPOSES OF THIS SUBPARAGRAPH (II), "CASH FUNDS" MEANS FUNDS RECEIVED FROM TUITION INCOME, FEES, INDIRECT COST RECOVERIES, AND OTHER SOURCES OF FUNDS THAT CAN BE APPROPRIATED AS CASH FUNDS FROM STATE INSTITUTIONS OF HIGHER EDUCATION, EXCEPTING THOSE FUNDS DERIVED FROM GIFTS, FEDERAL FUNDS, OR OTHER SOURCES FOR WHICH ANY EXPENDITURE OR RESERVE INCREASE IS NOT SUBJECT TO THE PROVISIONS OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.

SECTION 9. 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 19, 2008