

CHAPTER 297

EDUCATION - POSTSECONDARY

HOUSE BILL 11-1301

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AN ACT

CONCERNING STATUTORY CHANGES TO INCREASE EFFICIENCY IN THE OPERATIONS OF PUBLIC INSTITUTIONS OF HIGHER EDUCATION.

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

SECTION 1. 23-5-131 (1) (b), (1) (c), (2), (4) (a), and (4) (b), Colorado Revised Statutes, are amended, and the said 23-5-131 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

23-5-131. Governing boards - tuition - fixed rate contract. (1) As used in this section, unless the context otherwise requires:

(b) "Fixed rate" means the fixed tuition ~~and fee~~ rate specified in a contract between a state-supported institution of higher education and a student enrolled in the institution.

(c) "Program" means the fixed tuition ~~and fee~~ rate program.

(2) There is hereby established a fixed tuition ~~and fee~~ rate program. ~~Beginning in the 2005-06 academic year,~~ The governing board of each state-supported institution of higher education that has been designated as an enterprise pursuant to section 23-5-101.7 may offer a fixed tuition ~~and fee~~ rate to a student who is willing to enter into a contract with the institution for the fixed rate. ~~A student who enters into a fixed-rate contract may be charged additional fees that are not included in the contract so long as the fees are approved by the student government of the state-supported institution of higher education.~~ A FIXED-RATE CONTRACT SHALL ALSO SPECIFY THE AMOUNT OF THE STUDENT FEES COLLECTED BY THE INSTITUTION AS OF THE DATE OF THE CONTRACT AND SHALL INFORM THE STUDENT THAT THE

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

AMOUNT OF STUDENT FEES MAY INCREASE OVER THE TERM OF THE CONTRACT IN ACCORDANCE WITH THE INSTITUTION'S STUDENT FEE PLAN ADOPTED PURSUANT TO SECTION 23-5-119.5.

(4) (a) Each governing board that is participating in the program shall establish guidelines for each institution under its control relating to the fixed tuition ~~and fee~~ rate program that shall include, at a minimum, the degree of flexibility a student has in changing majors or degree programs without voiding a fixed-rate contract.

~~(b) Each governing board shall submit the guidelines adopted for each institution under its control to the commission for review and approval.~~

(6) A FIXED-RATE CONTRACT ENTERED INTO PURSUANT TO THIS SECTION SHALL TAKE INTO ACCOUNT THE FACTORS REQUIRED TO BE SPECIFIED IN THE FIVE-YEAR FINANCIAL ACCOUNTABILITY PLAN, IF ANY, SUBMITTED PURSUANT TO SECTION 23-5-130.5 BY THE STATE-SUPPORTED INSTITUTION OF HIGHER EDUCATION OFFERING THE FIXED-RATE CONTRACT.

SECTION 2. Article 5 of title 23, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

23-5-119.5. Student fees - legislative declaration - definitions - institutional plans - fee information - reporting. (1) THE GENERAL ASSEMBLY HEREBY FINDS THAT, DUE TO INCREASING FINANCIAL RESTRICTIONS, FEES ARE INCREASINGLY BEING USED AS SOURCES OF REVENUE FOR STATE INSTITUTIONS OF HIGHER EDUCATION. THE GENERAL ASSEMBLY FURTHER FINDS THAT IT IS IMPORTANT TO ALLOW THE GOVERNING BOARDS FLEXIBILITY IN MANAGING STUDENT FEES IN THE MANNER THAT IS MOST EFFECTIVE FOR THEIR RESPECTIVE INSTITUTIONS. HOWEVER, THE GENERAL ASSEMBLY ALSO FINDS THAT STATE INSTITUTIONS OF HIGHER EDUCATION MUST DEVELOP MEANINGFUL PROCESSES FOR RECEIVING AND CONSIDERING STUDENT INPUT CONCERNING THE AMOUNT ASSESSED IN FEES AND THE PURPOSES FOR WHICH THE INSTITUTION USES THE REVENUES RECEIVED. IT IS THEREFORE THE INTENT OF THE GENERAL ASSEMBLY THAT THE GOVERNING BOARDS ADOPT POLICIES CONCERNING THE DEFINITION, ASSESSMENT, INCREASE, AND USE OF FEES, INCLUDING BUT NOT LIMITED TO THE POLICIES SPECIFIED IN THIS SECTION, WHICH GOVERNING BOARD POLICIES SHALL BE IN ACCORDANCE WITH THE POLICIES ADOPTED BY THE COMMISSION PURSUANT TO SECTION 23-1-105.5.

(2) FOR PURPOSES OF THIS SECTION:

(a) "AUXILIARY FACILITY" HAS THE SAME MEANING AS DEFINED IN SECTION 23-5-101.5 (2) (a).

(b) "COMMISSION" MEANS THE COLORADO COMMISSION ON HIGHER EDUCATION ESTABLISHED IN SECTION 23-1-102.

(c) "STATE INSTITUTION OF HIGHER EDUCATION" OR "INSTITUTION" MEANS A STATE-SUPPORTED INSTITUTION OF HIGHER EDUCATION IN COLORADO.

(3) EACH GOVERNING BOARD IS AUTHORIZED TO REQUIRE STUDENTS TO PAY FEES TO OFFSET COSTS THAT ARE SPECIFIC TO CERTAIN COURSES OR PROGRAMS OR THAT

OTHERWISE EXCEED OR ARE IN ADDITION TO NORMAL OVERHEAD AND OPERATING COSTS THAT ARE PAID BY TUITION REVENUES. REVENUES RECEIVED BY A GOVERNING BOARD AS STUDENT FEES ARE NOT SUBJECT TO ANNUAL APPROPRIATION. THE COSTS FOR WHICH A GOVERNING BOARD MAY IMPOSE FEES MAY INCLUDE, BUT NEED NOT BE LIMITED TO:

(a) COSTS RELATED TO THE CONSTRUCTION, MAINTENANCE, FURNISHING, AND EQUIPPING OF BUILDINGS AND INFRASTRUCTURE;

(b) COSTS THAT ARE UNIQUE TO SPECIFIC COURSES OR PROGRAMS AND BENEFIT THE STUDENTS WHO CHOOSE TO ENROLL IN THE COURSE OR PROGRAM;

(c) COSTS RELATED TO STUDENT-CENTERED FACILITIES, SERVICES, OR ACTIVITIES SUCH AS STUDENT CENTERS, RECREATION FACILITIES, TECHNOLOGY, PARKING LOTS, CHILD CARE, HEALTH CLINICS, MANDATORY INSURANCE, STUDENT GOVERNMENT, AND OTHER STUDENT ORGANIZATIONS OR ACTIVITIES;

(d) COSTS INCURRED BY AN INSTITUTION THAT ARE IN ADDITION TO THE COSTS OF DIRECT DELIVERY OF INSTRUCTION SUCH AS REGISTRATION COSTS, COSTS FOR STUDENT ORIENTATION AND GRADUATION, AND COSTS INCURRED IN COMMUNICATING WITH STUDENTS AND THEIR FAMILIES.

(4) (a) ON OR BEFORE JULY 1, 2012, EACH GOVERNING BOARD SHALL ADOPT FOR EACH INSTITUTION AND CAMPUS THAT IT GOVERNS AN INSTITUTIONAL PLAN FOR STUDENT FEES. EACH GOVERNING BOARD SHALL ENSURE THAT THE PROCESS FOR DEVELOPING THE PLAN INCLUDES THE OPPORTUNITY FOR MEANINGFUL INPUT FROM THE STUDENTS ENROLLED AT THE AFFECTED INSTITUTION OR CAMPUS. AT A MINIMUM, THE FEE PLAN SHALL SPECIFY:

(I) THE TYPES AND PURPOSES OF STUDENT FEES COLLECTED BY THE INSTITUTION;

(II) THE PROCEDURES FOR ESTABLISHING, REVIEWING, CHANGING THE AMOUNT OF, AND DISCONTINUING STUDENT FEES, INCLUDING THE LEVEL OF STUDENT INVOLVEMENT IN EACH PROCESS, WHICH, AT A MINIMUM, SHALL INCLUDE CONSULTATION WITH STUDENTS WHENEVER POSSIBLE PRIOR TO THE ESTABLISHMENT OF A NEW FEE OR THE INCREASE OF AN EXISTING FEE;

(III) PROCEDURES BY WHICH STUDENTS MAY CONTEST THE IMPOSITION OR AMOUNT OF A FEE AND A PROCESS FOR RESOLVING DISPUTES REGARDING FEES; AND

(IV) A PLAN FOR ADDRESSING RESERVE FUND BALANCES.

(b) A GOVERNING BOARD SHALL ANNUALLY REVIEW AND REVISE, AS NECESSARY, THE FEE PLAN FOR EACH OF THE INSTITUTIONS AND CAMPUSES THAT IT GOVERNS. IN CREATING, REVIEWING, AND REVISING THE FEE PLANS, A GOVERNING BOARD SHALL COLLABORATE WITH THE STUDENT GOVERNMENT ORGANIZATION AT THE APPLICABLE INSTITUTION OR CAMPUS. EACH GOVERNING BOARD SHALL MAKE THE FEE PLANS AVAILABLE TO THE PUBLIC ON A WEB SITE FOR THE RESPECTIVE INSTITUTION OR CAMPUS. IN ADDITION, EACH GOVERNING BOARD SHALL ANNUALLY PROVIDE TO THE DEPARTMENT OF HIGHER EDUCATION AND THE COMMISSION A COPY OF THE FEE PLAN FOR EACH INSTITUTION OR CAMPUS IT GOVERNS.

(5) THE FEE PLAN ADOPTED FOR EACH INSTITUTION PURSUANT TO SUBSECTION (4) OF THIS SECTION SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, THE FOLLOWING POLICIES:

(a) Fees related to bonds issued on behalf of auxiliary facilities on or after July 1, 1997. (I) (A) FOR ANY BONDS OR OTHER DEBT OBLIGATIONS ISSUED OR INCURRED ON OR AFTER JULY 1, 1997, ON BEHALF OF AN AUXILIARY FACILITY, THE ISSUING OR INCURRING GOVERNING BOARD MAY ASSESS A USER FEE AGAINST PERSONS USING THE AUXILIARY FACILITY THAT INCLUDES THE AMOUNT NECESSARY FOR REPAYMENT OF THE BONDS OR OTHER DEBT OBLIGATIONS AND ANY AMOUNT NECESSARY FOR THE OPERATION AND MAINTENANCE OF THE AUXILIARY FACILITY.

(B) IF A GOVERNING BOARD USES REVENUES FROM A GENERAL STUDENT FEE FOR THE REPAYMENT OF BONDS OR OTHER DEBT OBLIGATIONS ISSUED OR INCURRED PURSUANT TO THIS PARAGRAPH (a), THE GOVERNING BOARD SHALL SPECIFY THE PORTION OF THE GENERAL STUDENT FEE THAT IS ACTUALLY APPLIED TO REPAYMENT OF THE BONDS OR OTHER DEBT OBLIGATIONS. THE ITEMIZATION OF ANY GENERAL STUDENT FEE, ALL OR A PORTION OF WHICH IS USED FOR REPAYMENT OF BONDS OR OTHER DEBT OBLIGATIONS, SHALL APPEAR ON THE STUDENT BILLING STATEMENT.

(II) THE ISSUING OR INCURRING GOVERNING BOARD MAY, SUBJECT TO THE RESTRICTIONS SPECIFIED IN PARAGRAPH (c) OF THIS SUBSECTION (5), PLEDGE ANY EXCESS REVENUE RECEIVED FROM ANY USER FEE ASSESSED PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) OR FROM ANY PORTION OF A GENERAL STUDENT FEE APPLIED TO THE REPAYMENT OF SUCH BONDS OR OTHER DEBT OBLIGATIONS PURSUANT TO SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) TO THE REPAYMENT OF ANY BONDS OR OTHER DEBT OBLIGATIONS ISSUED OR INCURRED ON BEHALF OF ANY OTHER AUXILIARY FACILITY, SO LONG AS SUCH PLEDGE OF EXCESS REVENUE FROM ANY GENERAL STUDENT FEE AUTHORIZED FOR THE REPAYMENT OF BONDS OR OTHER DEBT OBLIGATIONS ISSUED OR INCURRED TO FINANCE A SPECIFIC FACILITY SHALL TERMINATE UPON FULL REPAYMENT OF ALL BONDS OR OTHER DEBT OBLIGATIONS, INCLUDING REFUNDING BONDS OR OBLIGATIONS, AND ALL FEES AND COSTS RELATED TO SUCH BONDS OR OTHER DEBT OBLIGATIONS INCURRED WITH RESPECT TO SUCH SPECIFIC FACILITY.

(III) ON AND AFTER THE DATE UPON WHICH ALL BONDS OR OTHER DEBT OBLIGATIONS ISSUED, SECURED, OR INCURRED PURSUANT TO THIS PARAGRAPH (a) ARE FULLY REPAYED:

(A) THE AMOUNT OF THE USER FEE ASSESSED AGAINST PERSONS USING THE AUXILIARY FACILITY, IF ANY, SHALL BE REDUCED, IF NECESSARY, SO AS NOT TO EXCEED ONE HUNDRED TEN PERCENT OF THE COSTS INCURRED IN OPERATING AND MAINTAINING THE AUXILIARY FACILITY DURING THE PRECEDING YEAR; EXCEPT THAT THE GOVERNING BOARD MAY REDUCE THE AMOUNT OF THE USER FEE TO AN AMOUNT NOT TO EXCEED ONE HUNDRED TWENTY PERCENT OF THE COSTS INCURRED IN OPERATING AND MAINTAINING THE AUXILIARY FACILITY DURING THE PRECEDING YEAR AND SET ASIDE THE ADDITIONAL TEN PERCENT IN A RESERVE FUND FOR REPAIR AND REPLACEMENT OF THE AUXILIARY FACILITY;

(B) THE GOVERNING BOARD SHALL CEASE COLLECTING ANY PORTION OF A GENERAL STUDENT FEE ASSESSED FOR THE REPAYMENT OF THE BONDS OR OTHER

DEBT OBLIGATIONS; EXCEPT THAT, IF NO USER FEE WAS ASSESSED FOR THE REPAYMENT OF THE BONDS OR OTHER DEBT OBLIGATIONS OR IF THE AMOUNT OF THE USER FEE IS LESS THAN THE COSTS INCURRED IN OPERATING AND MAINTAINING THE AUXILIARY FACILITY DURING THE PRECEDING YEAR, THE GOVERNING BOARD MAY CONTINUE COLLECTING THE SPECIFIED PORTION OF THE GENERAL STUDENT FEE THAT WAS APPLIED TO REPAYMENT OF THE BONDS OR OTHER DEBT OBLIGATIONS SO LONG AS SAID PORTION OF THE GENERAL STUDENT FEE IS REDUCED, IF NECESSARY, TO AN AMOUNT THAT, IN COMBINATION WITH ANY USER FEE COLLECTED FOR THE AUXILIARY FACILITY, DOES NOT EXCEED ONE HUNDRED TEN PERCENT OF THE COSTS INCURRED IN OPERATING AND MAINTAINING THE AUXILIARY FACILITY DURING THE PRECEDING YEAR. NOTWITHSTANDING THE PROVISIONS OF THIS SUB-SUBPARAGRAPH (B), THE GOVERNING BOARD MAY REDUCE SAID PORTION OF THE GENERAL STUDENT FEE TO AN AMOUNT THAT, IN COMBINATION WITH ANY USER FEE COLLECTED FOR THE AUXILIARY FACILITY, DOES NOT EXCEED ONE HUNDRED TWENTY PERCENT OF THE COSTS INCURRED IN OPERATING AND MAINTAINING THE AUXILIARY FACILITY DURING THE PRECEDING YEAR AND SET ASIDE THE ADDITIONAL TEN PERCENT IN A RESERVE FUND FOR REPAIR AND REPLACEMENT OF THE AUXILIARY FACILITY.

(C) THE REVENUES RECEIVED PURSUANT TO THIS SUBPARAGRAPH (III), EITHER THROUGH A USER FEE OR THROUGH A SPECIFIED PORTION OF A GENERAL STUDENT FEE, MAY NOT BE PLEDGED FOR THE REPAYMENT OF ANY BONDS OR OTHER DEBT OBLIGATIONS ISSUED ON BEHALF OF ANY OTHER AUXILIARY FACILITY. ANY AMOUNT OF SAID REVENUE THAT EXCEEDS BOTH THE AMOUNT NECESSARY FOR THE OPERATION AND MAINTENANCE OF THE AUXILIARY FACILITY AND ANY AMOUNT SET ASIDE IN A RESERVE FUND FOR REPAIR AND REPLACEMENT OF THE AUXILIARY FACILITY IS SURPLUS AND MAY BE USED BY THE GOVERNING BOARD AS PROVIDED IN SECTION 23-5-103 (3).

(b) Fees related to bonds issued on behalf of auxiliary facilities prior to July 1, 1997. (I) FOR ANY BONDS OR OTHER DEBT OBLIGATIONS ISSUED OR INCURRED PRIOR TO JULY 1, 1997, ON BEHALF OF AN AUXILIARY FACILITY:

(A) APPROVAL OF THE STUDENT BODY IS NOT REQUIRED FOR ANY FEE ASSESSED FOR REPAYMENT OF SAID BONDS OR OTHER DEBT OBLIGATIONS;

(B) APPROVAL OF THE STUDENT BODY IS NOT REQUIRED TO INCREASE ANY FEE THAT IS APPLIED TO THE REPAYMENT OF SAID BONDS OR OTHER DEBT OBLIGATIONS IF THE FEE INCREASE IS NECESSITATED BY A COVENANT IN THE AUTHORIZING BOND RESOLUTION OR OTHER AGREEMENT FOR WHICH THE BONDS OR OTHER DEBT OBLIGATIONS WERE ISSUED OR INCURRED;

(C) APPROVAL OF THE STUDENT BODY IS NOT REQUIRED TO INCREASE ANY FEE THAT IS APPLIED TO THE REPAYMENT OF SAID BONDS OR OTHER DEBT OBLIGATIONS IF THE FEE INCREASE IS ASSESSED FOR THE REPAYMENT OF BONDS THAT ARE ISSUED TO REFUND THE EXISTING BONDS.

(II) THE ISSUING OR INCURRING GOVERNING BOARD MAY, SUBJECT TO THE RESTRICTIONS SPECIFIED IN PARAGRAPH (c) OF THIS SUBSECTION (5), PLEDGE ANY EXCESS REVENUE RECEIVED FROM THE FEE, WHETHER IT IS A USER FEE OR A PORTION OF A GENERAL STUDENT FEE APPLIED TO THE REPAYMENT OF SUCH BONDS OR OTHER DEBT OBLIGATIONS, TO THE REPAYMENT OF ANY BONDS OR OTHER DEBT

OBLIGATIONS ISSUED OR INCURRED ON BEHALF OF ANY OTHER AUXILIARY FACILITY, SO LONG AS SUCH PLEDGE OF EXCESS REVENUE FROM ANY GENERAL STUDENT FEE AUTHORIZED FOR THE REPAYMENT OF BONDS OR OTHER DEBT OBLIGATION ISSUED OR INCURRED TO FINANCE A SPECIFIC FACILITY SHALL TERMINATE UPON FULL REPAYMENT OF ALL BONDS OR OTHER DEBT OBLIGATIONS, INCLUDING REFUNDING BONDS OR OBLIGATIONS, AND ALL FEES AND COSTS RELATED TO SUCH BONDS OR OTHER DEBT OBLIGATIONS INCURRED WITH RESPECT TO SUCH SPECIFIC FACILITY.

(III) ON AND AFTER THE DATE UPON WHICH ALL BONDS OR OTHER DEBT OBLIGATIONS ISSUED, SECURED, OR INCURRED PURSUANT TO THIS PARAGRAPH (b) ARE FULLY REPAID:

(A) THE AMOUNT OF THE USER FEE, IF ANY, ASSESSED AGAINST PERSONS USING THE AUXILIARY FACILITY SHALL BE REDUCED, IF NECESSARY, SO AS NOT TO EXCEED ONE HUNDRED TEN PERCENT OF THE COSTS INCURRED IN OPERATING AND MAINTAINING THE AUXILIARY FACILITY DURING THE PRECEDING YEAR; EXCEPT THAT THE GOVERNING BOARD MAY REDUCE THE AMOUNT OF THE USER FEE TO AN AMOUNT NOT TO EXCEED ONE HUNDRED TWENTY PERCENT OF THE COSTS INCURRED IN OPERATING AND MAINTAINING THE AUXILIARY FACILITY DURING THE PRECEDING YEAR AND SET ASIDE THE ADDITIONAL TEN PERCENT IN A RESERVE FUND FOR REPAIR AND REPLACEMENT OF THE AUXILIARY FACILITY;

(B) THE GOVERNING BOARD SHALL CEASE COLLECTING ANY PORTION OF A GENERAL STUDENT FEE ASSESSED FOR THE REPAYMENT OF THE BONDS OR OTHER DEBT OBLIGATIONS; EXCEPT THAT, IF NO USER FEE WAS ASSESSED FOR THE REPAYMENT OF THE BONDS OR OTHER DEBT OBLIGATIONS OR IF THE AMOUNT OF THE USER FEE IS LESS THAN THE COSTS INCURRED IN OPERATING AND MAINTAINING THE AUXILIARY FACILITY DURING THE PRECEDING YEAR, THE GOVERNING BOARD MAY CONTINUE COLLECTING THE SPECIFIED PORTION OF THE GENERAL STUDENT FEE THAT WAS APPLIED TO REPAYMENT OF THE BONDS OR OTHER DEBT OBLIGATIONS SO LONG AS SAID PORTION OF THE GENERAL STUDENT FEE IS REDUCED, IF NECESSARY, TO AN AMOUNT THAT, IN COMBINATION WITH ANY USER FEE COLLECTED FOR THE AUXILIARY FACILITY, DOES NOT EXCEED ONE HUNDRED TEN PERCENT OF THE COSTS INCURRED IN OPERATING AND MAINTAINING THE AUXILIARY FACILITY DURING THE PRECEDING YEAR. NOTWITHSTANDING THE PROVISIONS OF THIS SUB-SUBPARAGRAPH (B), THE GOVERNING BOARD MAY REDUCE SAID PORTION OF THE GENERAL STUDENT FEE TO AN AMOUNT THAT, IN COMBINATION WITH ANY USER FEE COLLECTED FOR THE AUXILIARY FACILITY, DOES NOT EXCEED ONE HUNDRED TWENTY PERCENT OF THE COSTS INCURRED IN OPERATING AND MAINTAINING THE AUXILIARY FACILITY DURING THE PRECEDING YEAR AND SET ASIDE THE ADDITIONAL TEN PERCENT IN A RESERVE FUND FOR REPAIR AND REPLACEMENT OF THE AUXILIARY FACILITY.

(C) THE REVENUES RECEIVED PURSUANT TO THIS SUBPARAGRAPH (III), EITHER THROUGH A USER FEE OR THROUGH A SPECIFIED PORTION OF A GENERAL STUDENT FEE, MAY NOT BE PLEDGED FOR THE REPAYMENT OF ANY BONDS OR OTHER DEBT OBLIGATIONS ISSUED ON BEHALF OF ANY OTHER AUXILIARY FACILITY. ANY AMOUNT OF SAID REVENUE THAT EXCEEDS BOTH THE AMOUNT NECESSARY FOR THE OPERATION AND MAINTENANCE OF THE AUXILIARY FACILITY AND ANY AMOUNT SET ASIDE IN A RESERVE FUND FOR REPAIR AND REPLACEMENT OF THE AUXILIARY FACILITY IS SURPLUS AND MAY BE USED BY THE GOVERNING BOARD AS PROVIDED IN SECTION 23-5-103 (3).

(c) **Restrictions on pledging of amounts received in fees.** (I) SUBJECT TO THE PROVISIONS OF PARAGRAPHS (a) AND (b) OF THIS SUBSECTION (5), A USER FEE THAT IS ASSESSED AGAINST PERSONS USING AN AUXILIARY FACILITY THAT IS NOT DESIGNATED AS AN ENTERPRISE PURSUANT TO SECTION 23-5-101.5 MAY BE PLEDGED FOR THE REPAYMENT OF BONDS OR OTHER DEBT OBLIGATIONS ISSUED OR INCURRED ON BEHALF OF ANY OTHER AUXILIARY FACILITY THAT IS NOT DESIGNATED AS AN ENTERPRISE, AS PROVIDED IN SECTIONS 23-5-102 AND 23-5-103.

(II) SUBJECT TO THE PROVISIONS OF PARAGRAPHS (a) AND (b) OF THIS SUBSECTION (5), A USER FEE THAT IS ASSESSED AGAINST PERSONS USING AN AUXILIARY FACILITY THAT IS DESIGNATED AS AN ENTERPRISE BY THE UNIVERSITY OF COLORADO PURSUANT TO SECTION 23-5-101.5 MAY BE PLEDGED FOR THE REPAYMENT OF BONDS OR OTHER DEBT OBLIGATIONS ISSUED OR INCURRED ON BEHALF OF ANOTHER AUXILIARY FACILITY THAT IS DESIGNATED AS AN ENTERPRISE BY THE UNIVERSITY OF COLORADO, AS PROVIDED IN SECTIONS 23-5-102 AND 23-5-103.

(III) A GOVERNING BOARD MAY NOT PLEDGE A USER FEE ASSESSED AGAINST PERSONS USING AN AUXILIARY FACILITY THAT IS NOT DESIGNATED AS AN ENTERPRISE FOR REPAYMENT OF BONDS OR OTHER DEBT OBLIGATIONS ISSUED OR INCURRED ON BEHALF OF ANY AUXILIARY FACILITY THAT IS DESIGNATED AS AN ENTERPRISE OR ON BEHALF OF THE INSTITUTION WITH WHICH THE AUXILIARY FACILITY IS ASSOCIATED. EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (c), A GOVERNING BOARD MAY NOT PLEDGE A USER FEE ASSESSED AGAINST PERSONS USING AN AUXILIARY FACILITY THAT IS DESIGNATED AS AN ENTERPRISE PURSUANT TO SECTION 23-5-101.5 FOR THE REPAYMENT OF BONDS OR OTHER DEBT OBLIGATIONS ISSUED OR INCURRED ON BEHALF OF ANY OTHER AUXILIARY FACILITY, REGARDLESS OF WHETHER THE OTHER AUXILIARY FACILITY IS DESIGNATED AS AN ENTERPRISE, OR ON BEHALF OF THE INSTITUTION WITH WHICH THE AUXILIARY FACILITY IS ASSOCIATED.

(d) **Itemization of bond fees.** EVERY FEE, THE PURPOSE OF WHICH INCLUDES MAKING PAYMENTS ON BONDS OR OTHER OBLIGATIONS, SHALL BE SEPARATELY ITEMIZED ON THE STUDENT BILLING STATEMENT.

(6) (a) AS SOON AS PRACTICABLE FOLLOWING THE EFFECTIVE DATE OF THIS SECTION, EACH GOVERNING BOARD SHALL MAKE REASONABLE EFFORTS TO PROVIDE ON THE WEB SITE FOR EACH INSTITUTION OR CAMPUS IT GOVERNS CURRENT INFORMATION ABOUT THE TUITION RATES AND FEES, INCLUDING INFORMATION CONCERNING THE PURPOSES OF THE FEES, CHARGED BY THE INSTITUTION OR CAMPUS; EXCEPT THAT THE INSTITUTION OR CAMPUS MAY PROVIDE INFORMATION ABOUT FEES THAT ARE SPECIFIC TO COURSES OR PROGRAMS EITHER ON ITS WEB SITE OR IN THE MOST RECENT COURSE CATALOG, WHICHEVER IS APPROPRIATE.

(b) AS SOON AS PRACTICABLE FOLLOWING THE EFFECTIVE DATE OF THIS SECTION, EACH GOVERNING BOARD SHALL MAKE REASONABLE EFFORTS TO PROVIDE A FUNCTION FOR CALCULATING TUITION AND FEES ON THE WEB SITE OF EACH INSTITUTION OR CAMPUS IT GOVERNS TO ASSIST STUDENTS IN ESTIMATING THEIR ANNUAL AND TOTAL COST OF ATTENDANCE AT THE INSTITUTION OR CAMPUS.

(c) BEGINNING WITH THE 2011-12 ACADEMIC YEAR, EACH GOVERNING BOARD SHALL ENSURE THAT THE TUITION BILL FOR EACH STUDENT ENROLLED IN AN

INSTITUTION OR CAMPUS GOVERNED BY THE GOVERNING BOARD INCLUDES A CLEAR ITEMIZATION OF THE FEES CHARGED TO THE STUDENT.

(7) IN ESTABLISHING FEES, A GOVERNING BOARD SHALL COMPLY WITH THE PROCEDURES SPECIFIED IN THE FEE PLAN FOR THE APPLICABLE INSTITUTION OR CAMPUS. IN ADDITION, THE GOVERNING BOARD SHALL PROVIDE TO STUDENTS AT LEAST THIRTY DAYS' ADVANCE NOTICE OF A NEW FEE ASSESSMENT OR FEE INCREASE, WHICH NOTICE, AT A MINIMUM, SPECIFIES:

(a) THE AMOUNT OF THE NEW FEE OR OF THE FEE INCREASE;

(b) THE REASON FOR THE NEW FEE OR FEE INCREASE;

(c) THE PURPOSE FOR WHICH THE INSTITUTION WILL USE THE REVENUES RECEIVED FROM THE NEW FEE OR FEE INCREASE; AND

(d) WHETHER THE NEW FEE OR FEE INCREASE IS TEMPORARY OR PERMANENT AND, IF TEMPORARY, THE EXPECTED DATE ON WHICH THE NEW FEE OR FEE INCREASE WILL BE DISCONTINUED.

(8) A DECISION BY A GOVERNING BOARD WITH REGARD TO A FEE SHALL BE FINAL AND INCONTESTABLE EITHER ON THE THIRTIETH DAY AFTER FINAL ACTION BY THE GOVERNING BOARD OR ON THE DATE ON WHICH ANY EVIDENCE OF INDEBTEDNESS OR OTHER OBLIGATION PAYABLE FROM THE FEE REVENUES IS ISSUED OR INCURRED BY THE GOVERNING BOARD, WHICHEVER IS EARLIER.

SECTION 3. Article 1 of title 23, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

23-1-105.5. Duties and powers of the commission with respect to student fees. (1) THE COMMISSION SHALL ADOPT POLICIES CONCERNING THE COLLECTION AND USE OF STUDENT FEES BY THE GOVERNING BOARDS OF THE STATE INSTITUTIONS OF HIGHER EDUCATION, AS DEFINED IN SECTION 23-5-119.5. THE POLICIES MAY ADDRESS, BUT NEED NOT BE LIMITED TO, THE PURPOSES FOR STUDENT FEES, CATEGORIES OF STUDENT FEES, THE DISTINCTIONS BETWEEN TUITION REVENUE AND STUDENT FEE REVENUE, ACCOUNTING FOR STUDENT FEE REVENUE, STUDENT FEE FUND BALANCES, THE MINIMUM LEVEL OF STUDENT INVOLVEMENT IN THE PROCESSES FOR ESTABLISHING, REVIEWING, CHANGING THE AMOUNT OF, AND DISCONTINUING STUDENT FEES, AND STUDENT FEES THAT APPLY TO A STUDENT CONCURRENTLY ENROLLED PURSUANT TO ARTICLE 35 OF TITLE 22, C.R.S. IN PREPARING THE POLICIES, THE COMMISSION SHALL SEEK INPUT FROM THE GOVERNING BOARDS, THE STATE INSTITUTIONS OF HIGHER EDUCATION, AND THE STUDENT REPRESENTATIVE TO THE ADVISORY COMMITTEE CREATED PURSUANT TO SECTION 23-1-103 AND REPRESENTATIVES OF THE STUDENT GOVERNMENTS AT THE STATE INSTITUTIONS OF HIGHER EDUCATION.

(2) ON OR BEFORE JANUARY 15, 2012, AND ON OR BEFORE JANUARY 15 EACH YEAR THEREAFTER, THE DEPARTMENT SHALL REPORT TO THE EDUCATION COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR COMMITTEES, CONCERNING THE GOVERNING BOARDS' FEE POLICIES AND THE COLLECTION AND USE OF STUDENT FEES.

SECTION 4. 23-1-104 (1) (b) (II), Colorado Revised Statutes, is amended to read:

23-1-104. Financing the system of postsecondary education - report - repeal.

(1) (b) (II) For the 2010-11 fiscal year and for fiscal years beginning on or after July 1, 2016, the general assembly shall also make annual appropriations of cash funds, other than cash funds received as tuition income OR AS FEES, 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 the governing board.

SECTION 5. Repeal. 23-1-123, Colorado Revised Statutes, is repealed.

SECTION 6. 12-47-308 (1) (b) and (3) (b), Colorado Revised Statutes, are amended to read:

12-47-308. Unlawful financial assistance. (1) (b) Notwithstanding the provisions of paragraph (a) of this subsection (1), any person or party described in said paragraph (a) may provide financial or in-kind assistance, directly or indirectly, to a nonprofit arts organization that has been issued an arts license pursuant to section 12-47-417 or to a ~~state~~ STATE-SUPPORTED institution of higher education ~~as defined in section 23-1-123 (7) (d), C.R.S.~~ IN COLORADO, INCLUDING JUNIOR COLLEGES, AREA VOCATIONAL SCHOOLS, AND THE AURARIA HIGHER EDUCATION CENTER, or the governing board of ~~such~~ A STATE-SUPPORTED institution OF HIGHER EDUCATION, or to ~~an~~ A NONPUBLIC institution of higher education as defined in section 23-3.7-102, C.R.S., that is operating pursuant to 26 U.S.C. sec. 501 (c) (3) of the federal "Internal Revenue Code of 1986", as amended, if the institution has been issued a license pursuant to article 46, 47, or 48 of this title.

(3) (b) Notwithstanding the provisions of paragraph (a) of this subsection (3), a nonprofit arts organization that has been issued an arts license pursuant to section 12-47-417 or a ~~state~~ STATE-SUPPORTED institution of higher education ~~as defined in section 23-1-123 (7) (d), C.R.S.~~ IN COLORADO, INCLUDING JUNIOR COLLEGES, AREA VOCATIONAL SCHOOLS, AND THE AURARIA HIGHER EDUCATION CENTER, or the governing board of ~~such~~ A STATE-SUPPORTED institution OF HIGHER EDUCATION, or ~~an~~ A NONPUBLIC institution of higher education as defined in section 23-3.7-102, C.R.S., that is operating pursuant to 26 U.S.C. sec. 501 (c) (3) of the federal "Internal Revenue Code of 1986", as amended, if the institution has been issued a license pursuant to article 46, 47, or 48 of this title, may receive financial or in-kind assistance, directly or indirectly, from the persons or parties described and referred to in paragraph (a) of subsection (1) of this section.

SECTION 7. 23-1-108 (12) (a), Colorado Revised Statutes, is amended to read:

23-1-108. Duties and powers of the commission with regard to systemwide planning. (12) (a) The commission shall establish fee policies based on institutional role and mission, and the governing boards shall set fees consistent with such policies. ~~The commission shall follow the requirements of section 23-1-123 in establishing fee policies pursuant to this subsection (12).~~

SECTION 8. 23-5-102 (2), Colorado Revised Statutes, is amended to read:

23-5-102. Funding for auxiliary facilities - institutions of higher education - loans - bonds. (2) The governing board of any institution of higher education by resolution may issue revenue bonds on behalf of any auxiliary facility or group of auxiliary facilities or on behalf of any institution or group of institutions managed by such governing board for the purpose of obtaining funds for constructing, otherwise acquiring, equipping, or operating such auxiliary facility or group of auxiliary facilities or for facilities for such institution or group of institutions. Any bonds issued on behalf of any auxiliary facility or group of auxiliary facilities, other than housing facilities, dining facilities, recreational facilities, health facilities, parking facilities, alternative or renewable energy producing facilities including but not limited to, solar, wind, biomass, geothermal, or hydroelectric facilities, research facilities that are funded from a revolving fund, or designated enterprise auxiliary facilities listed in section 23-5-101.5 (4) may be issued only 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. The governing board of an institution or group of institutions that issues bonds on behalf of the institution or group of institutions, which is designated as an enterprise pursuant to section 23-5-101.7, shall file notice of such issuance with the Colorado commission on higher education. Bonds issued pursuant to this subsection (2) shall be payable only from revenues generated by the auxiliary facility or group of auxiliary facilities or by the institution or group of institutions on behalf of which such bonds are issued; except that, subject to ~~section 23-1-123~~ SECTION 23-5-119.5 (5) (a) (III) and (5) (b) (II), revenues generated by a designated enterprise that is associated with the university of Colorado may be pledged for the repayment of bonds issued by another designated enterprise auxiliary facility that is not part of the same enterprise. Such bonds shall be issued in accordance with the provisions of section 23-5-103 (2). The termination, rescission, or expiration of the enterprise designation of any auxiliary facility or group of auxiliary facilities pursuant to section 23-5-101.5 (3) or of any institution or group of institutions shall not adversely affect the validity of or security for any revenue bonds issued on behalf of any auxiliary facility or group of auxiliary facilities or on behalf of any institution or group of institutions.

SECTION 9. 23-5-103 (1), Colorado Revised Statutes, is amended to read:

23-5-103. Pledge of income. (1) The governing board of any one or more state educational institutions, including, but not limited to, the state colleges under the control and operation of their respective boards of trustees, that enters into such a contract for the advancement of moneys is authorized, in connection with or as a part of such contract, to pledge the net income derived or to be derived from such land or facilities so constructed, acquired, and equipped as security for the repayment of the moneys advanced therefor, together with interest thereon, and for the establishment and maintenance of reserves in connection therewith; and, for the same purpose, any such governing board is also authorized, subject to the limitations specified in ~~section 23-1-123 (5)~~ SECTION 23-5-119.5 (5), to pledge the net income derived or to be derived from other facilities that are included in a designated enterprise or, if not included, other facilities that are not acquired and not to be acquired with moneys appropriated to the institution by the state of Colorado, and to pledge the net income, fees, and revenues derived from such sources, if unpledged, or, if pledged, the net income, fees, and revenues currently in excess of the amount required to meet principal, interest, and reserve requirements in

connection with outstanding obligations to which such net income, fees, and revenues have theretofore been pledged. A governing board of an institution or group of institutions designated as an enterprise pursuant to section 23-5-101.7 that has entered into a contract for the advancement of money on behalf of such an institution or group of institutions may pledge up to ten percent of tuition revenues of such an enterprise, except for general fund moneys appropriated by the general assembly, and all or a portion of a facility construction fee that may be imposed as security for the repayment of the moneys advanced pursuant to said contract. The pledge of tuition revenues or the imposition of a facility construction fee shall include a process for student input consistent with the ~~provisions of section 23-1-123~~ INSTITUTIONAL PLAN FOR STUDENT FEES ADOPTED BY THE GOVERNING BOARD OF THE APPLICABLE INSTITUTION PURSUANT TO SECTION 23-5-119.5.

SECTION 10. 24-1-107.5 (3), Colorado Revised Statutes, is amended to read:

24-1-107.5. Nonprofit entities created or supported by state agencies and state-level authorities - requirements - legislative declaration. (3) ~~Commencing July 1, 1999,~~ A state-supported institution of higher education ~~intending to~~ MAY establish a nonprofit entity that would otherwise require specific statutory authority under paragraph (a) of subsection (2) of this section ~~may seek, in lieu of obtaining such authority, approval for the establishment of the nonprofit entity from the Colorado commission on higher education~~ UPON A FINDING BY THE GOVERNING BOARD OF THE INSTITUTION THAT ESTABLISHING THE NONPROFIT ENTITY WOULD BE IN THE BEST INTERESTS OF THE INSTITUTION.

SECTION 11. 23-5-106, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

23-5-106. Authority of governing boards - general - health care insurance - contracts of indemnity. (4) THE GOVERNING BOARD OF A STATE INSTITUTION OF HIGHER EDUCATION THAT IS DESIGNATED AS AN ENTERPRISE PURSUANT TO SECTION 23-5-101.7 MAY CONTRACT TO INDEMNIFY AND HOLD HARMLESS A CONTRACTOR IF THE GOVERNING BOARD DETERMINES THAT THE CONTRACT SERVES A VALID PUBLIC PURPOSE AND ANY RISKS TO THE INSTITUTION THAT MAY ARISE FROM ENTERING INTO THE CONTRACT ARE SUFFICIENTLY LIMITED AND OUTWEIGHED BY THE BENEFITS OF THE CONTRACT. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, A LIABILITY CLAIM OR EXPENSE THAT ARISES FROM A CONTRACT TO INDEMNIFY OR HOLD HARMLESS ENTERED INTO BY A GOVERNING BOARD PURSUANT TO THIS SUBSECTION (4) SHALL NOT BE PAYABLE FROM THE RISK MANAGEMENT FUND CREATED IN SECTION 24-30-1510, C.R.S., AND SHALL BE PAYABLE SOLELY FROM REVENUES OF THE INSTITUTION.

SECTION 12. 24-37.5-404.5, Colorado Revised Statutes, is amended to read:

24-37.5-404.5. Institutions of higher education - information security programs. (1) ~~On or before July 1, 2007, the department of higher education and~~ Each institution of higher education, in coordination with the department OF HIGHER EDUCATION, shall develop an information security ~~plan~~ PROGRAM. The information security ~~plan~~ PROGRAM shall provide information security for the communication and information resources that support the operations and assets of ~~the department and~~ the institution of higher education.

(2) The information security ~~plan~~ PROGRAM shall include:

(a) Periodic assessments of the risk and magnitude of the harm that could result from a security incident;

(b) A process for providing adequate information security for the communication and information resources of the institution of higher education;

(c) Information security awareness training ~~for employees of the institution of higher education~~ TO INFORM THE EMPLOYEES, ADMINISTRATORS, AND USERS AT THE INSTITUTION OF HIGHER EDUCATION ABOUT THE INFORMATION SECURITY RISKS AND THE RESPONSIBILITY OF EMPLOYEES, ADMINISTRATORS, AND USERS TO COMPLY WITH THE INSTITUTION'S INFORMATION SECURITY PROGRAM AND THE POLICIES, STANDARDS, AND PROCEDURES DESIGNED TO REDUCE THE SECURITY RISKS;

(d) Periodic testing and evaluation of the effectiveness of information security for the institution of higher education, which shall be performed not less than annually;

(e) A process for detecting, reporting, and responding to security incidents consistent with the information security policy of the institution of higher education. The institutions of higher education, the Colorado commission on higher education, and the chief information security officer shall establish the terms and conditions by which the institutions of higher education ~~and the department of higher education~~ shall report information security incidents to the chief information security officer.

(f) Plans and procedures to ensure the continuity of operations for information resources that support the operations and assets of the institution of higher education in the event of a security incident.

(3) ~~On or before July 15, 2007, each institution of higher education shall submit the information security plan developed pursuant to this section to the Colorado commission on higher education for review and comment. The commission shall submit such plans to the chief information security officer.~~ ON OR BEFORE JULY 1, 2011, AND ON OR BEFORE JULY 1 EACH YEAR THEREAFTER, EACH INSTITUTION OF HIGHER EDUCATION SHALL SUBMIT TO THE DEPARTMENT OF HIGHER EDUCATION A REPORT CONCERNING THE DEVELOPMENT AND IMPLEMENTATION OF THE INSTITUTION'S INFORMATION SECURITY PROGRAM AND COMPLIANCE WITH THE REQUIREMENTS SPECIFIED IN SUBSECTION (2) OF THIS SECTION. UPON RECEIPT OF THE REPORTS, THE DEPARTMENT OF HIGHER EDUCATION SHALL REVIEW THE REPORTS AND SUBSEQUENTLY SUBMIT THE REPORTS TO THE CHIEF INFORMATION SECURITY OFFICER.

(4) Nothing in this section shall be construed to require any institution of higher education or the department of higher education to adopt policies or standards that conflict with federal law, rules, or regulations or with contractual arrangements governed by federal laws, rules, or regulations.

(5) ~~An information security plan may provide for a phase-in period not to exceed three years. An implementation schedule for the phase-in period shall be included in such a plan. Any phase-in period pursuant to this subsection (5) shall be completed by July 1, 2009.~~

~~(6) On or before July 1, 2008, and on or before July 1 of each subsequent year, the executive director of the department of higher education shall report to the chief information security officer on the development, implementation, and, if applicable, compliance with the phase-in schedule of the information security plan for each institution of higher education.~~

~~(7) The Colorado commission on higher education shall require the institutions of higher education to provide regularized security awareness training to inform the employees, administrators, and users in those institutions about the information security risks and the responsibility of employees, administrators, and users to comply with the institution's information security plan and the policies, standards, and procedures designed to reduce those risks.~~

SECTION 13. 24-37.5-404.5, Colorado Revised Statutes, as amended by Senate Bill 11-062, is amended to read:

24-37.5-404.5. Institutions of higher education - information security plans.

(1) ~~On or before July 1 of each year,~~ Each institution of higher education, in coordination with the department of higher education, shall develop an information security ~~plan~~ PROGRAM. The information security ~~plan~~ PROGRAM shall provide information security for the communication and information resources that support the operations and assets of the institution of higher education.

(2) The information security ~~plan~~ PROGRAM shall include:

(a) Periodic assessments of the risk and magnitude of the harm that could result from a security incident;

(b) A process for providing adequate information security for the communication and information resources of the institution of higher education;

~~(c) Information security awareness training for employees of the institution of higher education~~ TO INFORM THE EMPLOYEES, ADMINISTRATORS, AND USERS AT THE INSTITUTION OF HIGHER EDUCATION ABOUT THE INFORMATION SECURITY RISKS AND THE RESPONSIBILITY OF EMPLOYEES, ADMINISTRATORS, AND USERS TO COMPLY WITH THE INSTITUTION'S INFORMATION SECURITY PROGRAM AND THE POLICIES, STANDARDS, AND PROCEDURES DESIGNED TO REDUCE THE SECURITY RISKS;

(d) Periodic testing and evaluation of the effectiveness of information security for the institution of higher education, which shall be performed not less than annually;

(e) A process for detecting, reporting, and responding to security incidents consistent with the information security policy of the institution of higher education. The institutions of higher education, the Colorado commission on higher education, and the chief information security officer shall establish the terms and conditions by which the institutions of higher education shall report information security incidents to the chief information security officer.

(f) Plans and procedures to ensure the continuity of operations for information resources that support the operations and assets of the institution of higher education in the event of a security incident.

~~(3) On or before July 15 of each year, each institution of higher education shall submit the information security plan developed pursuant to this section to the Colorado commission on higher education for review and comment. The commission shall submit such plans to the chief information security officer. ON OR BEFORE JULY 1, 2011, AND ON OR BEFORE JULY 1 EACH YEAR THEREAFTER, EACH INSTITUTION OF HIGHER EDUCATION SHALL SUBMIT TO THE DEPARTMENT OF HIGHER EDUCATION A REPORT CONCERNING THE DEVELOPMENT AND IMPLEMENTATION OF THE INSTITUTION'S INFORMATION SECURITY PROGRAM AND COMPLIANCE WITH THE REQUIREMENTS SPECIFIED IN SUBSECTION (2) OF THIS SECTION. UPON RECEIPT OF THE REPORTS, THE DEPARTMENT OF HIGHER EDUCATION SHALL REVIEW THE REPORTS AND SUBSEQUENTLY SUBMIT THE REPORTS TO THE CHIEF INFORMATION SECURITY OFFICER.~~

(4) Nothing in this section shall be construed to require any institution of higher education or the department of higher education to adopt policies or standards that conflict with federal law, rules, or regulations or with contractual arrangements governed by federal laws, rules, or regulations.

(5) and (6) (Deleted by amendment, L. 2011, (SB 11-062), ch. ____, p. ____, § 8, effective ____.)

~~(7) The Colorado commission on higher education shall require the institutions of higher education to provide regularized security awareness training to inform the employees, administrators, and users in those institutions about the information security risks and the responsibility of employees, administrators, and users to comply with the institution's information security plan and the policies, standards, and procedures designed to reduce those risks.~~

SECTION 14. 12-48-102 (1), Colorado Revised Statutes, is amended to read:

12-48-102. Qualifications of organizations for permit - qualifications of municipalities or municipalities owning arts facilities - qualifications of candidates. (1) A special event permit issued under this article may be issued to an organization, whether or not presently licensed under articles 46 and 47 of this title, which has been incorporated under the laws of this state for purposes of a social, fraternal, patriotic, political, or athletic nature, and not for pecuniary gain, or which is a regularly chartered branch, lodge, or chapter of a national organization or society organized for such purposes and being nonprofit in nature, or which is a regularly established religious or philanthropic institution, OR WHICH IS A STATE INSTITUTION OF HIGHER EDUCATION, and to any political candidate who has filed the necessary reports and statements with the secretary of state pursuant to article 45 of title 1, C.R.S. FOR PURPOSES OF THIS ARTICLE, A STATE INSTITUTION OF HIGHER EDUCATION INCLUDES EACH PRINCIPAL CAMPUS OF A STATE SYSTEM OF HIGHER EDUCATION.

SECTION 15. 12-48-108, Colorado Revised Statutes, is amended to read:

12-48-108. Exemptions. An organization otherwise qualifying under section 12-48-102 shall be exempt from the provisions of this article and shall be deemed to be dispensing gratuitously and not to be selling fermented malt beverages or malt, spirituous, or vinous liquors when it serves, by the drink, fermented malt beverages

or malt, spirituous, or vinous liquors to its members and their guests at a private function held by such organization on unlicensed premises so long as any admission or other charge, if any, required to be paid or given by any such member as a condition to entry or participation in the event is uniform as to all without regard to whether or not a member or such member's guest consumes or does not consume such beverages or liquors. FOR PURPOSES OF THIS SECTION, ALL INVITED ATTENDEES AT A PRIVATE FUNCTION HELD BY A STATE INSTITUTION OF HIGHER EDUCATION SHALL BE CONSIDERED MEMBERS OR GUESTS OF THE INSTITUTION.

SECTION 16. 17-24-106.6 (1) (b) and (2), Colorado Revised Statutes, are amended to read:

17-24-106.6. Surplus state property. (1) As used in this section, unless the context otherwise requires:

(b) "State agency" means this state or any department ~~institution~~, or other agency of the state, ~~including institutions of higher education~~, but not including the department of transportation.

(2) The director shall promulgate rules to be utilized by the division in governing:

(a) The sale or disposal of surplus state property by public auction, competitive sealed bidding, or daily warehouse sales; AND

(b) (Deleted by amendment, L. 2002, p. 218, § 1, effective April 3, 2002.)

(c) The circumstances under which a public employee may purchase surplus state property. ~~and~~

(d) ~~The implementation of the waiver process for unique property items of interest to institutions of higher education, as described in section 17-24-104 (6).~~

SECTION 17. Repeal. 17-24-104 (6), Colorado Revised Statutes, is repealed as follows:

17-24-104. Creation of division of correctional industries and advisory committee - enterprise status of division - duties of committee - sunset review of committee - rules. (6) (a) ~~The advisory committee and the department of higher education shall, no later than September 1, 2006, complete the joint development of a process governing the waiver of institutions of higher education, by campus, from the surplus state property procedures described in section 17-24-106.6 concerning property items that the advisory committee and department of higher education jointly determine are unique and of interest to institutions of higher education.~~

(b) ~~The director of the division of correctional industries shall, in accordance with section 17-24-106.6 (2), promulgate rules that implement the waiver process developed pursuant to this subsection (6).~~

SECTION 18. 17-24-111, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

17-24-111. Purchasing requirement. (6) (a) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, ON AND AFTER JULY 1, 2012, A STATE INSTITUTION OF HIGHER EDUCATION OR THE AURARIA HIGHER EDUCATION CENTER CREATED IN ARTICLE 70 OF TITLE 23, C.R.S., MAY, BUT IS NOT REQUIRED TO, PURCHASE GOODS AND SERVICES FROM THE DIVISION PURSUANT TO THIS SECTION. IN PURCHASING FURNITURE AND OFFICE SYSTEMS THAT EXCEED THE AMOUNT ESTABLISHED FOR SMALL PURCHASES THAT ARE EXEMPT FROM THE COMPETITIVE SEALED BIDDING REQUIREMENTS OF THE "PROCUREMENT CODE" CONTAINED IN PART 2 OF ARTICLE 103 OF TITLE 24, C.R.S., A STATE INSTITUTION OF HIGHER EDUCATION OR THE AURARIA HIGHER EDUCATION CENTER SHALL REQUEST A BID FROM THE DIVISION FOR THE PURCHASE AND THE INSTITUTION OR THE CENTER SHALL CONSIDER THE BID ON A COMPETITIVE BASIS.

(b) NOTHING IN PARAGRAPH (a) OF THIS SUBSECTION (6) SHALL REQUIRE A STATE INSTITUTION OF HIGHER EDUCATION OR THE AURARIA HIGHER EDUCATION CENTER TO ENGAGE IN COMPETITIVE BIDDING FOR AN ITEM OR ITEMS IF THE INSTITUTION OR THE CENTER CHOOSES TO USE THE DIVISION AS THE SOLE SOURCE SUPPLIER FOR THE ITEM OR ITEMS.

SECTION 19. 24-50-135 (1), (2) (a), and (2) (c), Colorado Revised Statutes, are amended, and the said 24-50-135 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

24-50-135. Exemptions from personnel system. (1) Administrators employed in educational institutions and departments not charitable or reformatory in character shall be exempt from the state personnel system. For purposes of this section, "administrators employed in educational institutions and departments" means:

(a) Officers of an educational institution and their executive assistants; employees in professional positions, including ~~deans, directors, chairpersons, and professionals in academic and academic support positions; heads of administrative or academic departments or divisions and their principal professional subordinates; and professional employees of a governing board or educational institution having responsibility for or control of program operations or for the formulation, planning, and direction of the policies of the governing board or educational institution~~ THE PROFESSIONAL EMPLOYEES OF A GOVERNING BOARD; AND ANY OTHER EMPLOYEES INVOLVED IN THE DIRECT DELIVERY OF ACADEMIC CURRICULUM;

(b) and (c) (Deleted by amendment, L. 2004, p. 419, § 1, effective August 4, 2004.)

(d) ~~Heads of those functions of an educational institution that are supported primarily by student fees and charges, including heads of residence halls and their professional staff;~~

(e) ~~Heads and professional staff of departments of intercollegiate athletics;~~

(f) Professional officers and professional staff of the department of higher education; including the professional staff of any governing board of an institution of higher education; and

(g) (Deleted by amendment, L. 2004, p. 419, § 1, effective August 4, 2004.)

~~(h) Heads of and professional staff involved in research and grant projects, and, for the duration of their initial appointment, individuals EMPLOYEES in grant-funded positions where funding is limited by a known expiration date of the research project or grant~~ FUNDED BY GRANTS, GIFTS, OR REVENUES GENERATED THROUGH AUXILIARY ACTIVITIES. FOR PURPOSES OF THIS PARAGRAPH (h), "AUXILIARY ACTIVITIES" MEANS INSTITUTIONAL ACTIVITIES MANAGED AND ACCOUNTED FOR AS SELF-SUPPORTING ACTIVITIES.

(2)(a) The president of each educational institution or a person designated by the president shall determine which administrative positions in that institution are exempt from the state personnel system under subsection (1) of this section, subject to an appeal to the board; EXCEPT THAT A POSITION SHALL NOT BE DETERMINED TO BE EXEMPT WHILE IT IS HELD BY AN EXISTING EMPLOYEE IN THE STATE PERSONNEL SYSTEM. THE PRESIDENT OF AN EDUCATIONAL INSTITUTION MAY DECIDE NOT TO EXEMPT A POSITION FUNDED THROUGH AUXILIARY ACTIVITIES IF THE PRESIDENT DETERMINES THAT EXEMPTING THE POSITION IS NOT IN THE BEST INTERESTS OF THE INSTITUTION.

~~(c) No later than December 31 of each year, the president of each educational institution shall submit a report to the state personnel director, in the form prescribed by the director, listing all positions at the educational institution that are exempt from the state personnel system in accordance with this section.~~

(3) FOR PURPOSES OF THIS SECTION, A PERSON IS IN A PROFESSIONAL POSITION OR IS A PROFESSIONAL EMPLOYEE OR PROFESSIONAL STAFF IF THE PERSON IS IN A POSITION THAT INVOLVES THE EXERCISE OF DISCRETION, ANALYTICAL SKILL, JUDGMENT, PERSONAL ACCOUNTABILITY, AND RESPONSIBILITY FOR CREATING, DEVELOPING, INTEGRATING, APPLYING, OR SHARING AN ORGANIZED BODY OF KNOWLEDGE THAT CHARACTERISTICALLY IS:

(a) ACQUIRED THROUGH EDUCATION OR TRAINING THAT MEETS THE REQUIREMENTS FOR A BACHELOR'S OR GRADUATE DEGREE OR EQUIVALENT SPECIALIZED EXPERIENCE; AND

(b) CONTINUOUSLY STUDIED TO EXPLORE, EXTEND, AND USE ADDITIONAL DISCOVERIES, INTERPRETATIONS, AND APPLICATIONS AND TO IMPROVE DATA, MATERIALS, EQUIPMENT, APPLICATIONS, AND METHODS.

SECTION 20. 24-50-508, Colorado Revised Statutes, is amended to read:

24-50-508. Intergovernmental agreements - agreements by state institutions of higher education - excluded. (1) THE FOLLOWING CONTRACTS ARE NOT SUBJECT TO THE PROVISIONS OF THIS PART 5:

(a) In accordance with section 18 (2) of article XIV of the state constitution, contracts between the state and its political subdivisions or the government of the United States, or any combination thereof; ~~shall not be subject to the provisions of this part 5;~~ AND

(b) CONTRACTS ENTERED INTO BY A STATE INSTITUTION OF HIGHER EDUCATION, SO LONG AS THE CHIEF EXECUTIVE OFFICER OF THE INSTITUTION, OR HIS OR HER DESIGNEE, HAS DETERMINED THAT THE CONDITIONS SET FORTH IN SECTION 24-50-503 ARE MET FOR THOSE CONTRACTS THAT IMPLICATE THE STATE PERSONNEL SYSTEM.

SECTION 21. 24-50-902 (1) (b) and (6), Colorado Revised Statutes, are amended to read:

24-50-902. Definitions. As used in this part 9, unless the context otherwise requires:

(1) (b) "Employee" does not include:

(I) An employee of the office of state planning and budgeting, the office of the state auditor, the joint budget committee, or the department of personnel;

(II) An elected official or member of the general assembly; ~~or~~

(III) The executive director, program manager, division director, or budget officer of a principal department; ~~the president of a college or university, or a deputy of such director, officer, or president~~ OR

(IV) AN EMPLOYEE OF A GOVERNING BOARD OF AN INSTITUTION OF HIGHER EDUCATION OR A HIGHER EDUCATION INSTITUTIONAL SYSTEM, AN EMPLOYEE OF AN INSTITUTION OF HIGHER EDUCATION OR OF A HIGHER EDUCATION INSTITUTIONAL SYSTEM, OR AN EMPLOYEE OF THE AURARIA HIGHER EDUCATION CENTER CREATED IN ARTICLE 70 OF TITLE 23, C.R.S.

(6) "State agency" means any department, board, bureau, commission, division, institution, office, or other agency of the executive, legislative, and judicial branch of the state government. ~~including institutions~~ "STATE AGENCY" SHALL NOT INCLUDE AN INSTITUTION of higher education.

SECTION 22. 24-50-618, Colorado Revised Statutes, is amended to read:

24-50-618. Group benefit plans - institutions of higher education. (1) ~~A state institution of higher education that has, in the plan year immediately preceding June 10, 2010, offered one or more group benefit plans other than a plan contracted for by the director pursuant to this part 6 to employees of the institution who are in the state personnel system may continue to offer group benefit plans to such employees. Nothing in this part 6 shall be construed to otherwise limit or expand the authority of any~~ A STATE institution of higher education ~~to~~ OR A GROUP OF STATE INSTITUTIONS MAY establish and offer ONE OR MORE GROUP benefit plans, IN ADDITION TO OR IN LIEU OF A PLAN CONTRACTED FOR BY THE DIRECTOR PURSUANT TO THIS PART 6, to ~~its~~ employees OF THE INSTITUTION OR INSTITUTIONS WHO ARE IN THE STATE PERSONNEL SYSTEM.

(2) (a) NOTWITHSTANDING ANY PROVISION OF SUBSECTION (1) OF THIS SECTION TO THE CONTRARY, A STATE INSTITUTION OF HIGHER EDUCATION OR GROUP OF INSTITUTIONS SHALL CONSULT WITH THE GOVERNOR'S OFFICE AND PROVIDE TO THE

DIRECTOR AT LEAST TWELVE MONTHS' WRITTEN ADVANCE NOTICE BEFORE THE INSTITUTION OR GROUP OF INSTITUTIONS MAY:

(I) CEASE OFFERING TO INSTITUTIONAL EMPLOYEES IN THE PERSONNEL SYSTEM ONE OR MORE GROUP BENEFIT PLANS THAT THE DIRECTOR CONTRACTED FOR AND THAT THE INSTITUTION OR GROUP OF INSTITUTIONS OFFERED IN THE PRECEDING PLAN YEAR; OR

(II) OFFER TO INSTITUTIONAL EMPLOYEES IN THE PERSONNEL SYSTEM ONE OR MORE GROUP BENEFIT PLANS THAT WERE CONTRACTED FOR BY THE DIRECTOR AND THAT THE INSTITUTION OR GROUP OF INSTITUTIONS DID NOT OFFER IN THE PRECEDING PLAN YEAR.

(b) IF THE DIRECTOR CONCLUDES ON THE BASIS OF ACTUARIAL DATA THAT CEASING TO OFFER ONE OR MORE GROUP BENEFIT PLANS AS DESCRIBED IN SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (2) IS LIKELY, IN THE FIRST YEAR IN WHICH IT IS NOT OFFERED, TO RESULT IN AN INCREASE IN COSTS FOR THAT PLAN OR ANY OTHER PLAN CONTRACTED FOR BY THE DIRECTOR, THE INSTITUTION OR GROUP OF INSTITUTIONS MAY NOT CEASE TO OFFER THE PLAN OR PLANS UNLESS SPECIFICALLY AUTHORIZED TO DO SO BY THE GOVERNOR. THE DIRECTOR SHALL PROVIDE THE CONCLUSION, IN WRITING AND WITH COPIES OF THE ACTUARIAL DATA UPON WHICH IT IS BASED, TO THE GOVERNOR'S OFFICE AND THE AFFECTED INSTITUTION OR GROUP OF INSTITUTIONS NO LATER THAN ONE HUNDRED EIGHTY DAYS AFTER THE DATE ON WHICH THE INSTITUTION OR GROUP OF INSTITUTIONS PROVIDES THE NOTICE REQUIRED IN PARAGRAPH (a) OF THIS SUBSECTION (2).

(3) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE DIRECTOR WILL PROVIDE FOR EMPLOYEES OF THE STATE INSTITUTIONS OF HIGHER EDUCATION AND FOR ALL OTHER STATE EMPLOYEES THE MOST COST-COMPETITIVE GROUP BENEFIT PLANS AVAILABLE.

SECTION 23. Part 8 of article 50 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

24-50-805. Institutions of higher education - alternative employee incentive programs. NOTWITHSTANDING ANY PROVISION OF THIS PART 8 TO THE CONTRARY, THE CHIEF EXECUTIVE OFFICER OF A STATE INSTITUTION OF HIGHER EDUCATION MAY ESTABLISH AND IMPLEMENT AN INCENTIVE PROGRAM FOR EMPLOYEES, INCLUDING CLASSIFIED EMPLOYEES, OF THE INSTITUTION. AT A MINIMUM, THE INCENTIVE PROGRAM SHALL INCLUDE THE ELEMENTS DESCRIBED IN SECTION 24-50-804 (2) (a) TO (2) (e). AN INCENTIVE PROGRAM IMPLEMENTED PURSUANT TO THIS SECTION SHALL NOT BE SUBJECT TO APPROVAL BY THE STATE PERSONNEL DIRECTOR.

SECTION 24. 23-5-117, Colorado Revised Statutes, is amended to read:

23-5-117. Governing boards - delegation of personnel power. The governing board of any state-supported institution of higher education may delegate all or part of its power over personnel matters, including the power to hire or to fire employees exempt from the personnel system, to the chief executive officer of the institution governed by such board. The governing board may ~~expressly~~ authorize the chief

executive officer to delegate to other officers of the institution ~~specified by the board~~ any power so delegated pursuant to this section. The governing board of each state supported institution of higher education, except the university of Colorado, Colorado state university, the university of northern Colorado, the Colorado school of mines, FORT LEWIS COLLEGE, Adams state college, Mesa state college, Western state college of Colorado, or Metropolitan state college of Denver, after consultation with faculty representatives chosen by the faculty, shall prepare, enact, promulgate, administer, and maintain in place policies and practices which afford due process procedures for those faculty members exempt from the state personnel system who are terminated, including terminations resulting from reductions in force.

SECTION 25. 23-1-106 (9), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

23-1-106. Duties and powers of the commission with respect to capital construction and long-range planning. (9) (e) A CAPITAL CONSTRUCTION OR ACQUISITION PROJECT APPROVED AND APPROPRIATED PRIOR TO JANUARY 1, 2010, MAY BE CONTAINED IN THE MOST RECENT UNIFIED TWO-YEAR CAPITAL IMPROVEMENTS PROJECT PROJECTION APPROVED PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (c) OF SUBSECTION (7) OF THIS SECTION. THE PROJECTION MAY BE AMENDED FROM TIME TO TIME AND SHALL NOT BE SUBJECT TO ADDITIONAL REVIEW OR APPROVAL BY THE COMMISSION, THE OFFICE OF STATE PLANNING AND BUDGETING, THE CAPITAL DEVELOPMENT COMMITTEE, OR THE JOINT BUDGET COMMITTEE.

SECTION 26. 23-1-106 (10), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

23-1-106. Duties and powers of the commission with respect to capital construction and long-range planning. (10) (c) A CAPITAL CONSTRUCTION OR ACQUISITION PROJECT APPROVED AND APPROPRIATED PRIOR TO JANUARY 1, 2010, MAY BE CONTAINED IN THE MOST RECENT UNIFIED TWO-YEAR CAPITAL IMPROVEMENTS PROJECT PROJECTION APPROVED PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (c) OF SUBSECTION (7) OF THIS SECTION, AND THE PROJECTION MAY BE AMENDED FROM TIME TO TIME.

SECTION 27. 23-1-106 (10.5), Colorado Revised Statutes, is amended to read:

23-1-106. Duties and powers of the commission with respect to capital construction and long-range planning. (10.5) (a) For any project ~~commenced pursuant~~ SUBJECT to subsection (9) or (10) of this section, if, after commencement of acquisition or construction, the governing board of the institution receives an additional gift, grant, or donation for the project, the governing board may amend the project without the approval of the commission, the office of state planning and budgeting, the capital development committee, or the joint budget committee so long as the governing board notifies the commission, the office of state planning and budgeting, the capital development committee, and the joint budget committee in writing, explaining how the project has been amended and verifying the receipt of the additional gift, grant, or donation.

(b) For any project ~~commenced pursuant~~ SUBJECT to subsection (9) or (10) of this

section, the governing board may enhance the project in an amount not to exceed fifteen percent of the original estimate of the cost of the project without the approval of the commission, the office of state planning and budgeting, the capital development committee, or the joint budget committee so long as the governing board notifies the commission, the office of state planning and budgeting, the capital development committee, and the joint budget committee in writing, explaining how the project has been enhanced and the source of the moneys for the enhancement.

(c) FOR ANY PROJECT SUBJECT TO SUBSECTION (9) OR (10) OF THIS SECTION, THE GOVERNING BOARD OF THE INSTITUTION IMPLEMENTING THE PROJECT IS NOT REQUIRED TO SUBMIT FOR THE PROJECT QUARTERLY EXPENDITURE REPORTS AS DESCRIBED IN SECTION 24-30-204 (2), C.R.S. THE GOVERNING BOARD SHALL SUBMIT FOR THE PROJECT ANNUAL EXPENDITURE REPORTS AS REQUIRED IN SECTION 24-30-204 (1), C.R.S.

SECTION 28. 24-30-204 (2), Colorado Revised Statutes, is amended to read:

24-30-204. Fiscal year. (2) (a) For fiscal years commencing on or after July 1, 1992, in addition to the financial statements required pursuant to subsection (1) of this section, all departments, institutions, and agencies in the state government shall submit a quarterly report of financial information to the controller no later than thirty days after the last day of each fiscal year quarter. Such report shall include such financial information as deemed reasonable and necessary by the controller. Such report shall include, but shall not be limited to, sufficient financial information for the controller to determine if such department, institution, or agency is properly crediting monthly revenues and accruals and is properly billing the federal government, in a timely manner, for reimbursement of state moneys expended for federal programs. The controller shall work with all departments to develop a format for such quarterly report of each department, institution, and agency.

(b) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (2), A GOVERNING BOARD THAT IMPLEMENTS A CAPITAL CONSTRUCTION OR ACQUISITION PROJECT AS DESCRIBED IN SECTION 23-1-106 (9) OR (10), C.R.S., IS NOT REQUIRED TO SUBMIT FOR THE PROJECT QUARTERLY REPORTS AS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (2).

SECTION 29. 24-75-303, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-75-303. Appropriation for capital construction. (3.5) IF A CAPITAL CONSTRUCTION PROJECT FOR A STATE-SUPPORTED INSTITUTION OF HIGHER EDUCATION IS TO BE COMPLETED USING A COMBINATION OF CAPITAL CONSTRUCTION APPROPRIATIONS PURSUANT TO THIS SECTION AND CASH FUNDS OR OTHER NONSTATE MONEYS HELD BY THE INSTITUTION, THE INSTITUTION MAY, AT ANY TIME PRIOR TO OR AFTER RECEIVING THE CASH FUNDS OR OTHER NONSTATE MONEYS, EARN THE MONEYS APPROPRIATED FROM THE STATE CAPITAL CONSTRUCTION FUND. FOR ANY PROJECT FUNDED IN PART BY CAPITAL CONSTRUCTION APPROPRIATIONS PURSUANT TO THIS SECTION, IF THERE ARE CASH FUNDS OR OTHER NONSTATE MONEYS REMAINING AFTER THE PROJECT IS COMPLETED, THE INSTITUTION SHALL REFUND MONEYS TO THE STATE CAPITAL CONSTRUCTION FUND IN PROPORTION TO THE AMOUNT OF STATE CAPITAL CONSTRUCTION MONEYS APPROPRIATED FOR THE

PROJECT.

SECTION 30. 24-30-1301 (1) (f), Colorado Revised Statutes, is amended to read:

24-30-1301. Definitions. As used in this part 13, unless the context otherwise requires:

(1) "Capital construction" means:

(f) Any item of instructional or scientific equipment if the cost will exceed fifty thousand dollars; EXCEPT THAT "CAPITAL CONSTRUCTION" INCLUDES THE PURCHASE OF INSTRUCTIONAL OR SCIENTIFIC EQUIPMENT BY A STATE INSTITUTION OF HIGHER EDUCATION OR BY THE AURARIA HIGHER EDUCATION CENTER CREATED IN ARTICLE 70 OF TITLE 23, C.R.S., ONLY IF THE INSTITUTION OR THE CENTER USES MONEYS APPROPRIATED PURSUANT TO SECTION 24-75-303 TO PURCHASE THE INSTRUCTIONAL OR SCIENTIFIC EQUIPMENT.

SECTION 31. 23-5-103 (1) and (3), Colorado Revised Statutes, are amended to read:

23-5-103. Pledge of income. (1) The governing board of any one or more state educational institutions, including, but not limited to, the state colleges under the control and operation of their respective boards of trustees, that enters into such a contract for the advancement of moneys is authorized, in connection with or as a part of such contract, to pledge the net income derived or to be derived from such land or facilities so constructed, acquired, and equipped as security for the repayment of the moneys advanced therefor, together with interest thereon, and for the establishment and maintenance of reserves in connection therewith; and, for the same purpose, any such governing board is also authorized, subject to the limitations specified in section 23-1-123 (5), to pledge the net income derived or to be derived from other facilities that are included in a designated enterprise or, if not included, other facilities that are not acquired and not to be acquired with moneys appropriated to the institution by the state of Colorado, and to pledge the net income, fees, and revenues derived from such sources, if unpledged, or, if pledged, the net income, fees, and revenues currently in excess of the amount required to meet principal, interest, and reserve requirements in connection with outstanding obligations to which such net income, fees, and revenues have theretofore been pledged. A governing board of an institution or group of institutions designated as an enterprise pursuant to section 23-5-101.7 that has entered into a contract for the advancement of money on behalf of such an institution or group of institutions may pledge up to ten percent of tuition revenues of such an enterprise, except for general fund moneys appropriated by the general assembly, and all or a portion of a facility construction fee that may be imposed as security for the repayment of the moneys advanced pursuant to said contract. The pledge of tuition revenues or the imposition of a facility construction fee shall include a process for student input consistent with the provisions of section 23-1-123.

(3) If the pledged net income, fees, and revenues exceed the amount required to meet principal, interest, and reserve requirements in connection with revenue bonds of the institution to which such income has been pledged and exceed the amount

necessary for the maintenance and operation of the auxiliary facility plus any amount set aside in a reserve fund for repair and replacement of the facility, the governing board may retain such surplus and utilize the same in such manner as in its judgment is for the best interests of the educational institution; ~~Such surplus shall be used by the governing board for the purposes of rehabilitating, altering, adding to, or equipping any existing auxiliary facilities acquired pursuant to the provisions of this article and for the acquisition of sites for constructing, acquiring, and equipping additional auxiliary facilities pursuant to such provisions or for prior redemption of outstanding bonds.~~ EXCEPT THAT, IF THE GOVERNING BOARD USES THE SURPLUS MONEYS ON A PROJECT REQUIRING TOTAL PROJECT EXPENDITURES THAT EXCEED TWO MILLION DOLLARS, THE PROJECT SHALL BE SUBJECT TO THE PROVISIONS OF SECTION 23-1-106. Use of such surplus shall be reviewed in advance by representatives of the student government at the institution with which the auxiliary facility is associated.

SECTION 32. Act subject to petition - effective date. (1) Except as otherwise provided in subsection (2) of this section, this act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part shall not take effect unless approved by the people at the general election to be held in November 2012 and shall take effect on the date of the official declaration of the vote thereon by the governor.

(2) (a) Section 12 of this act shall not take effect if Senate Bill 11-062 is enacted and becomes law.

(b) Section 13 of this act shall take effect only if Senate Bill 11-062 is enacted and becomes law.

Approved: June 7, 2011