

CHAPTER 390

EDUCATION - UNIVERSITIES AND COLLEGES

HOUSE BILL 10-1428

BY REPRESENTATIVE(S) Middleton, Casso, Court, Labuda, Massey, Pommer, Todd, Carroll T.;
also SENATOR(S) Romer, Bacon, Heath, Shaffer B., Williams.

AN ACT**CONCERNING STUDENT LOANS.**

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

SECTION 1. Part 1 of article 3.1 of title 23, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

23-3.1-104.7. Restructuring plan - legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) DUE TO CHANGES IN FEDERAL LAW, THE DEPARTMENT SHALL NO LONGER BE INVOLVED IN STUDENT LOANS THAT ARE GUARANTEED BY THE FEDERAL GOVERNMENT;

(b) THERE ARE A NUMBER OF EMPLOYEES OF THE DIVISION THAT ARE INVOLVED IN ORIGINATING, DISBURSING, SERVICING, AND ADMINISTERING STUDENT LOANS THAT ARE GUARANTEED BY THE FEDERAL GOVERNMENT; AND

(c) IT IS IN THE BEST INTEREST OF THE STATE FOR THE DEPARTMENT TO PREPARE AND SUBMIT TO THE GENERAL ASSEMBLY A RESTRUCTURING PLAN TO DEAL WITH THE CHANGES IN ADMINISTERING STUDENT LOANS.

(2) ON OR BEFORE JANUARY 1, 2011, THE DEPARTMENT SHALL PREPARE AND SUBMIT TO THE EDUCATION COMMITTEES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, A RESTRUCTURING PLAN TO DEAL WITH CHANGES IN ADMINISTERING STUDENT LOANS. THE PLAN SHALL ADDRESS, BUT NEED NOT BE LIMITED TO, THE FOLLOWING ISSUES:

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

(a) ANY ONGOING OR FUTURE ROLE FOR THE COLORADO STUDENT OBLIGATION BOND AUTHORITY;

(b) WHETHER THE DIVISION SHOULD CONTINUE TO ORIGINATE, DISBURSE, SERVICE, GUARANTEE, AND ADMINISTER STUDENT LOANS;

(c) IF THE DIVISION DOES NOT CONTINUE ADMINISTERING STUDENT LOANS, THE ENTITY THAT SHOULD BE RESPONSIBLE FOR SUCH ADMINISTRATION AND THE AUTHORITY THAT ENTITY MAY NEED;

(d) THE NUMBER OF EMPLOYEES NECESSARY TO ADMINISTER STUDENT LOANS; AND

(e) ADDRESS THE EMPLOYMENT OF PERSONS WHO FORMERLY WERE RESPONSIBLE FOR ADMINISTERING STUDENT LOANS GUARANTEED BY THE FEDERAL GOVERNMENT.

SECTION 2. 23-3.1-205.4 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

23-3.1-205.4. Collegeinvest fund - creation - control - use.

(1) (c) NOTWITHSTANDING ANY PROVISION OF PARAGRAPH (a) OF THIS SUBSECTION (1) TO THE CONTRARY, IF THE AUTHORITY OR ANY OTHER DIVISION OF THE DEPARTMENT SELLS, TRANSFERS, OR ENTERS INTO A CONTRACT WITH ANOTHER ENTITY CONCERNING ALL OR ANY PORTION OF THE AUTHORITY'S OR DIVISION'S INTEREST IN ANY STUDENT LOANS OR STUDENT OBLIGATIONS, THE AUTHORITY OR THE DIVISION SHALL DEPOSIT THE NET PROCEEDS OF THE SALE, TRANSFER, OR CONTRACT AS FOLLOWS:

(I) UP TO FIVE MILLION DOLLARS SHALL REMAIN IN THE RESERVE ACCOUNT IN THE COLLEGEINVEST FUND, WHICH ACCOUNT IS HEREBY CREATED, AND MAY BE USED: TO FUND THE REPURCHASE OF STUDENT LOANS SOLD BY THE AUTHORITY IF A GUARANTEE AGENCY REFUSES TO HONOR A CLAIM FILED WITH RESPECT TO ANY SUCH LOANS ON ACCOUNT OF AN EVENT THAT OCCURRED PRIOR TO THE SALE; AND TO PAY ALL LIABILITIES, COSTS, AND EXPENSES WITH RESPECT TO THE AUTHORITY'S PROGRAMS TO UNDERTAKE FORGIVENESS OF INDEBTEDNESS UNDER SUCH STUDENT LOANS SOLD BY THE AUTHORITY. ANY MONEYS REMAINING IN THE RESERVE ACCOUNT AS OF JANUARY 1, 2011, SHALL BE TRANSFERRED TO THE FINANCIAL NEED SCHOLARSHIP FUND CREATED IN SECTION 23-3.1-206.2.

(II) AFTER THE RETENTION OF THE AMOUNT REQUIRED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (c), UP TO FIVE MILLION DOLLARS OF THE REMAINING PROCEEDS SHALL REMAIN IN THE TRANSITION ACCOUNT IN THE COLLEGEINVEST FUND, WHICH ACCOUNT IS HEREBY CREATED TO PAY COSTS AND EXPENSES ASSOCIATED WITH THE TRANSITION AND WIND-DOWN OF THE AUTHORITY'S STUDENT LOAN PROGRAM. ANY EXPENDITURE FROM THE TRANSITION ACCOUNT IN EXCESS OF ONE HUNDRED THOUSAND DOLLARS SHALL REQUIRE THE APPROVAL OF THE EXECUTIVE DIRECTOR. ANY MONEYS REMAINING IN THE TRANSITION ACCOUNT AS OF JANUARY 1, 2011, SHALL BE TRANSFERRED TO THE FINANCIAL NEED SCHOLARSHIP FUND CREATED IN SECTION 23-3.1-206.2.

(III) AFTER THE RETENTION OF THE AMOUNTS REQUIRED IN SUBPARAGRAPHS (I)

AND (II) OF THIS PARAGRAPH (c), UP TO FIFTEEN MILLION DOLLARS OF THE REMAINING PROCEEDS SHALL BE TRANSFERRED TO THE FINANCIAL NEED SCHOLARSHIP FUND CREATED IN SECTION 23-3.1-206.2 TO INCREASE THE AVAILABILITY OF FINANCIAL NEED SCHOLARSHIPS.

(IV) AFTER THE RETENTION OF THE AMOUNTS REQUIRED BY SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH (c) AND THE TRANSFER REQUIRED BY SUBPARAGRAPH (III) OF THIS PARAGRAPH (c), ANY REMAINING AMOUNT OF THE PROCEEDS SHALL BE TRANSFERRED TO THE FINANCIAL NEED SCHOLARSHIP FUND CREATED IN SECTION 23-3.1-206.2 AND MAY REDUCE THE NEED FOR GENERAL FUND APPROPRIATIONS IN THE SAME AMOUNT TO THE DEPARTMENT FOR NEED-BASED GRANTS.

SECTION 3. Part 2 of article 3.1 of title 23, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

23-3.1-206.2. Financial need scholarships and grants - fund. (1) THE AUTHORITY AND THE DEPARTMENT OF HIGHER EDUCATION ARE AUTHORIZED TO SEEK AND ACCEPT GIFTS, GRANTS, OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF MAKING SCHOLARSHIPS OR GRANTS BASED UPON FINANCIAL NEED IN ADDITION TO THOSE FUNDED PURSUANT TO SECTION 23-3.3-501; EXCEPT THAT THE AUTHORITY OR THE DEPARTMENT OF HIGHER EDUCATION MAY NOT ACCEPT A GIFT, GRANT, OR DONATION THAT IS SUBJECT TO CONDITIONS THAT ARE INCONSISTENT WITH THIS SECTION OR ANY OTHER LAW OF THE STATE. THE AUTHORITY AND THE DEPARTMENT OF HIGHER EDUCATION SHALL TRANSMIT ALL PRIVATE AND PUBLIC MONEYS RECEIVED THROUGH GIFTS, GRANTS, OR DONATIONS PURSUANT TO THIS SECTION TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE FINANCIAL NEED SCHOLARSHIP FUND, WHICH FUND IS HEREBY CREATED AND REFERRED TO IN THIS SECTION AS THE "FUND". IN ADDITION TO GIFTS, GRANTS, OR DONATIONS, THE FUND SHALL CONSIST OF ANY MONEYS DEPOSITED IN THE FUND PURSUANT TO SECTION 23-3.1-205.4 (1) (c) AND ANY MONEYS APPROPRIATED TO THE FUND BY THE GENERAL ASSEMBLY. THE MONEYS IN THE FUND SHALL BE CONTINUOUSLY APPROPRIATED TO THE AUTHORITY AND THE DEPARTMENT OF HIGHER EDUCATION FOR THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH AWARDING SCHOLARSHIPS OR GRANTS BASED UPON FINANCIAL NEED.

(2) THE STATE TREASURER MAY INVEST, AS PROVIDED BY LAW, ANY MONEYS IN THE FUND NOT EXPENDED FOR THE PURPOSE OF THIS SECTION. ALL INTEREST AND INCOME DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF A FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANOTHER FUND.

SECTION 4. Repeal. 23-3.1-104 (1) (g), (1) (o), (2) (j), (2) (k), and (2) (o), Colorado Revised Statutes, are repealed as follows:

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

- (g) ~~Recruit lenders to participate in the network;~~
- (o) ~~Evaluate the degree of access to loans and report, at least semiannually, on the~~

~~sufficiency or insufficiency of such access to the authority established by part 2 of this article;~~

(2) The division may:

~~(j) Contract with institutions of higher education to originate, disburse, or guarantee student loans;~~

~~(k) Hire consultants to advise the division on matters regarding student loans;~~

~~(o) Prescribe the terms and conditions by which loans from the proceeds of institutional loans established under part 2 of this article are made, through either the promulgation of rules or otherwise;~~

SECTION 5. 23-3.1-201, Colorado Revised Statutes, is amended to read:

23-3.1-201. Legislative declaration. The general assembly hereby declares that the availability of improved access to and choice of higher education opportunities in this state will benefit the residents of the state and that ~~the establishment of a student obligation bond program, with proceeds of bonds to be used for the purchase or making of student obligations or the making of institutional loans, and the establishment of a prepaid postsecondary education expense program will enhance the availability of student obligations and~~ assist residents in meeting the expenses incurred in availing themselves of higher education opportunities. It is the intent of the general assembly in enacting this part 2 to create collegeinvest, which shall be a division within the department of higher education and which authority shall make or purchase student obligations ~~shall make institutional loans~~, and shall develop and administer a prepaid postsecondary education expense program. This part 2 shall be liberally construed to accomplish the intentions expressed in this section.

SECTION 6. Repeal. 23-3.1-206 (1) (h), Colorado Revised Statutes, is repealed as follows:

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:

~~(h) To make or participate in the making of student obligations or institutional loans;~~

SECTION 7. 23-3.1-206 (1) (o), Colorado Revised Statutes, 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:

(o) To do all things necessary and convenient to carry out the purposes of this part 2 and of part 3 of this article including funding of grants, scholarships, and loan forgiveness; ~~and to do all things necessary and convenient in connection with the servicing of student obligations by the authority including sale, public or private, to~~

~~the student loan marketing association or any successor organization;~~

SECTION 8. 23-3.1-206.5 (2), Colorado Revised Statutes, is amended to read:

23-3.1-206.5. Origination, disbursement, and servicing of student obligations and institutional loans. (2) The authority may contract with the division to ~~originate, disburse, or~~ service student obligations made or purchased by the authority.

SECTION 9. Article 1 of title 23, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

23-1-129. Commission directive - student loans. ON OR BEFORE JULY 1, 2010, THE COMMISSION SHALL ADOPT THE NECESSARY POLICIES AND PROCEDURES TO REQUIRE STATE-SUPPORTED INSTITUTIONS OF HIGHER EDUCATION TO PARTICIPATE IN STUDENT LOAN PROGRAMS SUPPORTED BY THE FEDERAL GOVERNMENT.

SECTION 10. 23-3.1-205.4 (1) (c) (IV), Colorado Revised Statutes, as enacted in House Bill 10-1428, is amended, and the said 23-3.1-205.4 (1) (c) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

23-3.1-205.4. Collegeinvest fund - creation - control - use. (1) (c) Notwithstanding any provision of paragraph (a) of this subsection (1) to the contrary, if the authority or any other division of the department sells, transfers, or enters into a contract with another entity concerning all or any portion of the authority's or division's interest in any student loans or student obligations, the authority or the division shall deposit the net proceeds of the sale, transfer, or contract as follows:

(III.5) AFTER THE RETENTION OF THE AMOUNTS REQUIRED BY SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH (c) AND THE TRANSFER REQUIRED BY SUBPARAGRAPH (III) OF THIS PARAGRAPH (c), UP TO ONE HUNDRED THOUSAND DOLLARS OF THE REMAINING PROCEEDS SHALL BE TRANSFERRED TO THE JOB RETRAINING CASH FUND CREATED PURSUANT TO SECTION 23-3.1-310.

(IV) After the retention of the amounts required by subparagraphs (I) and (II) of this paragraph (c) and the ~~transfer~~ TRANSFERS required by ~~subparagraph~~ SUBPARAGRAPHS (III) AND (III.5) of this paragraph (c), any remaining amount of the proceeds shall be transferred to the financial need scholarship fund created in section 23-3.1-206.2 and may reduce the need for general fund appropriations in the same amount to the department for need-based grants.

SECTION 11. Specified effective date. (1) Except as provided in subsection (2) of this section, this act shall take effect upon passage.

(2) (a) Section 6 of this act shall take effect September 30, 2010.

(b) Section 10 of this act shall only take effect if Senate Bill 10-202 is enacted and becomes law.

SECTION 12. 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 9, 2010