Colorado Revised Statutes 2020

TITLE 23

POSTSECONDARY EDUCATION

Cross references: For private occupational schools, see article 64 of title 23; for the inclusion of every state institution of higher education within the definition of institution for purposes of the public records law, see § 24-72-202 (1.5); for the "Concurrent Enrollment Programs Act", see article 35 of title 22.

STATE UNIVERSITIES AND COLLEGES

General and Administrative

ARTICLE 1

Colorado Commission on
Higher Education

Editor's note: This article was numbered as article 22 of chapter 124 in C.R.S. 1963. The provisions of this article were repealed and reenacted in 1985, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 1985, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated.

Cross references: For provisions and requirements of a work-study program, see part 4 of article 3.3 of this title; for provisions of the Colorado educational exchange program, see part 6 of article 3.3 of this title.

23-1-101. Legislative declaration. The purposes of this article are to maximize opportunities for postsecondary education in Colorado; to avoid and to eliminate needless duplication of facilities and programs in state-supported institutions of higher education; to achieve simplicity of state administrative procedures pertaining to higher education; to effect the best utilization of available resources so as to achieve an adequate level of higher education in the most economic manner; to accommodate state priorities and the needs of individual students through implementation of a statewide enrollment plan; and to continue to recognize the constitutional and statutory responsibilities of duly constituted governing boards of state-supported institutions of higher education in Colorado. In this article, express powers and duties are delegated to a central policy and coordinating board, the Colorado commission on higher

education, and the department of higher education is responsible for implementing the duly adopted policies of the Colorado commission on higher education. The ultimate authority and responsibility is expressly reserved to the general assembly, and it is the duty of the Colorado commission on higher education and the department of higher education to implement the policies of the general assembly.

Source: L. 85: Entire article R&RE, p. 750, § 1, effective July 1. **L. 94:** Entire section amended, p. 1792, § 1, effective May 31. **L. 2008:** Entire section amended, p. 1470, § 1, effective May 28.

Editor's note: This section is similar to former § 23-1-101 as it existed prior to 1985.

23-1-101.1. Definitions. As used in this article, unless the context otherwise requires:

(1) "Commission" means the Colorado commission on higher education created and existing pursuant to this article.

(2) "Department of higher education" or "department" means the department of higher education created and existing pursuant to section 24-1-114, C.R.S.

(3) "Executive director" means the office of the executive director of the Colorado commission on higher education created and existing pursuant to section 24-1-114, C.R.S.

Source: L. 2008: Entire section added, p. 1470, § 2, effective May 28.

23-1-102. Commission established - terms of office.

(1) Repealed.

(2) There is hereby established a central policy and coordinating board for higher education in the state of Colorado, to be known as the Colorado commission on higher education, referred to in this article as the "commission". The duties and powers delegated to the commission by this article apply to all state-supported institutions of higher education, including, but not limited to, all postsecondary institutions in the state supported in whole or part by state funds, and including community colleges, extension programs of the state-supported universities and colleges, local district colleges, area technical colleges, the Auraria higher education center established in article 70 of this title, and specifically the regents of the university of Colorado and the institutions it governs. The governing boards and institutions of the public system of higher education in Colorado, including the university of Colorado, are obligated to conform to the policies set by the commission within the authorities delegated to it in this article.

(3) (a) The commission shall consist of eleven members to be appointed by the governor with the consent of the senate. The members of the commission shall be selected on the basis of their knowledge of and interest in higher education and shall serve for four-year terms; except that, of the members first appointed to the commission, five members shall serve for terms of two years, and four members shall serve for terms of four years. No member of the commission may serve more than two consecutive full four-year terms.

(b) Repealed.

(4) At the time of appointment, no member of the commission shall have been an officer, employee, or member of a governing board or an officer or employee of any state-supported institution of higher education in the state for a period of one year prior to his or her

appointment. During his or her term of office, no member of the commission shall be a member of the general assembly or an officer, employee, or member of a governing board or an officer or employee of a state-supported institution of higher education.

(5) The commission shall at no time have more than six members of any one major political party. Members of the commission shall receive seventy-five dollars per diem for attendance at official meetings plus actual and necessary expenses incurred in the conduct of official business. In appointing members of the commission, the governor shall consider geographic representation. Of the eleven members of the commission, at least one shall be from each congressional district, and at least one member of the commission shall reside west of the continental divide.

(6) The commission shall meet as often as necessary to carry out its duties as defined in this article.

(7) The term of any member of the commission who misses more than two consecutive regular commission meetings without good cause shall be terminated and his successor appointed in the manner provided for appointments under this section.

(8) (a) Notwithstanding other provisions of this section, on or after July 1, 1999, the governor, with the consent of the senate, shall appoint two additional members to the commission for terms ending on June 30, 2003. Thereafter, members appointed pursuant to this subsection (8) shall serve for terms of four years.

(b) (Deleted by amendment, L. 2000, p. 412, § 2, effective April 13, 2000.)

Source: L. 85: Entire article R&RE, p. 750, § 1, effective July 1. **L. 88:** (3) amended, p. 840, § 1, effective April 20. **L. 96:** (6) amended, p. 1834, § 10, effective June 5. **L. 99:** (8) added, p. 880, § 4, effective July 1. **L. 2000:** (8) amended, p. 412, § 2, effective April 13. **L. 2001:** (3)(a), (4), and (5) amended, p. 145, § 1, effective March 23. **L. 2004:** (3)(b) repealed, p. 201, § 15, effective August 4. **L. 2005:** (1) repealed, p. 277, § 5, effective August 8. **L. 2012:** (2) amended, (SB 12-040), ch. 118, p. 401, § 1, effective April 16. **L. 2016:** (2) amended, (HB 16-1082), ch. 58, p. 142, § 8, effective August 10.

Editor's note: This section is similar to former § 23-1-102 as it existed prior to 1985.

23-1-103. Advisory committee to the Colorado commission on higher education. (1) There is hereby established an advisory committee to the commission for the purpose of suggesting solutions for the problems and needs of higher education and maintaining liaison with the general assembly and the governing boards for state-supported institutions of higher education. The advisory committee shall consist of not less than thirteen members, to be designated as follows:

(a) (I) Six members shall be appointed from the general assembly, including three senators, two of whom shall be from the majority party, appointed by the president of the senate, and one of whom shall be from the minority party, appointed by the senate minority leader, and three representatives, two of whom shall be from the majority party, appointed by the speaker of the house of representatives, and one of whom shall be from the minority party, appointed by the minority leader of the house of representatives. Except as provided in subparagraph (II) of this paragraph (a), the six members shall be appointed for terms of two years.

(II) The terms of the members appointed by the speaker of the house of representatives and the president of the senate and who are serving on March 22, 2007, shall be extended to and expire on or shall terminate on the convening date of the first regular session of the sixty-seventh general assembly. As soon as practicable after such convening date, the speaker and the president shall each appoint or reappoint successors in the same manner as provided in subparagraph (I) of this paragraph (a). Thereafter, the terms of members appointed or reappointed by the speaker and the president shall expire on the convening date of the first regular session of each general assembly, and all subsequent appointments and reappointments by the speaker and the president shall be made as soon as practicable after such convening date. The person making the original appointment or reappointment shall fill any vacancy by appointment for the remainder of an unexpired term. Members appointed or reappointed by the speaker and the president shall serve at the pleasure of the appointing authority and shall continue in office until the member's successor is appointed.

(b) One member shall be selected and designated by the commission to represent the faculty in the state and one member shall be selected and designated by the commission to represent the students in the state. On and after August 5, 2009, the commission shall select and designate one member who, at the time of designation, is a parent of a student who is enrolled in a state-supported institution of higher education in Colorado to represent the parents of students.

(c) Not more than four additional members representing educational or other groups may be selected and designated by the commission to serve on the advisory committee.

(2) Legislative members of the advisory committee shall receive compensation and reimbursement of expenses as provided in section 2-2-326, C.R.S. Members of the advisory committee not otherwise compensated by the state or a public educational institution shall receive thirty dollars per diem for attendance at official meetings plus reimbursement for actual and necessary expenses incurred in the conduct of official business.

(3) All members of the advisory committee shall receive agendas and background material and be notified of all public meetings of the commission and shall be invited to attend for the purpose of suggesting solutions for the problems and needs of higher education and maintaining liaison with the general assembly.

(4) In addition to any attendance at commission meetings, the committee shall meet as often as necessary to provide assistance to the commission.

(5) Repealed.

Source: L. 85: Entire article R&RE, p. 751, § 1, effective July 1. **L. 86:** (5) amended, p. 412, § 20, effective March 26. **L. 89:** (5) repealed, p. 1147, § 3, effective April 6. **L. 2007:** (1)(a) amended, p. 180, § 12, effective March 22. **L. 2008:** (1)(a)(I) amended, p. 1471, § 3, effective May 28. **L. 2009:** (1)(b) and (1)(c) amended, (SB 09-090), ch. 291, p. 1441, § 9, effective August 5. **L. 2014:** (2) amended, (SB 14-153), ch. 390, p. 1962, § 12, effective June 6.

Editor's note: This section is similar to former § 23-1-103 as it existed prior to 1985.

23-1-103.5. Establishment of annual allowable cash fund revenues and expenditures by general assembly. (Repealed)

Source: L. 93: Entire section added, p. 1510, § 13, effective June 6; entire section added, p. 2121, § 1, effective June 11. **L. 2003:** (2) amended, p. 480, § 1, effective March 5. **L. 2008:** Entire section repealed, p. 117, § 1, effective March 19.

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

(1) (a) Repealed.

(b) (I) **[*Editor's note: This version of subsection (1)(b)(I) is effective until July 1, 2021.*]** For the 2010-11 fiscal year and for fiscal years beginning on or after July 1, 2016, the general assembly shall make annual appropriations of general fund moneys, of cash funds received from tuition income, and of moneys that are estimated to be received by an institution, under the direction and control of the governing board, as stipends, as defined in section 23-18-102, and through fee-for-service contracts, as authorized in sections 23-1-109.7 and 23-18-303, as a single line item to each governing board for the operation of its campuses; except that, if the general assembly appropriates moneys, as described in paragraph (c) of this subsection (1), to the Colorado state forest service, the agricultural experiment station department of the Colorado state university, or the Colorado state university cooperative extension service, such moneys shall not be included within the single line item appropriations described in this paragraph (b).

(b) (I) **[*Editor's note: This version of subsection (1)(b)(I) is effective July 1, 2021.*]** For the 2010-11 fiscal year and for fiscal years beginning on or after July 1, 2016, the general assembly shall make annual appropriations of general fund money, of cash funds received from tuition income, and of money that is estimated to be received by an institution, under the direction and control of the governing board, as stipends, as defined in section 23-18-102, and through fee-for-service contracts, as authorized in sections 23-1-109.7 and 23-18-303 or 23-18-303.5, whichever is applicable, as a single line item to each governing board for the operation of its campuses; except that, if the general assembly appropriates money, as described in subsection (1)(c) of this section, to the Colorado state forest service, the agricultural experiment station department of the Colorado state university, or the Colorado state university cooperative extension service, such money shall not be included within the single line item appropriations described in this subsection (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; except that, if the general assembly appropriates money pursuant to section 23-31.5-112, that money is not included within the single line item appropriation described in this subsection (1)(b)(II).

(c) **[*Editor's note: This version of subsection (1)(c) introductory portion is effective until July 1, 2021.*]** In addition to any appropriations made pursuant to paragraph (a) or (b) of this subsection (1), the general assembly may make annual appropriations of general fund moneys and of moneys received pursuant to a fee-for-service contract negotiated by the board of governors of the Colorado state university system and the department of higher education, as described in section 23-18-303, as separate line items to:

(c) **[*Editor's note: This version of subsection (1)(c) introductory portion is effective July 1, 2021.*]** In addition to any appropriations made pursuant to subsection (1)(a) or (1)(b) of

this section, the general assembly may make annual appropriations of general fund money and of money received pursuant to a fee-for-service contract negotiated by the board of governors of the Colorado state university system and the department of higher education, as described in section 23-18-303 or 23-18-303.5, whichever is applicable, as separate line items to:

(I) The Colorado state forest service described in part 3 of article 31 of this title;

(II) The agricultural experiment station department of the Colorado state university described in part 6 of article 31 of this title; and

(III) The Colorado state university cooperative extension service described in part 7 of article 31 of this title.

(d) In accordance with the provisions of section 5 of article VIII of the state constitution, the governing boards of the state institutions of higher education shall have control and direction of any moneys received by their respective institutions in addition to the moneys appropriated pursuant to this subsection (1), unless otherwise provided by statute.

(2) Notwithstanding any provision of this section to the contrary, beginning in the 2011-12 fiscal year and for each fiscal year thereafter through the 2020-21 fiscal year, the general assembly shall appropriate moneys to the governing board of the Colorado school of mines in accordance with section 23-41-104.7, through fee-for-service contracts, as authorized in sections 23-1-109.7 and 23-18-303, and as stipends, as defined in section 23-18-102, as a single line item to said governing board.

(3) (a) Notwithstanding the provisions of section 24-75-102, the governing boards are authorized to retain all money appropriated pursuant to this section or otherwise generated from fiscal year to fiscal year.

(b) All moneys raised by a governing board shall be available for expenditure by such governing board and shall not be transferred or otherwise made available for expenditure by any other governing board or by a state entity or state agency; except that said moneys may be transferred to the department of higher education or the Colorado commission on higher education to the extent required to pay indirect cost assessments, as defined in section 24-75-112 (1)(f), C.R.S.

(3.5) Each governing board shall report to the Colorado commission on higher education, using approved forms, the institution's plans for any tuition or other proposed increases for the following fiscal year. The commission shall review the plans and make recommendations to the general assembly during the annual budget process.

(4) (a) On or before November 10, 2010, each governing board shall submit to the commission and to the joint budget committee of the general assembly a report describing, with regard to each institution under its governance, the governing board's plans to fund the institution in the following fiscal year if the general assembly reduces overall state funding for higher education by fifty percent.

(b) Each governing board's report prepared pursuant to this subsection (4) shall specifically address the manner in which the institutions governed by the governing board shall serve students who graduate from Colorado high schools and are enrolling as first-time freshmen students and meet one or more of the following criteria:

(I) The student's family is low-income and the student is likely to incur significant student debt in attending an institution of higher education;

(II) The student's parents did not attend postsecondary education and may not have graduated from high school;

(III) The student is a member of an underrepresented population; or

(IV) The student has limited access to technologies to support learning.

Source: L. 85: Entire article R&RE, p. 752, § 1, effective July 1. **L. 87:** (1) amended, p. 839, § 1, effective June 16. **L. 89:** (1)(c) amended, p. 975, § 1, effective May 26; (2) amended, p. 1643, § 5, effective June 5. **L. 90:** (3) amended, p. 1138, § 1, effective July 1. **L. 93:** (1)(a), (2), and (3) amended, p. 1511, § 14, effective June 6; (1)(a)(I) amended, p. 2122, § 2, effective June 11. **L. 96:** (1)(a)(III) added, p. 790, § 2, effective May 23; (1)(a)(I) amended and (1.5) added, p. 1830, § 2, effective June 5. **L. 97:** (1.5) amended, p. 1644, § 2, effective June 5. **L. 2002:** (4), (5), and (6) added, p. 1279, § 4, effective July 1; (7) and (8) added, p. 1259, § 17, effective July 1. **L. 2003:** (4)(c.5) and (7)(b.5) added, p. 397, § § 1, 2, effective March 5; IP(5) and (6)(c) amended and (5.5) and (9) added, p. 775, § 3, effective March 25; (7)(a), (7)(b), and (8)(b) amended, p. 1993, § 36, effective May 22. **L. 2004:** (8)(b) amended, p. 1200, § 59, effective August 4; (1)(a)(I) and (1)(d) amended, p. 718, § 7, effective July 1, 2005; (1.5)(b) and (2)(c) added by revision, pp. 723, 724, §§ 15, 18. **L. 2008:** (1)(a)(II) amended, p. 118, § 2, effective March 19; (1)(a)(I) amended, p. 274, § 1, effective March 31; (1)(a)(I) amended and (1)(a)(IV) added, p. 980, § 1, effective May 21. **L. 2010:** Entire section R&RE, (SB 10-003), ch. 391, p. 1839, § 4, effective June 9. **L. 2011:** (1)(b)(II) amended, (HB 11-1301), ch. 297, p. 1418, § 4, effective August 10; (2) amended, (HB 11-1074), ch. 61, p. 160, § 2, effective August 10. **L. 2014:** (1)(a)(I), (1)(b)(I), IP(1)(c), and (2) amended, (HB 14-1319), ch. 169, p. 612, § 9, effective May 9. **L. 2016:** (1)(b)(II) amended, (SB 16-191), ch. 214, p. 825, § 1, effective July 1. **L. 2017:** (3)(a) amended and (3.5) added, (SB 17-297), ch. 210, p. 819, § 9, effective May 18. **L. 2019:** (1)(b)(II) amended, (HB 19-1311), ch. 344, p. 3193, § 2, effective August 2. **L. 2020:** (1)(b)(I) and IP(1)(c) amended, (HB 20-1366), ch. 181, p. 833, § 9, effective July 1, 2021.

Editor's note: (1) Subsections (7) and (8) were originally numbered as (4) and (5) in House Bill 02-1419 but were renumbered on revision for ease of location.

(2) Prior to the repeal and reenactment of this section in 2010, subsection (1)(b) provided for the repeal of subsection (1)(b), effective July 1, 1989. (See L. 87, p. 839.) Subsection (1)(c)(II) provided for the repeal of subsection (1)(c), effective July 1, 1991. (See L. 89, p. 975.) Subsection (4)(d) provided for the repeal of subsection (4), effective July 1, 2003. (See L. 2002, p. 1279.) Subsection (7)(c) provided for the repeal of subsection (7), effective July 1, 2003. (See L. 2002, p. 1259.) Subsection (9)(b) provided for the repeal of subsection (9), effective July 1, 2004. (See L. 2003, p. 775). Subsection (1.5)(b) provided for the repeal of subsection (1.5), effective July 1, 2005. (See L. 2004, pp. 723, 724.) Subsection (2)(c) provided for the repeal of subsection (2), effective July 1, 2005. (See L. 2004, pp. 723, 724.)

(3) Amendments to subsection (1)(a)(I) by House Bill 08-1320 and Senate Bill 08-232 were harmonized.

(4) Subsection (1)(a)(II) provided for the repeal of subsection (1)(a), effective July 1, 2016. (See L. 2010, p. 1839.)

Cross references: For the legislative declaration contained in the 2002 act enacting subsections (4), (5), and (6), see section 1 of chapter 307, Session Laws of Colorado 2002. For the legislative declaration contained in the 2002 act enacting subsections (7) and (8), see section 1 of chapter 303, Session Laws of Colorado 2002. For the legislative findings and declarations

contained in the 2004 act amending subsections (1)(a)(I) and (1)(d), see section 1 of chapter 215, Session Laws of Colorado 2004. For the legislative declaration in the 2010 act amending this section, see section 1 of chapter 391, Session Laws of Colorado 2010.

23-1-105. Duties and powers of the commission with respect to appropriations. (1) The commission shall prescribe uniform financial reporting policies, including policies for counting and classifying full-time equivalent students, for the institutions and governing boards within the state-supported system of higher education.

(2) to (3.7) Repealed.

(4) The commission may seek, receive, and disburse federal, state, and private grants, gifts, and trusts for statewide or multiinstitutional purposes.

(5) The commission, after consultation with the governing boards of institutions, shall establish policies for the public system of higher education for determining student residency status for tuition classification purposes within statutory guidelines established in article 7 of this title.

(6) and (7) Repealed.

(8) The funding recommendations made by the commission for state-supported institutions of higher education and by the executive director for the divisions of the department of higher education shall be made to the governor and the general assembly as a part of the budget request for the department of higher education and shall be submitted in accordance with the budget procedures of part 3 of article 37 of title 24, C.R.S., and in conformance with section 24-75-201.1, C.R.S.

(9) to (11) Repealed.

Source: L. 85: Entire article R&RE, p. 753, § 1, effective July 1. **L. 87:** (7) amended, p. 842, § 1, effective June 1. **L. 90:** (6) amended and (8) added, p. 1143, § 1, effective June 7; (7) repealed, p. 1142, § 9, effective July 1. **L. 92:** (6) amended, p. 560, § 1, effective March 25. **L. 93:** IP(3) amended, p. 1519, § 24, effective June 6; (3.5) added, p. 2122, § 3, effective June 11. **L. 94:** (9) added, p. 42, § 1, effective March 11; (3.5)(a) amended, p. 1681, § 8, effective May 31. **L. 95:** (3.5)(a) and (3.5)(b) amended and (10) added, pp. 56, 48, §§ 5, 1, effective March 20. **L. 96:** (11) added, p. 88, § 1, effective March 20; (2) and (3.5)(a) amended, (3)(d) and (3.7) added, and (6) repealed, pp. 1831, 1835, §§ 4, 3, 11, effective June 5. **L. 97:** (3.5) and (9) to (11) repealed and (3.7)(a) amended, p. 1644, §§ 1, 3, effective June 5. **L. 2003:** (8) amended, p. 1994, § 37, effective May 22. **L. 2004:** (2)(b) and (3.1) added by revision, pp. 723, 724, §§ 15, 18. **L. 2008:** (8) amended, p. 1471, § 4, effective May 28. **L. 2011:** (3.7) repealed, (SB 11-052), ch. 232, p. 999, § 5, effective May 27.

Editor's note: (1) This section is similar to former § 23-1-105 as it existed prior to 1985.

(2) Subsection (2)(b) provided for the repeal of subsection (2), effective July 1, 2005. (See L. 2004, pp. 723, 724.) Subsection (3.1) provided for the repeal of subsections (3) and (3.1), effective July 1, 2005. (See L. 2004, pp. 723, 724.)

Cross references: For the legislative findings and declarations contained in the 2004 act, see section 1 of chapter 215, Session Laws of Colorado 2004. For the legislative declaration in

the 2011 act repealing subsection (3.7), see section 1 of chapter 232, Session Laws of Colorado 2011.

23-1-105.5. Duties and powers of the commission with respect to student fees - report on tuition and fees. (1) (a) 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. 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.

(b) The commission may waive the requirements of the policies adopted pursuant to this subsection (1).

(2) (a) On or before January 15, 2018, and on or before January 15 each year thereafter, the department shall report to the joint budget committee and the education committees of the house of representatives and the senate, or any successor committees, concerning the governing boards' fee policies, the collection and use of student fees, and tuition rates.

(b) Notwithstanding the provisions of section 24-1-136 (11)(a)(I) to the contrary, the report required pursuant to subsection (2)(a) of this section continues indefinitely.

Source: L. 2011: Entire section added, (HB 11-1301), ch. 297, p. 1417, § 3, effective August 10. **L. 2017:** Entire section amended, (SB 17-297), ch. 210, p. 815, § 1, effective May 18.

23-1-106. Duties and powers of the commission with respect to capital construction and long-range planning - legislative declaration - report - definitions. (1) Except as permitted by subsection (9) of this section, it is declared to be the policy of the general assembly not to authorize any activity requiring capital construction or capital renewal for state institutions of higher education unless approved by the commission.

(2) The commission shall, after consultation with the appropriate governing boards of the state institutions of higher education and the appropriate state agencies, have authority to prescribe uniform policies, procedures, and standards of space utilization for the development and approval of capital construction or capital renewal programs by institutions.

(3) The commission shall review and approve facility master plans for all state institutions of higher education on land owned or controlled by the state or an institution and capital construction or capital renewal program plans for projects other than those projects described in subsection (9) of this section. The commission shall forward the approved facility master plans to the office of the state architect. Except for those projects described in subsection (9) of this section, no capital construction or capital renewal shall commence except in accordance with an approved facility master plan and program plan.

(4) The commission shall ensure conformity of facilities master planning with approved educational master plans and facility program plans with approved facilities master plans.

(5) (a) The commission shall approve plans for any capital construction or capital renewal project at any state institution of higher education regardless of the source of funds; except that the commission need not approve plans for any capital construction or capital renewal project at a local district college or area technical college or for any capital construction or capital renewal project described in subsection (9) of this section.

(b) The commission may except from the requirements for program and physical planning any project that requires two million dollars or less if the capital construction project is for new construction and funded solely from cash funds held by the institution or the project is funded through the higher education revenue bond intercept program established pursuant to section 23-5-139, or ten million dollars or less if the project is not for new construction and is funded solely from cash funds held by the institution.

(6) (a) The commission shall request annually from each governing board of each state institution of higher education a five-year projection of capital construction or capital renewal projects to be constructed but not including those projects described in subsection (9) of this section. The projection must include the estimated cost, the method of funding, a schedule for project completion, and the governing board-approved priority for each project. The commission shall determine whether a proposed project is consistent with the role and mission and master planning of the institution and conforms to standards recommended by the commission.

(b) The commission shall request annually from the governing board of each state institution of higher education a two-year projection of capital construction projects to be undertaken pursuant to subsection (9) of this section and estimated to require total project expenditures exceeding two million dollars if the capital construction project is for new acquisitions of real property or new construction and funded solely from cash funds held by the institution or the project is funded through the higher education revenue bond intercept program established pursuant to section 23-5-139, or exceeding ten million dollars if the project is not for new acquisitions of real property or new construction and is funded solely from cash funds held by the institution. The projection must include the estimated cost, the method of funding, and a schedule for project completion for each project. A state institution of higher education shall amend the projection prior to commencing a project that is not included in the institution's most recent projection.

(7) (a) The commission annually shall prepare a unified, five-year capital improvements report of projects to be constructed, but not including those capital construction or capital renewal projects to be undertaken pursuant to subsection (9) of this section, coordinated with education plans. Notwithstanding section 24-1-136 (11)(a)(I), the commission shall transmit the report to the office of state planning and budgeting, the office of the state architect, the capital development committee, and the joint budget committee, consistent with the executive budget timetable, together with a recommended priority of funding of capital construction or capital renewal projects for the system of public higher education. The commission shall annually transmit the recommended priority of funding of capital construction or capital renewal projects to the capital development committee no later than November 1 of each year.

(b) Except as provided in subsections (5) and (15) of this section, it is the policy of the general assembly to appropriate funds only for capital construction or capital renewal projects approved by the commission.

(c) (I) (A) The commission annually shall prepare a unified, two-year report for capital construction or capital renewal projects described in subsection (9) of this section that are not for new acquisitions of real property or new construction and are estimated to require total project expenditures exceeding ten million dollars, coordinated with education plans. The commission shall transmit the report to the office of state planning and budgeting, the governor, the capital development committee, and the joint budget committee, consistent with the executive budget timetable.

(B) The commission annually shall prepare a unified, two-year report for capital construction projects for new acquisitions of real property or for new construction, estimated to require total project expenditures exceeding two million dollars, coordinated with education plans. The commission shall transmit the report to the office of state planning and budgeting, the governor, the capital development committee, and the joint budget committee, consistent with the executive budget timetable.

(II) (A) The commission shall submit the two-year projections prepared by each state institution of higher education for each two-year period to the office of state planning and budgeting and the capital development committee. The capital development committee shall conduct a hearing in each regular legislative session on the projections and either approve the projections or return the projections to the state institution of higher education for modification. The commission and the office of state planning and budgeting shall provide the capital development committee with comments concerning each projection.

(B) A state institution of higher education may submit to the staff of the capital development committee, the commission, and the office of state planning and budgeting an amendment to its approved two-year projection. The capital development committee shall conduct a hearing on the amendment within thirty days after submission during a regular legislative session of the general assembly or within forty-five days after submission during any period that the general assembly is not in regular legislative session. The capital development committee shall either approve the projections or return the projections to the state institution of higher education for modification. The commission and the office of state planning and budgeting shall provide the capital development committee with comments concerning each amendment.

(8) Repealed.

(9) (a) Except as provided in paragraph (d) of this subsection (9), a capital construction or capital renewal project for an auxiliary facility initiated by the governing board of a state institution of higher education that is contained in the most recent two-year projection approved pursuant to subparagraph (II) of paragraph (c) of subsection (7) of this section, as the projection may be amended from time to time, and that is to be acquired or constructed and operated and maintained solely from cash funds held by the institution is not 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; except that, if the capital construction or capital renewal project for an auxiliary facility is to be acquired or constructed in whole or in part using moneys subject to the higher education revenue bond intercept program established pursuant to section 23-5-139, then the governing board of a state institution of higher education must obtain approval from the general assembly as specified in that section.

(b) Except as provided in paragraph (d) of this subsection (9), a capital construction or capital renewal project for an academic facility initiated by the governing board of a state

institution of higher education that is contained in the most recent two-year projection approved pursuant to subparagraph (II) of paragraph (c) of subsection (7) of this section, as the projection may be amended from time to time, and that is to be acquired or constructed solely from cash funds held by the institution and operated and maintained from such funds or from state moneys appropriated for such purpose, or both, is not 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; except that, if the capital construction or capital renewal project for an academic facility is to be acquired or constructed in whole or in part using moneys subject to the higher education revenue bond intercept program established pursuant to section 23-5-139, then the governing board of a state institution of higher education must obtain approval from the general assembly as specified in that section. Any capital construction or capital renewal project subject to this paragraph (b) must comply with the high performance standard certification program established pursuant to section 24-30-1305.5, C.R.S.

(c) Each governing board shall ensure, consistent with its responsibilities as set forth in section 5 (2) of article VIII of the state constitution, that a capital construction or capital renewal project initiated pursuant to this subsection (9) is in accordance with its institution's mission, be of a size and scope to provide for the defined program needs, and be designed in accordance with all applicable building codes and accessibility standards.

(d) (I) (Deleted by amendment, L. 2016.)

(II) A plan for a capital construction or capital renewal project is not subject to review or approval by the commission if such project is:

(A) Estimated to require total expenditures of two million dollars or less if the capital construction project is for new acquisitions of real property or for new construction and funded solely from cash funds held by the institution or the project is funded through the higher education revenue bond intercept program established pursuant to section 23-5-139; or

(B) Estimated to require total expenditures of ten million dollars or less if the project is not for new acquisitions of real property or for new construction and is funded solely from cash funds held by the institution.

(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 is not 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.

(f) The governing board of a state institution of higher education that enters into an agreement to lease a building from a school district, as authorized in section 22-32-110 (1)(f.5), C.R.S., shall notify the capital development committee of the existence of the agreement and provide to the committee a summary of the terms of the agreement.

(10) Repealed.

(10.2) (a) (I) Notwithstanding any law to the contrary and except as provided in subsection (10.2)(a)(III) of this section, all academic facilities acquired or constructed, or an auxiliary facility repurposed for use as an academic facility, solely from cash funds held by the state institution of higher education and operated and maintained from such cash funds or from state money appropriated for such purpose, or both, including, but not limited to, those facilities described in subsection (9)(b) of this section, that did not previously qualify for state controlled

maintenance funding will qualify for state controlled maintenance funding, subject to funding approval by the capital development committee and the eligibility guidelines described in section 24-30-1303.9.

(II) For purposes of this subsection (10.2)(a), the eligibility for state controlled maintenance funding commences on the date of the acceptance of the construction or repurposing of the facility or the closing date of any acquisition. The date of the acceptance of construction or repurposing shall be determined by the office of the state architect.

(III) If an academic facility is acquired or constructed, or if an auxiliary facility is repurposed for use as an academic facility, solely from cash funds held by the state institution of higher education and operated and maintained from such cash funds, then as of the date of the acceptance of construction or repurposing that occurs on or after July 1, 2018, the facility is not eligible for controlled maintenance funding.

(b) (I) The general assembly hereby finds, determines, and declares that the classification of facilities as academic facilities or auxiliary facilities can be difficult, and such classifications often change as academic needs, student needs, and new construction and design practices emerge. Therefore, the office of the state architect, in collaboration with the department of higher education and the office of state planning and budgeting, shall develop guidelines in order to assist such classification. The guidelines shall be annually reviewed and approved by the capital development committee. The guidelines must address the following two factors that have historically been considered when classifying academic facilities and auxiliary facilities:

(A) The funding source for the facility; and

(B) The nature and use of the facility.

(II) The guidelines established pursuant to this paragraph (b) must use the definitions set forth in subsection (10.3) of this section.

(10.3) As used in this section, unless the context otherwise requires:

(a) "Academic facility" means any facility, including any supporting utility infrastructure and site improvements, that is central to the role and mission of each state institution of higher education as set forth in this title. Examples include, but are not limited to, classrooms, libraries, and administrative buildings.

(b) "Auxiliary facility" means any facility, including any supporting utility infrastructure and site improvements, funded from an auxiliary source such as housing or parking revenue or any facility that has been historically managed as an auxiliary facility and is accounted for in financial statements of state institutions of higher education as a self-supporting facility. Examples include, but are not limited to, housing facilities, dining facilities, recreational facilities, and student activities facilities.

(c) "Capital construction" has the same meaning as set forth in section 24-30-1301 (2), C.R.S.

(d) "Capital renewal" has the same meaning as set forth in section 24-30-1301 (3), C.R.S.

(e) "Facility" has the same meaning as set forth in section 24-30-1301 (8), C.R.S.

(e.5) "Real property" has the same meaning as set forth in section 24-30-1301 (15), C.R.S.

(f) "State institution of higher education" means a state institution of higher education as defined in section 23-18-102 (10), and the Auraria higher education center created in article 70 of this title.

(10.5) (a) For any project subject to subsection (9) of this section, if, after commencement of construction, the governing board of the state institution of higher education 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 subject to subsection (9) 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) of this section, the governing board of the state institution of higher education 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.

(11) (a) Each state institution of higher education shall submit to the commission on or before September 1 of each year a list and description of each project for which an expenditure was made during the immediately preceding fiscal year that:

(I) Was not subject to review by the commission pursuant to subsection (9) of this section;

(II) Repealed.

(III) Was estimated to require total expenditures of two million dollars or less if the capital construction project is for new acquisitions of real property or for new construction and was funded solely from cash funds held by the institution or the project was funded through the higher education revenue bond intercept program established pursuant to section 23-5-139, or was estimated to require total expenditures of ten million dollars or less if the project was not for new acquisitions of real property or for new construction and was funded solely from cash funds held by the institution; or

(IV) Was amended or enhanced after commencement of construction pursuant to subsection (10.5) of this section.

(b) Notwithstanding section 24-1-136 (11)(a)(I), the commission shall submit a compilation of the projects to the office of the state architect and the capital development committee on or before December 1 of each year.

(12) Each state institution of higher education shall submit to the commission a facility management plan or update required by section 24-30-1303.5 (3.5), C.R.S. The commission shall review the facility management plan or update and make recommendations regarding it to the office of the state architect.

(13) (Deleted by amendment, L. 2014.)

(14) With the commission's approval, beginning July 1, 2017, a state institution of higher education is not subject to facility master plan approval described in subsections (3) and (4) of

this section, so long as the governing board of the institution approves each plan, notifies the commission of its approval, and makes the plan available to the commission. Such institution is also exempt from the provisions of subsection (5) of this section for a project the cost of which does not exceed two million dollars.

(15) With the commission's approval, beginning July 1, 2017, and notwithstanding the provisions of subsection (7)(b) of this section, a state institution of higher education is not required to submit projects for facilities to the commission for approval pursuant to subsection (6)(b) of this section so long as the institution annually submits a report to the capital development committee that is substantially similar in content to the report concerning capital construction projects described in subsection (6)(b) of this section.

Source: L. 85: Entire article R&RE, p. 754, § 1, effective July 1. **L. 92:** (9) added, p. 583, § 2, effective June 1. **L. 93:** (9) amended, p. 1825, § 8, effective June 6. **L. 94:** (5) amended, p. 1795, § 3, effective May 31. **L. 2001:** (5) and (9) amended and (10) and (11) added, p. 664, § 1, effective August 8; (7)(a) amended, p. 492, § 1, effective August 8. **L. 2003:** (12) added, p. 962, § 1, effective July 1. **L. 2005:** (5)(a), (9)(a), and (10) amended, p. 1016, § 9, effective June 2. **L. 2008:** (5)(b), (9)(a), (9)(c), and (10) amended, p. 260, § 1, effective March 31; (8) amended, p. 1471, § 5, effective May 28. **L. 2009:** (1), (3), (6), (7), (8), and (11) amended and (10.5) and (13) added, (SB 09-290), ch. 374, p. 2035, § 1, effective August 5; (9) and (10)(a) amended, (SB 09-290), ch. 374, p. 2038, § 2, effective January 1, 2010. **L. 2010:** (3), (5)(a), (6), (7)(a), (7)(c)(I), (9), (10), (10.5)(a), and (11)(a)(IV) amended and (8) repealed, (SB 10-003), ch. 391, p. 1854, 1853, §§ 35, 34, effective June 9. **L. 2011:** (9)(e) and (10)(c) added and (10.5) amended, (HB 11-1301), ch. 297, p. 1429, §§ 25, 26, 27, effective August 10. **L. 2012:** (9)(a), (9)(b), (10)(a)(I), and (10)(a)(II) amended and (10.2) and (10.3) added, (SB 12-040), ch. 118, p. 401, § 2, effective April 16; (1) amended, (HB 12-1081), ch. 210, p. 902, § 2, effective August 8. **L. 2014:** Entire section amended, (HB 14-1387), ch. 378, p. 1829, § 34, effective June 6; (10.3)(c) amended, (HB 14-1395), ch. 309, p. 1309, § 7, effective June 6. **L. 2015:** (3), (7)(a), (11)(b), and (12) amended, (SB 15-270), ch. 296, p. 1216, § 15, effective June 5. **L. 2016:** (1), (3), (5)(a), (6), (7)(a), (7)(c)(I), (9), (10.2)(a)(I), and (10.5) amended and (10) and (11)(a)(II) repealed, (SB 16-204), ch. 222, p. 848, § 2, effective June 6; (5)(a) amended, (HB 16-1082), ch. 58, p. 142, § 9, effective August 10; (5)(b), (6)(b), (7)(c)(I), (9)(d)(II), and (11)(a)(III) amended and (10.3)(e.5) added, (HB 16-1459), ch. 317, p. 1279, § 1, effective August 10; (9)(f) added, (SB 16-209), ch. 235, p. 951, § 4, effective August 10. **L. 2017:** (7)(b) amended and (14) and (15) added, (SB 17-297), ch. 210, p. 816, § 2, effective May 18; (10.2)(a) amended, (SB 17-267), ch. 267, p. 1439, § 5, effective May 30; (7)(a) and (11)(b) amended, (HB 17-1251), ch. 253, p. 1057, § 2, effective August 9. **L. 2018:** (7)(c)(I)(B) amended, (HB 18-1375), ch. 274, p. 1704, § 31, effective May 29.

Editor's note: (1) This section is similar to former § 23-1-106 as it existed prior to 1985.

(2) (a) Amendments to subsection (5)(a) by SB 16-204 and HB 16-1082 were harmonized.

(b) Amendments to subsections (6), (6)(b), (7)(c)(I), (9), and (9)(d)(II) by SB 16-204 and HB 16-1459 were harmonized.

Cross references: For the legislative declaration in the 2010 act amending subsections (3), (5)(a), (6), (7)(a), (7)(c)(I), (9), (10), (10.5)(a), and (11)(a)(IV) and repealing subsection (8), see section 1 of chapter 391, Session Laws of Colorado 2010. For the legislative declaration in HB 14-1387, see section 1 of chapter 378, Session Laws of Colorado 2014. For the legislative declaration in SB 17-267, see section 1 of chapter 267, Session Laws of Colorado 2017.

23-1-106.3. Duties and powers of the commission - capital construction projects - federal mineral lease revenues fund - higher education institutions lease-purchase cash fund. (1) (a) As soon as possible after May 12, 2008, the commission, after consultation with the appropriate governing boards of state-supported institutions of higher education, shall submit to the office of state planning and budgeting and to the capital development committee of the general assembly, established pursuant to section 2-3-1302, C.R.S., a prioritized list of capital construction projects at the state-supported institutions of higher education to be constructed using lease-purchase agreements funded through the higher education federal mineral lease revenues fund established pursuant to section 23-19.9-102 (1) and referred to in this section as the "revenues fund". As soon as possible after receipt of the list from the commission, the office of state planning and budgeting shall submit to the capital development committee a prioritized list of capital construction projects at state-supported institutions of higher education to be constructed using lease-purchase agreements funded through the revenues fund.

(b) (I) As soon as possible after receipt of the prioritized list from the office of state planning and budgeting, the capital development committee shall review the prioritized lists submitted by the commission and the office of state planning and budgeting and shall submit to the joint budget committee of the general assembly a prioritized list of capital construction projects at state-supported institutions of higher education to be constructed using lease-purchase agreements funded through the revenues fund.

(II) As soon as possible after receipt of the prioritized list from the capital development committee, the joint budget committee shall review the prioritized list submitted by the capital development committee and shall sponsor a joint resolution specifying a prioritized list of capital construction projects at state-supported institutions of higher education to be constructed using lease-purchase agreements funded through the revenues fund. The resolution shall contain a listing of the maximum amount of principal to be raised through lease-purchase agreements to be paid from the revenues fund, the minimum amount of principal to be contributed by the institution, and the total anticipated cost of the project.

(III) If approved by the general assembly, the joint resolution shall be presented to the governor in accordance with section 39 of article V of the state constitution.

(IV) The anticipated annual state-funded payments for the principal and interest components of amount payable under all lease-purchase agreements on the projects listed in the joint resolution adopted and approved pursuant to this paragraph (b) entered into during the fiscal year commencing July 1, 2008, shall not exceed an average of sixteen million two hundred thousand dollars per year for the first ten years of payments and sixteen million eight hundred thousand dollars per year during the second ten years of payments.

(V) To the extent that any projects on the prioritized list contained in the joint resolution introduced and approved pursuant to this subsection (1) are not the subject of lease-purchase agreements entered into pursuant to subsection (3) of this section and to the extent that the state treasurer determines that there is sufficient money in the revenues fund to enter into an

additional lease-purchase agreement or agreements during the fiscal year commencing July 1, 2009, the remaining projects on the prioritized list in the joint resolution shall be the prioritized list for lease-purchase agreements entered into during the fiscal year commencing July 1, 2009.

(2) (a) On or before August 15, 2009, and on or before August 15 of each year thereafter through August 15, 2015, the state treasurer shall notify the commission, the office of state planning and budgeting, the capital development committee, and the joint budget committee of the amount of money in the revenues fund and whether the treasurer determines that there are sufficient moneys in the revenues fund to enter into additional lease-purchase agreements to be funded from the revenues fund. On and after April 14, 2016, the state shall not enter into any additional lease-purchase agreements to be funded from the revenues fund.

(b) After the notification required by paragraph (a) of this subsection (2) is received, and the treasurer has determined that there are sufficient moneys in the revenues fund to enter into additional lease-purchase agreements, the commission, the office of state planning and budgeting, the capital development committee, and the joint budget committee, pursuant to the procedures established in subsection (1) of this section, may promptly consider a new prioritized list of capital construction projects at state-supported institutions of higher education to be constructed using lease-purchase agreements funded through the revenues fund. A joint resolution introduced pursuant to this paragraph (b) shall also include a statement of the maximum average anticipated state-funded payments under all lease-purchase agreements to be authorized through the joint resolution.

(3) (a) (I) Notwithstanding the provisions of sections 24-82-102 (1)(b) and 24-82-801, C.R.S., the state of Colorado, acting by and through the state treasurer, is authorized to execute lease-purchase agreements each for no more than twenty years of annual payments on the projects listed in the joint resolution adopted and approved pursuant to paragraph (b) of subsection (1) of this section or paragraph (b) of subsection (2) of this section. The lease-purchase agreements authorized pursuant to this paragraph (a) may be for the total amount of the project cost as reflected in the joint resolution. A state-supported institution of higher education may either contribute the full amount of its share of the cost of the project at the commencement of the project or may have its share of the cost of the project included in the lease-purchase agreement. Based upon the total amount of money that one or more lease-purchase agreements is able to raise, the treasurer shall enter into lease-purchase agreements in the order of the prioritized list contained in the joint resolution; except that, if, after funding all previous projects on the list, the amount of money is insufficient to fund the entire project that is next on the list, the treasurer may enter into a lease-purchase agreement on the next project or projects on the list that may be completely funded.

(II) The state treasurer shall ensure that each state-supported institution of higher education submits a certificate of completion no later than August 1, 2012, for each project funded in whole or in part by the lease-purchase agreement entered into by the state treasurer in 2008 pursuant to this section. After such certificates of completion are received by the state treasurer, the state treasurer and the state controller shall calculate the amount of unspent proceeds raised through the 2008 lease-purchase agreement. The state treasurer and the state controller shall also calculate the amount of the unspent institutional shares of the total project costs. The state treasurer and state controller shall provide these amounts to the capital development committee in writing no later than August 15, 2012. No later than thirty days after receiving such amounts, the capital development committee shall hold a public meeting during

the interim between the second regular session of the sixty-eighth general assembly and the first regular session of the sixty-ninth general assembly to decide, by majority vote, what the unspent proceeds raised through the 2008 lease-purchase agreement and the unspent institutional shares of the total project costs should be used to fund. The capital development committee's decision shall be limited to funding capital construction projects at state-supported institutions of higher education or, so long as such projects are identified as eligible by bond counsel, controlled maintenance projects at state-supported institutions of higher education. The capital development committee shall communicate the decision to the state treasurer in writing, and the state treasurer shall ensure that the approved project or projects are funded from the unspent proceeds raised through the 2008 lease-purchase agreement and the unspent institutional shares of the total project costs as soon as possible.

(b) (I) The state of Colorado, acting by and through the state treasurer, at the state treasurer's sole discretion, may enter into one or more lease-purchase agreements authorized by paragraph (a) of this subsection (3) with any for-profit or nonprofit corporation, trust, or commercial bank as a trustee, as lessor, including but not limited to the Colorado educational and cultural facilities authority created pursuant to section 23-15-104.

(II) (A) Any lease-purchase agreement authorized pursuant to paragraph (a) of this subsection (3) shall provide that all of the obligations of the state under the agreement shall be subject to the action of the general assembly in annually making moneys available for all payments thereunder. Payments under any lease-purchase agreement shall be made from the revenues fund and any money in the higher education institutions lease-purchase cash fund established in subsection (4) of this section.

(B) Each agreement shall also provide that the obligations of the state shall not be deemed or construed as creating an indebtedness of the state within the meaning of any provision of the state constitution or the laws of the state of Colorado concerning or limiting the creation of indebtedness by the state of Colorado and shall not constitute a multiple fiscal-year direct or indirect debt or other financial obligation of the state within the meaning of section 20 (4) of article X of the state constitution. In the event the state of Colorado does not renew a lease-purchase agreement authorized pursuant to paragraph (a) of this subsection (3), the sole security available to the lessor shall be the property that is the subject of the nonrenewed lease-purchase agreement.

(III) Any lease-purchase agreement authorized pursuant to paragraph (a) of this subsection (3) may contain such terms, provisions, and conditions as the state treasurer, acting on behalf of the state of Colorado, may deem appropriate, including all optional terms; except that each lease-purchase agreement shall specifically authorize the state of Colorado or the governing board of the applicable state-supported institution of higher education to receive fee title to all real and personal property that is the subject of the lease-purchase agreement on or prior to the expiration of the terms of the agreement. Any title to such property received by the state on or prior to the expiration of the terms of the lease-purchase agreement shall be held for the benefit and use of such governing board.

(IV) Any lease-purchase agreement authorized pursuant to paragraph (a) of this subsection (3) may provide for the issuance, distribution, and sale of instruments evidencing rights to receive rentals and other payments made and to be made under the lease-purchase agreement. The instruments may be issued, distributed, or sold only by the lessor or any person designated by the lessor and not by the state. The instruments shall not create a relationship

between the purchasers of the instruments and the state or create any obligation on the part of the state to the purchasers. The instruments shall not be notes, bonds, or any other evidence of indebtedness of the state within the meaning of any provision of the state constitution or the law of the state concerning or limiting the creation of indebtedness of the state and shall not constitute a multiple fiscal-year direct or indirect debt or other financial obligation of the state within the meaning of section 20 (4) of article X of the state constitution.

(V) Interest paid under a lease-purchase agreement authorized pursuant to paragraph (a) of this subsection (3), including interest represented by the instruments, shall be exempt from Colorado income tax.

(VI) The state of Colorado, acting through the state treasurer and the governing board of the institutions of higher education, is authorized to enter into ancillary agreements and instruments as are deemed necessary or appropriate in connection with a lease-purchase agreement, including but not limited to deeds, ground leases, sub-leases, easements, or other instruments relating to the real property on which the facilities are located or an agreement entered into pursuant to subsection (5) of this section.

(c) The provisions of section 24-30-202 (5)(b), C.R.S., shall not apply to a lease-purchase agreement authorized pursuant to paragraph (a) of this subsection (3) or any ancillary agreement or instrument entered into pursuant to paragraph (b) of this subsection (3). The state controller or his or her designee shall waive any provision of the fiscal rules promulgated pursuant to section 24-30-202 (1) and (13), C.R.S., that the state controller deems to be incompatible or inapplicable with respect to said lease-purchase agreements or any such ancillary agreement or instrument.

(4) (a) A local government or the governing board of a state-supported institution of higher education may pay to the state treasurer an amount to assist the state in making payments on any lease-purchase agreement entered into pursuant to paragraph (a) of subsection (3) of this section. State-supported institutions of higher education, including but not limited to the Auraria higher education center and its constituent institutions, are authorized to transfer moneys to the state treasurer pursuant to this subsection (4) for the projects for which the state treasurer executes a lease-purchase agreement pursuant to subsection (3) of this section without an appropriation from the general assembly. The state treasurer shall credit any moneys received pursuant to this subsection (4) to the higher education institutions lease-purchase cash fund, referred to in this subsection (4) as the "fund", which fund is hereby created in the state treasury. Except as provided in subparagraph (II) of paragraph (a) of subsection (3) of this section, moneys in the fund are continuously appropriated to the state treasurer to make payments on lease-purchase agreements executed pursuant to paragraph (a) of subsection (3) of this section. Any moneys in the fund not expended for the purpose of this section shall be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Except as provided in paragraph (b) of this subsection (4), 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.

(b) (I) Within thirty days of the state treasurer's receipt of the certificate of completion for the academic building on the Craig campus of Colorado Northwestern community college, the state treasurer shall transfer no more than two million one hundred thousand dollars of such institution's cash assistance payment to the Colorado community college system.

(II) Within thirty days of the state treasurer's receipt of the certificate of completion for the science building addition and renovation at the Auraria higher education center, the state treasurer shall transfer no more than one million dollars to the Auraria higher education center.

(5) (a) Prior to executing a lease-purchase agreement pursuant to subsection (3) of this section, in order to protect against future interest rate increases, the state of Colorado, acting by and through the state treasurer and at the discretion of the state treasurer, may enter into an interest rate exchange agreement pursuant to article 59.3 of title 11, C.R.S. A lease-purchase agreement entered into pursuant to subsection (3) of this section shall be a proposed public security for the purposes of article 59.3 of title 11, C.R.S. Any payments made by the state under an agreement entered into pursuant to this subsection (5) shall be made solely from moneys made available to the state treasurer from the execution of a lease-purchase agreement or from moneys appropriated from the revenues fund or the higher education institutions lease-purchase cash fund created pursuant to subsection (4) of this section.

(b) Any agreement entered into pursuant to this subsection (5) shall also provide that the obligations of the state shall not be deemed or construed as creating an indebtedness of the state within the meaning of any provision of the state constitution or the laws of the state of Colorado concerning or limiting the creation of indebtedness by the state of Colorado and shall not constitute a multiple fiscal-year direct or indirect debt or other financial obligation of the state within the meaning of section 20 (4) of article X of the state constitution.

(c) Any moneys received by the state under an agreement entered into pursuant to this subsection (5) shall be used to make payments on lease-purchase agreements entered into pursuant to subsection (3) of this section or to pay the costs of the project for which a lease-purchase agreement was executed.

Source: L. 2008: Entire section added, p. 712, § 1, effective May 12. **L. 2010:** (3)(c) amended, (SB 10-003), ch. 391, p. 1848, § 22, effective June 9; (3)(b)(I) amended, (SB 10-122), ch. 64, p. 226, § 2, effective August 11. **L. 2012:** (3)(a) and (4) amended, (HB 12-1357), ch. 222, p. 951, § 2, effective May 24. **L. 2016:** (2)(a) amended, (HB 16-1229), ch. 84, p. 236, § 1, effective April 14.

Cross references: For the legislative declaration in the 2010 act amending subsection (3)(c), see section 1 of chapter 391, Session Laws of Colorado 2010. For the legislative declaration in the 2012 act amending subsections (3)(a) and (4), see section 1 of chapter 222, Session Laws of Colorado 2012.

23-1-106.5. Duties and powers of the commission with regard to advanced technology - fund created. (Repealed)

Source: L. 99: Entire section added with relocations, p. 876, § 3, effective July 1. **L. 2000:** (8) added, p. 412, § 1, effective April 13; (9) added, p. 1540, § 1, effective June 1. **L. 2001:** (9)(c) amended, p. 1272, § 27, effective June 5. **L. 2003:** (9)(e) added, p. 457, § 12, effective March 5; (9)(b) and (9)(c) amended, p. 2100, § 1, effective May 22. **L. 2005:** (7)(a) repealed, p. 277, § 6, effective August 8. **L. 2006:** (9)(b) amended, p. 1254, § 2, effective May 26; IP(1), (2)(e), and (6) amended, p. 1733, § 14, effective June 6; (9)(b) and (9)(c) amended, p.

175, § 5, effective July 1. **L. 2007:** (9) repealed, p. 1604, § 5, effective May 31. **L. 2008:** Entire section repealed, p. 1483, § 30, effective May 28.

Editor's note: Prior to its repeal in 2008, this section was similar to former § 23-11-104 as it existed prior to 1999.

23-1-106.7. Duties and powers of the department with respect to technology transfers. (1) The department, in consultation with the office of information technology created in the office of the governor, shall:

(a) In all its program efforts, endeavor to facilitate the transfer of newly created technologies from the laboratory to the private sector for the start-up of new businesses, to add product lines to established firms, or to introduce technologies into mature industries in order to strengthen the state's existing economic base; and

(b) Assess the technology transfer potential of all academic programs targeted for investment and development.

(2) (Deleted by amendment, L. 2008, p. 1472, § 6, effective May 28, 2008.)

Source: L. 99: Entire section added with relocations, p. 876, § 3, effective July 1. **L. 2006:** IP(1) amended, p. 1734, § 15, effective June 6. **L. 2008:** IP(1) and (2) amended, p. 1472, § 6, effective May 28.

Editor's note: This section is similar to former § 23-11-105 as it existed prior to 1999.

23-1-107. Duties and powers of the commission with respect to program approval, review, reduction, and discontinuance. (1) A governing board of a state-supported institution of higher education is not required to submit a proposal to or obtain approval from the commission to create, modify, or discontinue academic or vocational programs offered by the institution, so long as the creation, modification, or discontinuance of the academic or vocational program is consistent with the institution's statutory role and mission.

(2) (a) (Deleted by amendment, L. 2008, p. 1472, § 7, effective May 28, 2008.)

(a.5) Repealed.

(a.6) The commission shall develop and employ uniform standards for the comparative evaluation of duplicate programs offered at the graduate level by more than one institution. In all cases where there is duplication of graduate programs among multiple institutions, the commission shall make an evaluation of all such programs with a view to eliminating duplication. The evaluation of the programs shall include an analysis of the number of degrees granted in each institution's programs in the last five years, the number of duplicate degree programs within the Colorado public system of higher education, the role and mission statements for each institution, the interconnections of a program with other programs on a campus, the national recognition given to existing programs, the cost of continuing such programs, and other criteria as determined by the commission. In program discontinuance, the commission shall consider balance among institutions. It is the intent of the general assembly that there shall be a presumption in favor of the elimination of duplicate graduate programs where the need for duplication is not clearly justified by special excellence, geographical and other particular needs served, or the unique contribution of duplicate programs.

(a.7) Repealed.

(b) The governing board of a state-supported institution of higher education directed to discontinue an academic or vocational degree program area pursuant to this subsection (2) shall have not more than four years to discontinue graduate and baccalaureate programs and not more than two years to discontinue associate programs following the commission's directive to phase out said program area.

(c) If the commission directs the governing board of an institution to discontinue an academic or vocational degree program area, and the governing board refuses to do so, the commission may require such governing board to remit to the general fund any moneys appropriated for such program area.

(3) Each governing board of the state-supported institutions of higher education shall submit to the department a plan describing the procedures and schedule for periodic program reviews and evaluation of each academic program at each institution consistent with the statewide goals specified in section 23-1-108 and further articulated in the master plan adopted pursuant to section 23-1-108 and the role and mission of each institution. The information to be provided to the department shall include, but shall not be limited to, the procedures for using internal and external evaluators, the sequence of such reviews, and the anticipated use of the evaluations.

(3.5) The commission may waive the provisions of subsections (2) and (3) of this section.

(4) Prior to the discontinuance of a program, the governing boards of state institutions of higher education are directed, subject to commission approval, to develop appropriate early retirement, professional retraining, and other programs to assist faculty members who may be displaced as a result of discontinued programs.

(5) The department shall ensure that each institution has an orderly process for the phaseout of programs.

(6) Repealed.

Source: L. 85: Entire article R&RE, p. 755, § 1, effective July 1. **L. 88:** (2)(a.5) to (2)(a.7) added, p. 838, § 2, effective April 21. **L. 94:** (2)(a.5) repealed, p. 1795, § 4, effective May 31. **L. 96:** (1), (2)(a), and (3) amended, p. 1833, § 6, effective June 5; (2)(a.7) repealed, p. 1235, § 76, effective August 7. **L. 2007:** (6) added, p. 338, § 3, effective April 2. **L. 2008:** (1), (2)(a), (3), and (5) amended, p. 1472, § 7, effective May 28. **L. 2009:** (6) repealed, (HB 09-1319), ch. 286, p. 1322, § 13, effective May 21. **L. 2011:** (1)(b) and (3) amended, (SB 11-052), ch. 232, p. 999, § 7, effective May 27. **L. 2017:** (1) amended and (3.5) added, (SB 17-297), ch. 210, p. 816, § 3, effective May 18.

Cross references: For the legislative declaration contained in the 1996 act repealing subsection (2)(a.7), see section 1 of chapter 237, Session Laws of Colorado 1996. For the legislative declaration in the 2011 act amending subsections (1)(b) and (3), see section 1 of chapter 232, Session Laws of Colorado 2011.

23-1-108. Duties and powers of the commission with regard to systemwide planning - reporting - definitions. (1) The commission, after consultation with the governing boards of institutions and as a part of the master planning process, shall have the authority to:

(a) Establish a policy-based and continuing systemwide planning, programming, and coordination process to effect the best use of available resources;

(b) Establish such academic and career and technical education planning as may be necessary to accomplish and sustain systemwide goals of high quality, access, diversity, efficiency, and accountability. Such planning must include identification by each governing board of programs of excellence at institutions under their control and plans for enhancement and improvement for those programs.

(c) Determine the role and mission of each state-supported institution of higher education within statutory guidelines;

(d) Establish enrollment policies, consistent with roles and missions, at state-supported institutions of higher education as described in statute and further defined in paragraph (c) of this subsection (1);

(e) Establish state policies that differentiate admission and program standards and that are consistent with institutional roles and missions as described in statute and further defined in paragraph (c) of this subsection (1);

(f) Adopt statewide affirmative action policies for the commission, governing boards, and state-supported institutions of higher education. Responsibility for implementation of such policies shall be reserved to the governing boards.

(g) Repealed.

(h) Establish systemwide policies concerning administrative costs.

(1.5) (a) On or before September 1, 2012, the commission shall develop and submit to the governor and the general assembly a new master plan for Colorado postsecondary education. The commission shall collaborate with the governing boards and chief executive officers of the state institutions of higher education in developing the master plan. In addition, the commission shall take into account the final report of the higher education strategic planning steering committee appointed by the governor. In drafting the master plan, addressing the issues specified in paragraph (b) of this subsection (1.5), and establishing the goals as described in paragraph (c) of this subsection (1.5) for the state system of higher education, the commission shall also take into consideration the data collected pursuant to subsection (1.7) of this section.

(b) At a minimum, the commission shall address the following issues in developing the master plan:

(I) The needs of the state with regard to the system of higher education and the top priorities for the state system of higher education in meeting those needs;

(II) Alignment of the state system of higher education with the system of elementary and secondary education and increasing the rate at which students who graduate from Colorado high schools enroll in and complete postsecondary and career and technical education;

(III) Accessibility and affordability of the state system of higher education, including consideration of methods to reduce the student debt load and increase need-based financial aid funding;

(IV) Funding for the state system of higher education and strategies for stabilizing and sustaining an adequate funding level;

(V) The role and mission of the state institutions of higher education and the governance structure of the state system of higher education;

(VI) The role of two-year and four-year local district colleges and area technical colleges in helping to address the workforce and economic development needs of the state within the system of higher education; and

(VII) The importance of private and proprietary institutions with regard to higher education in the state, although consideration of said institutions in the plan in no way implies control or state authority over their operations.

(c) The commission shall design the master plan to achieve, at a minimum, the following goals:

(I) Increasing the overall number of baccalaureate degrees, associate degrees, and career and technical education certificates issued by the public institutions of higher education in the state, while maintaining accessibility to the institutions, to provide support for economic development and a well-educated workforce for the business community in the state;

(II) Implementing systemic approaches, including coordinated and proven transitional programs, that strengthen the continuity of public education from elementary and secondary through postsecondary education for traditional and nontraditional students;

(III) Ensuring the long term fiscal stability and affordability of the state system of higher education and ensuring the efficient allocation of available state resources to support institutions of higher education while protecting the unique mission of each institution. The allocation shall take into consideration, but need not be limited to, tuition capacity, tuition rates relative to competitive institutions, the state resources available to institutions, funding for high-cost programs, the student and family incomes of students enrolled at institutions, enrollment levels, geographic access to educational opportunities throughout the state, and other issues deemed relevant by the commission.

(IV) Reducing the educational attainment gap between majority and underrepresented populations throughout the state;

(V) Reducing the geographic disparities in access to and opportunity to complete a broad array of quality higher education and career and technical education programs;

(VI) Addressing opportunities for students with disabilities, including intellectual disabilities, to participate in postsecondary education;

(VII) Implementing strategies that strengthen the link between higher education and economic development and innovation in the state; and

(VIII) Improving and sustaining excellence in career and technical education and undergraduate and graduate degree programs.

(d) (I) The commission shall ensure that the master plan prepared pursuant to this subsection (1.5) specifically addresses providing coordinated and proven programs that support and help ensure the success of students who graduate from Colorado high schools and are enrolling as first-time freshmen students and meet one or more of the following criteria:

(A) The student's family is low-income and the student is likely to incur significant student debt in attending an institution of higher education;

(B) The student's parents did not attend postsecondary education and may not have graduated from high school;

(C) The student is a member of an underrepresented population; or

(D) The student has limited access to technologies to support learning.

(II) Programs that may be addressed in the master plan include but need not be limited to:

(A) Providing student support services including counseling or tutoring;

(B) Implementing measures to reduce student debt by making effective use of financial assistance and assisting in fee payments and textbook costs; and

(C) Providing assistance in obtaining access to technology.

(e) Prior to submitting the master plan to the governor and the general assembly, the commission shall distribute a draft of the plan to the governing boards for comment. Each governing board shall submit to the commission its comments and any suggested revisions within thirty days after receiving the draft plan. The commission shall discuss and consider any revisions suggested by the governing boards to the draft master plan.

(f) (I) (A) The commission, in collaboration with the public institutions of higher education, shall ensure that the master plan is implemented through the public institutions of higher education, including through funding allocated pursuant to part 3 of article 18 of this title 23 and section 23-41-104.6. The department shall submit a budget request pursuant to section 23-18-306 that supports master plan goals.

(B) The department and public institutions of higher education shall annually affirm the institutions' contribution toward meeting the goals of the commission's master plan created pursuant to this section. An institution's contributions toward meeting the goals of the master plan must be outlined in accordance with the institution's role and mission and shall include, at a minimum, increasing credential completion, increasing annual completions by minority and low-income students, and improving persistence and retention rates. The department shall measure an institution's contributions using data collected for state and federal reporting purposes and for populating the higher education funding model.

(II) Beginning December 1, 2017, and no later than December 1 of each year thereafter, the department shall report to the joint budget committee and to the education committees of the house of representatives and of the senate, or their successor committees, concerning the master plan goals and each institution's progress toward meeting those goals. The department shall post the information contained in the report on the department's website. Notwithstanding the provisions of section 24-1-136 (11)(a)(I) to the contrary, the department's report continues indefinitely.

(1.7) The commission, working with the department, the governing boards, and the institutions of higher education, shall collect data, including but not limited to research conducted by national policy organizations and agencies or institutions of higher education in other states, as necessary to support development and implementation of the master plan pursuant to subsection (1.5) of this section.

(1.9) Repealed.

(2) The commission shall develop criteria for determining if an institution should be consolidated or closed and, after consultation with the appropriate governing board, shall make recommendations to the general assembly for closure or consolidation of campuses which meet such criteria.

(3) The commission, after consultation with the governing boards of institutions, may support the development of cooperative programs among state-supported institutions of higher education.

(4) The commission shall convene periodically the chief executive officers of the campuses for the purpose of evaluating and discussing statewide policy issues.

(5) The commission shall establish programs to develop and improve governing boards concerning statewide educational policy issues.

(6) The commission shall report annually to the governor and the general assembly on institutional and board performance and responsiveness to statewide objectives set by the commission in its master plan.

(7) (a) The commission shall establish, after consultation with the governing boards of institutions, and enforce statewide degree transfer agreements between two-year and four-year state institutions of higher education and among four-year state institutions of higher education. Governing boards and state institutions of higher education shall implement the statewide degree transfer agreements and the commission policies relating to the statewide degree transfer agreements. The statewide degree transfer agreements shall include provisions under which state institutions of higher education shall accept all credit hours of acceptable course work for automatic transfer from an associate of arts, associate of applied science, or associate of science degree program in another state institution of higher education in Colorado. The commission shall have final authority in resolving transfer disputes.

(b) (I) A student who completes an associate of arts, associate of applied science, or associate of science degree that is the subject of a statewide degree transfer agreement and who transfers from the state institution of higher education that awarded the degree to a four-year state institution of higher education shall, if admitted, be enrolled with junior status. Successful completion of an associate of arts, associate of applied science, or associate of science degree does not guarantee the degree holder admission to a four-year state institution of higher education.

(II) (A) A state institution of higher education that admits as a junior a student who holds an associate of arts degree, associate of applied science degree, or associate of science degree that is the subject of a statewide degree transfer agreement shall not require the student to complete any additional courses to fulfill general education requirements. A student who transfers under a statewide degree transfer agreement may be required to complete lower-division courses that are part of the major, but are not part of the statewide degree transfer agreement, if taking the courses does not require the transfer student to take more total credit hours to receive the degree than a native student and does not extend the total time required to receive the degree beyond that required for a native student. A state institution of higher education that requires a student who transfers under a statewide degree transfer agreement to take any courses beyond the courses authorized pursuant to this subsection (7)(b)(II) is responsible for the total cost of tuition, without participation by the student in the college opportunity fund program pursuant to part 2 of article 18 of this title 23, for any credit hours that exceed the total credit hours required for a native student or that extend the total time to receive the degree beyond that required for a native student. All credit hours of acceptable course work completed by a student who holds an associate of applied science degree that is the subject of a statewide degree transfer agreement and who transfers from the state institution of higher education that awarded the associate degree to a state four-year institution of higher education shall be applicable only to a bachelor of applied science degree program, except for courses that are subject to transfer pursuant to other transfer agreements.

(B) Nothing in subsection (7)(b)(II)(A) of this section alters, amends, creates, or imposes new requirements for statewide degree transfer agreements in effect prior to August 8, 2018.

(c) (I) Beginning July 1, 2010, the commission, in collaboration with the governing boards and the council convened pursuant to section 23-1-108.5 (3)(a), shall negotiate statewide degree transfer agreements and shall ensure that there are at least four statewide degree transfer agreements in place no later than July 1, 2012, and that, by no later than July 1, 2016, there are a total of at least fourteen statewide degree transfer agreements.

(II) The governing boards shall recommend to the commission the degree programs that would be most appropriate for statewide degree transfer agreements based on student demand and the workforce needs of the state.

(d) The existence of statewide degree transfer agreements does not preclude or restrict a state institution of higher education from awarding nontransfer associate of arts or associate of science degrees, applied associate degrees, or general liberal arts associate of arts or associate of science degrees.

(e) Nothing in this subsection (7) shall be construed to:

(I) Prevent or otherwise interfere with the ability of a state institution of higher education to fulfill its statutory role and mission;

(II) Prohibit one or more state institutions of higher education from entering into memoranda of understanding for the transfer of degrees among the agreeing institutions;

(III) Impair any memoranda of understanding between or among institutions of higher education in effect prior to August 11, 2010; or

(IV) Require the transfer of course credits earned during or applicable to a student's junior or senior year.

(f) On or before October 1, 1993, the commission shall establish and enforce student transfer agreements between degree programs offered on the same campus or within the same institutional system. Governing boards and state institutions of higher education shall implement the agreements and commission policies relating to the agreements. In accordance with the provisions of section 23-5-122, the agreements shall provide that:

(I) If, not more than ten years prior to transferring into an undergraduate degree program, a student earns credit hours that are required for graduation from the undergraduate degree program, the credit hours shall apply to the completion of the student's graduation requirements from the undergraduate degree program following the transfer;

(II) A student who transfers into an undergraduate degree program shall not be required to complete a greater number of credit hours in those courses that are required for graduation from the undergraduate degree program than are required of students who began in the undergraduate degree program, nor shall there be any minimum number of credit hours required post-transfer other than the normal degree requirements for nontransferring students; and

(III) The grade point average that is required for a student to apply for and be fully considered for transfer into an undergraduate degree program shall be no higher than that which is required for graduation from the undergraduate degree program.

(g) As used in this subsection (7), unless the context otherwise requires:

(I) "Native student" means a student who begins and completes an undergraduate degree program at a single state institution of higher education.

(II) "State institution of higher education" means a public postsecondary institution that is governed by:

(A) The board of governors of the Colorado state university system;

(B) The board of regents of the university of Colorado;

(C) The board of trustees of the Colorado school of mines;

(D) The board of trustees of the university of northern Colorado;

(E) The board of trustees of Adams state university;

(F) The board of trustees of Western Colorado university;

(G) The board of trustees of Colorado Mesa university;

(H) The board of trustees for Fort Lewis college;

(I) The board of trustees for Metropolitan state university of Denver;

(J) The state board for community colleges and occupational education; or

(K) The board of trustees of a local college district organized pursuant to article 71 of this title.

(III) "Statewide degree transfer agreement" means an agreement among all of the state institutions of higher education for the transfer of an associate of arts or an associate of science degree. A statewide degree transfer agreement applies to common degree programs and specifies the common terms, conditions, and expectations for students enrolled in statewide degree transfer programs.

(8) The commission shall prescribe uniform academic reporting policies and procedures to which the governing boards and their institutions shall adhere.

(9) The state-supported institutions of higher education shall provide the commission with such data as the commission deems necessary upon its formal request, including but not limited to any data requested pursuant to subsection (1.7) of this section. Data for individual students or personnel shall not be divulged or made known in any way by the director of the commission or by any commission employee, except in accordance with judicial order or as otherwise provided by law. Any person who violates this subsection (9) commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S. Such person shall, in addition thereto, be subject to removal or dismissal from public service on grounds of malfeasance in office.

(10) The commission may enter, on behalf of the state of Colorado, into agreements with another state or with the western interstate commission for higher education on behalf of another state for the granting of full or partial waivers of the nonresident tuition to residents of such other states who are postgraduate or professional students at or are eligible for admission as postgraduate students to any of the state-supported institutions of higher education in Colorado if the agreement provides that, under substantially the same circumstances, such other state will grant reciprocal waivers to residents of Colorado who are postgraduate or professional students of universities or colleges in such other states. The commission, in consultation with the affected Colorado institutions, shall establish regulations governing the administration of agreements and the granting of waivers. In 1996 and in each subsequent even-numbered year, the commission shall report to the governor and the general assembly on these programs.

(11) Repealed.

(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.

(b) For fiscal years beginning on or after July 1, 2016, the commission shall establish tuition policies based on institutional role and mission, and the governing boards shall set tuition consistent with said policies.

(13) (a) It is the intent of the general assembly that academic degree programs at state-supported institutions of higher education be designed and implemented to assure and emphasize

that undergraduate students have the maximum range of opportunities and assistance to complete their course of study and obtain their degree in a reasonable amount of time. The general assembly therefore directs the commission, within existing resources, to implement and revise appropriate policies, including financial incentives, to assure that students at state-supported institutions of higher education complete their academic degree programs in the most efficient, effective, and productive manner. The policy implementation and review shall include:

(I) Academic advising and counseling at such institutions and consideration of methods for the improvement of early and continuous availability of such academic advising and counseling in order to assist students with the completion of degree programs;

(II) The frequency and availability of courses essential to completion of degree programs at such institutions and evaluation of what changes may be necessary to assure that the course scheduling for degree programs by such institutions maximizes the opportunities for students to complete their course of study efficiently, effectively, and productively;

(III) Measures for minimizing and eliminating the restrictions against automatic transfer of credit hours of acceptable course work between such institutions and whether the provisions of transfer agreements between two-year and four-year institutions and among four-year institutions entered into pursuant to subsection (7) of this section are directed at easing such transfer restrictions;

(IV) Methods for minimizing the loss of credit hours when a student changes degree programs at such institution and assurance that such credit hours are transferred or substituted for appropriate course work in the other degree program;

(V) The review of possible solutions for access of nontraditional and part-time students to complete programs within the student's time frame goals;

(VI) What effect, if any, the reduction of degree programs would have on the increased availability of classes within existing degree programs;

(VII) What effect increases in educational costs may have on the average length of time for a student to complete a degree program; and

(VIII) The implementation of core curricula as a measure for assisting students to graduate.

(b) Repealed.

(14) Pursuant to section 23-18-201 (2), the commission shall negotiate performance contracts with private institutions of higher education that participate in the college opportunity fund program.

Source: L. 85: Entire article R&RE, p. 756, § 1, effective July 1. **L. 87:** (1)(h) amended, p. 844, § 1, effective April 22. **L. 90:** (1)(b) amended, p. 1141, § 5, effective July 1. **L. 92:** (13) added, p. 579, § 1, effective April 29. **L. 93:** (7) amended, p. 2125, § 7, effective June 11. **L. 94:** (11) repealed, p. 1795, § 5, effective May 31; (12) amended, p. 1994, § 2, effective June 2. **L. 95:** (10) amended, p. 39, § 1, effective January 1, 1996. **L. 96:** IP(1) amended, p. 1834, § 7, effective June 5; (13)(b) repealed, p. 1236, § 77, effective August 7. **L. 2002:** (9) amended, p. 1529, § 237, effective October 1. **L. 2010:** (1.5) added and (12) amended, (SB 10-003), ch. 391, pp. 1834, 1841, §§ 2, 5, effective June 9; (7) amended, (HB 10-1208), ch. 191, p. 819, § 1, effective August 11. **L. 2011:** IP(1), (1.5), and (9) amended and (1.7) and (1.9) added, (SB 11-052), ch. 232, p. 993, § 2, effective May 27; (7)(g)(II)(G) amended, (SB 11-265), ch. 292, p. 1364, § 13, effective August 10; (12)(a) amended, (HB 11-1301), ch. 297, p. 1418, § 7, effective

August 10. **L. 2012:** (7)(g)(II)(E) amended, (HB 12-1080), ch. 189, p. 756, § 8, effective May 19; (7)(g)(II)(I) amended, (SB 12-148), ch. 125, p. 425, § 7, effective July 1; (7)(g)(II)(F) amended, (HB 12-1331), ch. 254, p. 1268, § 8, effective August 1; (1.5)(f) and (1.9)(a)(II) amended, (HB 12-1155), ch. 255, p. 1279, § 3, effective August 8. **L. 2014:** (1.9)(a)(II) amended, (HB 14-1319), ch. 169, p. 613, § 10, effective May 9; (7)(a) and (7)(b) amended, (SB 14-004), ch. 5, p. 122, § 13, effective August 6. **L. 2015:** (1.9)(b) amended, (SB 15-237), ch. 129, p. 402, § 3, effective May 1. **L. 2016:** (1.5)(b)(VI), (1.9)(a)(I), (1.9)(a)(III), and (1.9)(b) amended, (HB 16-1082), ch. 58, p. 142, § 10, effective August 10. **L. 2017:** (1.5)(f), (1.7), and (3) amended, (1.9) repealed, and (14) added, (SB 17-297), ch. 210, pp. 817, 818, §§ 4, 5, effective May 18; (1)(b) amended, (SB 17-294), ch. 264, p. 1397, § 54, effective May 25; (1)(g) repealed, (HB 17-1251), ch. 253, p. 1058, § 3, effective August 9. **L. 2018:** (7)(b)(II) amended, (SB 18-069), ch. 66, p. 620, § 1, effective August 8. **L. 2019:** (7)(g)(II)(F) amended, (HB 19-1178), ch. 400, p. 3544, § 7, effective July 1. **L. 2020:** (1.5)(f)(I)(A) amended, (HB 20-1366), ch. 181, p. 833, § 7, effective June 29.

Editor's note: This section is similar to former § 23-1-108 as it existed prior to 1985.

Cross references: (1) For provisions concerning public records applicable to data for students and personnel of institutions of higher education, see part 2 of article 72 of title 24.

(2) For the legislative declaration contained in the 1996 act repealing subsection (13)(b), see section 1 of chapter 237, Session Laws of Colorado 1996. For the legislative declaration contained in the 2002 act amending subsection (9), see section 1 of chapter 318, Session Laws of Colorado 2002. For the legislative declaration in the 2010 act adding subsection (1.5) and amending subsection (12), see section 1 of chapter 391, Session Laws of Colorado 2010. For the legislative declaration in the 2011 act amending the introductory portion to subsection (1) and subsections (1.5) and (9) and adding subsections (1.7) and (1.9), see section 1 of chapter 232, Session Laws of Colorado 2011. For the legislative declaration in the 2011 act amending subsection (7)(g)(II)(G), see section 1 of chapter 292, Session Laws of Colorado 2011. For the legislative declaration in the 2012 act amending subsection (7)(g)(II)(I), see section 1 of chapter 125, Session Laws of Colorado 2012. For the legislative declaration in SB 14-004, see section 1 of chapter 13, Session Laws of Colorado 2014.

23-1-108.5. Duties and powers of the commission with regard to common course numbering system - definitions - repeal. (1) The general assembly hereby finds that, for many students, the ability to transfer among all state-supported institutions of higher education is critical to their success in achieving a degree. The general assembly further finds that it is necessary for the state to have sound transfer policies that provide the broadest and simplest mechanisms feasible, while protecting the academic quality of the institutions of higher education and their undergraduate degree programs. The general assembly finds, therefore, that it is in the best interests of the state for the commission to oversee the adoption of a statewide articulation matrix system of course numbering for general education courses that includes all state-supported institutions of higher education and that will ensure that the quality of and requirements that pertain to general education courses are comparable and transferable systemwide.

(2) As used in this section, unless the context otherwise requires:

(a) "Council" means the council convened pursuant to paragraph (a) of subsection (3) of this section.

(b) "Course numbering system" means the statewide articulation matrix system of common course numbering for general education courses adopted by the commission pursuant to paragraph (c) of subsection (3) of this section.

(c) "General education courses" means the group of courses offered by an institution of higher education that every student enrolled in the institution must successfully complete to attain an associate's or bachelor's degree.

(d) "Higher education institution" means a state-supported institution of higher education.

(3) (a) On or before July 1, 2001, the commission shall convene a council consisting of representatives from each of the higher education governing boards and each of the four-year higher education institutions, a representative sample of the two-year higher education institutions, and a representative of the commission. The commission shall consult with the governing boards when convening representatives from the higher education institutions. By July 1, 2011, the council shall create a process through which it shall seek input from and consult with various higher education student organizations for each articulation agreement and for the review of general education courses and the course numbering system as required in paragraph (c) of this subsection (3).

(b) The council shall recommend to the commission a statewide articulation matrix system of common course numbering to which the general education courses for each higher education institution may be mapped.

(c) (I) On or before October 1, 2002, the council shall recommend to the commission a list of general education courses to be included in the course numbering system. In identifying said general education courses, the council shall review the course descriptions, and may request summaries of course syllabi for review, focusing first on lower division general education courses. The commission shall review the council's recommendations and adopt a statewide articulation matrix system of common course numbering for general education courses, including criteria for such courses, on or before January 1, 2003.

(II) The council shall annually review the list of general education courses and the course numbering system, including the criteria, adopted by the commission and recommend such changes as may be necessary to maintain the accuracy and integrity of the course numbering system. The council's annual review shall include consideration of the course descriptions, and the council may request summaries of course syllabi for further review.

(d) Repealed.

(e) This subsection (3) is repealed, effective September 1, 2021. Prior to such repeal, the council of higher education representatives shall be reviewed as provided for in section 2-3-1203, C.R.S.

(4) (a) Following adoption of the course numbering system, each higher education institution shall review its course offerings and identify those general education courses offered by the institution that correspond with the courses included in the course numbering system. The higher education institution shall submit its list of identified courses, including course descriptions and, upon request of the commission, summaries of course syllabi, for review and approval by the commission on or before March 1, 2003.

(b) Beginning with the fall semester of 2003, each higher education institution shall publish, and update as necessary, a list of course offerings that identifies those general education courses offered by the institution that correspond with the courses included in the course numbering system.

(5) All credits earned by a student in any general education course identified as corresponding with a course included in the course numbering system shall be automatically transferable among all higher education institutions upon transfer and enrollment of the student. All higher education institutions in Colorado shall participate in the course numbering system. The commission shall adopt such policies and guidelines as may be necessary for the implementation of this section. Each governing board shall modify its existing policies as may be necessary to accept the transfer of these credits.

(6) (a) The council shall devise and recommend to the commission procedures for exchanging information to document students' success in transferring among higher education institutions. The commission shall adopt and implement such procedures.

(b) The commission, in consultation with the governing boards and the higher education institutions, shall design and implement a statewide database to implement the provisions of this section.

(7) The commission may accept any public or private gifts, grants, or donations given for the purpose of implementing this section. Any such gifts, grants, or donations shall be credited to the course numbering fund, which fund is hereby created in the state treasury. Moneys credited to the fund are hereby continuously appropriated to the commission for use in offsetting the costs incurred by the commission in implementing this section and for allocation to the governing boards to offset the costs incurred by the governing boards in implementing this section. All interest derived from the deposit and investment of moneys in the course numbering fund shall be credited to said fund. Any amount remaining in the course numbering fund at the end of any fiscal year shall remain in said fund and shall not be credited or transferred to the general fund or to any other fund.

Source: L. 2001: Entire section added, p. 1028, § 1, effective June 5. **L. 2004:** (3)(d) repealed, p. 583, § 2, effective August 4. **L. 2008:** (4)(a) amended, p. 1473, § 8, effective May 28; (3)(e) amended, p. 1901, § 85, effective August 5. **L. 2011:** (3)(a) and (3)(e) amended, (SB 11-100), ch. 87, p. 251, § 3, effective March 31. **L. 2016:** (3)(e) amended, (HB 16-1177), ch. 218, p. 833, § 1, effective June 6.

23-1-109. Duties and powers of the commission with regard to off-campus instruction - provision of concurrent enrollment programs - legislative declaration - definitions. (1) The general assembly declares its intent that the state-supported institutions of higher education may engage in instruction off the geographic boundaries of their campuses.

(2) The commission shall define, after consultation with the governing boards of institutions, the geographic and programmatic service areas for each state-supported institution of higher education. No such institution shall provide instruction off-campus in programs or in geographic areas or at sites not approved by the commission, unless otherwise provided by law.

(3) The general assembly declares its intent that all instruction at two-year institutions, including the first two years of instruction at Adams state university and Colorado Mesa

university, shall be funded throughout the institutions' commission-approved service area on the same basis as on-campus instruction.

(4) The department shall administer any centralized, statewide extension and continuing education program of instruction that may be offered by any state-supported baccalaureate and graduate institution. All instruction offered outside the geographic boundaries of the campus, including instruction delivered by television or other technological means, shall be a part of this program unless exempted by policy and action of the commission.

(5) The commission shall set policies, after consultation with the governing boards of institutions, which define which courses and programs taught outside the geographic boundaries of the campus may be eligible for general fund support. The commission may include funding for those courses and programs in its systemwide funding recommendations to the general assembly.

(6) (a) As used in this subsection (6), unless the context otherwise requires:

(I) "Commission-approved two-year institution" means the two-year institution of higher education in whose college service area the local education provider is located.

(II) "Two-year institution of higher education" means a state-supported institution of higher education with a two-year role and mission, including the community college role and mission of Adams state university and Colorado Mesa university.

(b) The commission shall establish a policy that facilitates local education provider participation in a concurrent enrollment program or course, pursuant to article 35 of title 22, with a two-year institution of higher education that is outside of the geographic boundaries of the commission-approved college service area in which the local education provider is located. The commission's policy shall apply when a local education provider has requested in writing, after the adoption of the commission policy pursuant to this subsection (6)(b), a concurrent enrollment program or course from the commission-approved two-year institution and the commission-approved two-year institution declines in writing to provide the requested concurrent enrollment program or course. A two-year institution of higher education that fails to agree or decline in writing to provide a concurrent enrollment program or course in response to a written request within forty-five days of receiving the request shall be deemed to have declined to provide the program or course.

(c) Nothing in this section requires a local education provider to enter into a cooperative agreement for a concurrent enrollment program or course or precludes two-year institutions of higher education from entering into voluntary service area waiver agreements under which a two-year institution of higher education agrees to allow another two-year institution of higher education to provide a concurrent enrollment program or course within its commission-approved college service area.

(d) When a two-year institution of higher education provides a concurrent enrollment program or course outside of its commission-approved college service area in accordance with commission policies established pursuant to subsection (6)(b) of this section or pursuant to a voluntary service area waiver agreement with another two-year institution of higher education, the concurrent enrollment program or course shall be funded as though offered as on-campus instruction within the commission-approved college service area of the two-year institution of higher education providing the concurrent enrollment program or course.

(e) Nothing in this subsection (6) affects provisions contained in article 35 of title 22 relating to the tuition rate paid for a concurrent enrollment program or course.

Source: L. 85: Entire article R&RE, p. 757, § 1, effective July 1. **L. 88:** (3) amended, p. 857, § 4, effective July 1. **L. 2008:** (4) amended, p. 1473, § 9, effective May 28. **L. 2011:** (3) amended, (SB 11-265), ch. 292, p. 1365, § 14, effective August 10. **L. 2012:** (3) amended, (HB 12-1080), ch. 189, p. 757, § 9, effective May 19. **L. 2018:** (6) added, (HB 18-1052), ch. 48, p. 483, § 1, effective August 8.

Editor's note: This section is similar to former § 23-1-109.5 as it existed prior to 1985.

Cross references: For the legislative declaration in the 2011 act amending subsection (3), see section 1 of chapter 292, Session Laws of Colorado 2011.

23-1-109.3. Duties and powers of the commission with regard to student data - memorandum of understanding. Notwithstanding the provisions of section 22-2-111 (3)(a), C.R.S., the commission shall enter into a memorandum of understanding on or before September 1, 2006, with the state board of education to adopt a policy to share student data. At a minimum, the policy shall ensure that the exchange of information is conducted in conformance with the requirements of the federal "Family Educational Rights and Privacy Act of 1974", as amended, 20 U.S.C. sec. 1232g, and all federal regulations and applicable guidelines adopted in accordance therewith. The policy shall additionally require the department, upon request, to share student data with qualified researchers. For purposes of this section, qualified researchers shall include, but need not be limited to, institutions of higher education, school districts, and public policy research and advocacy organizations.

Source: L. 2006: Entire section added, p. 716, § 3, effective July 1. **L. 2008:** Entire section amended, p. 1473, § 10, effective May 28.

23-1-109.5. Duties and powers of the commission with regard to fiscal accountability. (Repealed)

Source: L. 90: Entire section added, p. 1140, § 3, effective July 1. **L. 94:** Entire section repealed, p. 1795, § 6, effective May 31.

23-1-109.7. Duties and powers of the commission with regard to the provision of educational services.

(1) (Deleted by amendment, L. 2014.)

(2) **[*Editor's note: This version of subsection (2) is effective until July 1, 2021.*]** Beginning July 1, 2005, the commission is responsible for ensuring the provision of postsecondary educational services pursuant to part 3 of article 18 of this title 23. The department of higher education on behalf of the commission shall annually enter into fee-for-service contracts with one or more governing boards of institutions of higher education pursuant to section 23-18-303 to provide the higher education services specified in section 23-18-301.

(2) **[*Editor's note: This version of subsection (2) is effective July 1, 2021.*]** Beginning July 1, 2005, the commission is responsible for ensuring the provision of postsecondary educational services pursuant to part 3 of article 18 of this title 23. The department of higher education on behalf of the commission shall annually enter into fee-for-service contracts with

one or more governing boards of institutions of higher education pursuant to section 23-18-303.5 to provide the higher education services specified in section 23-18-301.

(3) **[*Editor's note: This version of subsection (3) is effective until July 1, 2021.*]** The commission shall make annual funding recommendations to the general assembly and the governor regarding the funding necessary for the department of higher education to contract on the commission's behalf for the provision of higher education services in the state, including but not limited to the services specified in sections 23-18-301 and 23-18-303. The general assembly shall annually appropriate to the commission an amount of general fund moneys to carry out the purposes of this section.

(3) **[*Editor's note: This version of subsection (3) is effective July 1, 2021.*]** The commission shall make annual funding recommendations to the general assembly and the governor regarding the funding necessary for the department of higher education to contract on the commission's behalf for the provision of higher education services in the state, including but not limited to the services specified in sections 23-18-301 and 23-18-303.5. The general assembly shall annually appropriate to the commission an amount of general fund money to carry out the purposes of this section.

Source: L. 2004: Entire section added, p. 717, § 4, effective July 1. **L. 2005:** (1)(b), (1)(c), (1)(d), and (1)(h) amended, p. 1014, § 6, effective June 2. **L. 2014:** Entire section amended, (HB 14-1319), ch. 169, p. 610, § 2, effective May 9. **L. 2017:** (2) amended, (SB 17-297), ch. 210, p. 818, § 6, effective May 18. **L. 2020:** (2) and (3) amended, (HB 20-1366), ch. 181, p. 833, § 10, effective July 1, 2021.

Cross references: For the legislative findings and declarations contained in the 2004 act enacting this section, see section 1 of chapter 215, Session Laws of Colorado 2004.

23-1-109.8. Duties and powers of the commission with regard to employment first policies. (1) The commission shall facilitate employment first policies and practices by providing department input and assistance to the employment first advisory partnership described in section 8-84-303, C.R.S., in carrying out its duties.

(2) The department shall present the reports and recommendations of the employment first advisory partnership to the department's legislative committee of reference pursuant to section 8-84-303 (7), C.R.S.

Source: L. 2016: Entire section added, (SB 16-077), ch. 360, p. 1506, § 7, effective July 1.

Cross references: For the legislative declaration in SB 16-077, see section 1 of chapter 360, Session Laws of Colorado 2016.

23-1-110. Organization, meetings, and staff. (1) The commission shall adopt its own rules of procedure, shall elect a chairman, a vice-chairman, and such other officers as it deems necessary, and shall keep a record of its proceedings, which shall be open to public inspection. Meetings of the commission shall be open to the public at all times; but, by a two-thirds vote of the members present at any meeting, the commission may go into executive session for

consideration of personnel matters in accordance with part 4 of article 6 of title 24, C.R.S. No final policy decision, resolution, rule, regulation, or formal action and no action approving a contract calling for the payment of money shall be adopted or approved at any executive session.

(2) (a) The governor shall appoint, with the consent of the senate, an executive director qualified by substantial training and experience in the field of higher education. The executive director shall be the executive officer of the commission and the department, shall serve at the pleasure of the governor, and shall receive compensation commensurate with the duties of the office as determined by the governor. The duties and responsibilities of the executive director shall be discharged in accordance with the policies, procedures, and directives of the commission and the department. The executive director shall employ such professional and clerical personnel as deemed necessary to carry out the duties and functions of the commission and the department. Offices held by the executive director and professional personnel are declared to be educational in nature and not under the state personnel system.

(b) (Deleted by amendment, L. 2008, p. 1474, § 11, effective May 28, 2008.)

(3) The executive director shall conduct all studies and programs of the commission and coordinate such studies and programs with those of other state agencies having duties and functions concerned with higher education, so as to avoid duplication of programs and staff.

(4) The executive director shall review and approve or deny any proposed action or recommendation of the private occupational school board acting pursuant to article 64 of this title 23.

Source: L. 85: Entire article R&RE, p. 758, § 1, effective July 1. **L. 90:** (4) added, p. 1157, § 1, effective July 1. **L. 93:** (2) amended, p. 2123, § 4, effective June 11. **L. 99:** (2) amended, p. 881, § 5, effective July 1. **L. 2005:** (2)(b) amended, p. 278, § 7, effective August 8. **L. 2008:** (2) and (4) amended, p. 1474, § 11, effective May 28. **L. 2017:** (4) amended, (HB 17-1239), ch. 261, p. 1204, § 8, effective August 9.

Editor's note: This section is similar to former § 23-1-104 as it existed prior to 1985.

23-1-110.5. Study of higher education organization - legislative declaration - issues - report - repeal. (Repealed)

Source: L. 99: Entire section added, p. 672, § 1, effective May 18.

Editor's note: Subsection (7) provided for the repeal of this section, effective July 1, 2001. (See L. 99, p. 672.)

23-1-111. Commission study - governance and administration of vocational and occupational education. (Repealed)

Source: L. 85: Entire article R&RE, p. 758, § 1, effective July 1.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 1986. (See L. 85, p. 758.)

23-1-112. Tuition - reciprocal agreements. Except as provided in section 23-1-108 (10), the commission shall identify those circumstances where the waiving of the nonresident differential in tuition rates, on a reciprocal basis with other states, would enhance educational opportunities for Colorado residents. Relative to such identified circumstances, the commission shall negotiate with the other states involved with the objective of establishing reciprocal agreements for the waiving of the nonresidential differential for Colorado residents attending state institutions of higher education in other states in exchange for Colorado state institutions of higher education waiving the nonresident differential for residents of the other states. Agreements negotiated between Colorado and other states shall provide for an equal number of resident and nonresident students to be exchanged between the states. Upon successful completion of such negotiations, the commission may identify the numbers of Colorado residents by grade level whose educational opportunities would be enhanced and the numbers of nonresident students by grade level for whom the nonresident differential is to be waived by the Colorado state institutions of higher education and may direct that the state institutions of higher education grant such waivers. The commission shall establish regulations for the administration of this section, based on the application of the closest college concept, and for the reporting to the general assembly of the numbers of students to whom the waivers are given.

Source: L. 85: Entire article R&RE, p. 759, § 1, effective July 1.

Editor's note: This section is similar to former § 23-1-112.5 as it existed prior to 1985.

23-1-113. Commission directive - admission standards for baccalaureate and graduate institutions of higher education - policy - report - definitions. (1) (a) The commission shall establish and the governing boards shall implement academic admission standards for first-time freshmen and transfer students at all state-supported baccalaureate and graduate institutions of higher education in the state. The commission shall establish and may subsequently review and amend the standards after consultation with the governing boards of institutions. The academic admission standards for students who do not have in-state status, as determined pursuant to section 23-7-103, shall equal or exceed those established for determining admission of in-state students.

(b) (I) The standards established for first-time admitted freshman students must use a combination of high school academic performance indicators and national assessment test scores for eligibility criteria. The academic performance indicators may include, but are not limited to, grade point average, class rank, and content standard performance level assessments. The criteria established and the specified performance levels must be consistent with the role and mission established for each state-supported institution of higher education. In considering the high school academic performance indicators, the commission and the governing boards may take into account the rigor of a student's high school academic preparation and the academic content of the courses taken. In lieu of the established statewide criteria, each governing board may use additional criteria for up to twenty percent of the freshmen students annually admitted to each institution under the governing board's control. Students who meet the minimum criteria for admission are not guaranteed admission to the institution to which they have applied, but they are eligible for consideration.

(II) Notwithstanding any law to the contrary, the governing board of a state-supported institution of higher education may, but is not required to, require a national assessment test score as an eligibility criterion of academic admission standards for first-time freshman students who graduate from high school in 2021.

(c) The standards established for transfer students must use college academic performance indicators as the eligibility criteria for admitted transfer students. The academic performance indicators may include but are not limited to grade point average, credit hours completed, and successful completion of developmental education courses, if required and as appropriate considering the role and mission of the receiving institution. In lieu of such criteria, additional criteria may be used for up to twenty percent of the admitted transfer students. The academic admission standards and policies established for transfer students must be consistent with the student transfer agreements established by the commission pursuant to section 23-1-108 (7)(f). Students who meet the minimum criteria for admission are not guaranteed admission to the institution to which they have applied, but they are eligible for consideration.

(d) Repealed.

(1.5) (a) (I) The commission shall establish and the governing boards shall implement a policy pursuant to section 23-1-113.3 to identify matriculated students who need additional supports to be successful in gateway courses in English and mathematics and standards and procedures whereby state institutions of higher education may offer supplemental academic instruction or developmental education courses as provided in section 23-1-113.3. The commission's policy must prohibit the placement of a student in developmental education courses based on a single instrument or test and must be designed to maximize the likelihood that a student will complete gateway courses in English and mathematics within one year. In addition, the commission's policy must require state institutions to use an evidence-based placement approach to placing students into English as a second language courses, and placement of these students must be designed to maximize the likelihood that a student placed in English as a second language courses will complete gateway courses in English within three years. The commission, in consultation with the governing boards, shall ensure that the policy aligns with the admission policy adopted pursuant to subsection (1) of this section. In identifying the standards for developmental education, the commission may differentiate requirements for mathematics based on the prerequisite skills needed for required courses within a student's declared program of study.

(II) As part of the policy established pursuant to this subsection (1.5)(a), all state institutions of higher education are authorized to provide supplemental academic instruction even if the institution is not authorized to provide developmental education courses pursuant to section 23-1-113.3. The institution may receive stipend payments from the state pursuant to section 23-18-202 on behalf of an eligible undergraduate student, as defined in section 23-18-102 (5), who is enrolled in a college-level course that includes supplemental academic instruction or co-requisite support or who is enrolled in a pilot program pursuant to section 23-1-113.3 (1)(a)(III).

(b) Each governing board shall adopt policies and procedures that are aligned with the policy established by the commission pursuant to subsection (1.5)(a) of this section and that ensure that, to the extent required by the commission policy, each matriculated student who may need additional supports to be successful in gateway courses in English and mathematics has access to supplemental academic instruction. The institution that enrolls the student shall select

which measures to use from among those that meet the standards established in the commission policy. The commission, in consultation with the governing boards, shall collect information regarding the measures used by the institutions for placement to help analyze the data reported pursuant to subsection (9) of this section and by section 23-1-113.3 (4).

(c) All students enrolled in programs that require gateway courses in English and mathematics at state institutions of higher education should complete gateway courses by the time the student completes thirty college-level credit hours.

(2) Repealed.

(3) (a) (Deleted by amendment, L. 2004, p. 201, § 16, effective August 4, 2004.)

(b) (Deleted by amendment, L. 96, p. 1236, § 78, effective August 7, 1996.)

(4) The commission shall work with the state board of education to align the academic admission standards established pursuant to this section with the guidelines for high school graduation requirements developed pursuant to section 22-2-106 (1)(a.5), C.R.S. Any revised academic admission standards shall be implemented no later than the selection of the freshman class of fall 2012.

(5) (a) On or before December 15, 2009, pursuant to section 22-7-1008, C.R.S., the commission shall consult with the state board of education, and the commission and the state board of education shall negotiate a consensus and adopt the description of postsecondary and workforce readiness.

(b) On or before July 1, 2015, and on or before July 1 every six years thereafter, the commission and the state board of education may adopt revisions to the postsecondary and workforce readiness description.

(6) Repealed.

(7) Notwithstanding any provision of this section to the contrary, a student who graduates with a high school diploma that includes a postsecondary and workforce readiness endorsement based on criteria adopted by the state board and approved by the commission and the governing boards of the state institutions of higher education pursuant to section 22-7-1009, C.R.S., shall be guaranteed:

(a) To meet minimum academic qualifications for admission to, and to be eligible, subject to additional institutional review of other admission and placement qualifications, for placement into credit-bearing courses at, all open, modified open, or moderately selective public institutions of higher education in Colorado; and

(b) To receive priority consideration, in conjunction with additional admissions criteria, and to be eligible, subject to additional institutional review of other admission and placement qualifications, for placement into credit-bearing courses, at all other public institutions of higher education in Colorado. The additional admissions criteria shall be determined by each institution of higher education.

(8) (a) On or before December 15, 2013, based on adoption of the description of postsecondary and workforce readiness, the commission shall, if necessary, revise the minimum academic admission standards for first-time freshmen at all state-supported baccalaureate and graduate institutions of higher education in the state to ensure that the minimum academic admission standards are aligned with the description of postsecondary and workforce readiness adopted by the commission and the state board of education.

(b) On or before December 15, 2013, the commission shall review the policy established pursuant to subsection (1.5)(a) of this section and the developmental education placement or

assessment tests administered pursuant to subsection (1.5) of this section to ensure that the policy and tests are aligned with the postsecondary and workforce readiness description.

(c) Consistent with any revisions adopted pursuant to this section to the description of postsecondary and workforce readiness, the commission shall, if necessary, adopt revisions to the minimum academic admission standards, the policy established pursuant to subsection (1.5)(a) of this section, and the developmental education placement or assessment tests to ensure continued alignment with the postsecondary and workforce readiness description.

(d) In revising the minimum academic admission standards, the policy established pursuant to subsection (1.5)(a) of this section, and the developmental education placement or assessment tests pursuant to this subsection (8), the commission shall consult with the governing boards of the state institutions of higher education.

(9) (a) Notwithstanding section 24-1-136 (11)(a)(I) to the contrary, on or before February 15, 2012, and on or before April 15 each year thereafter, the department of higher education shall submit to the state board of education, the department of education, and the education committees of the house of representatives and the senate, or any successor committees, a report, subject to available data, for the high school graduating classes of the preceding six academic years concerning:

(I) The need for additional supports for students to be successful in gateway courses in English and mathematics, the subject for which the students are identified as needing additional supports to be successful in gateway courses, and student success in gateway courses;

(II) First-year college grades; and

(III) Types of academic certificates and degrees attained at all postsecondary institutions in Colorado and the United States.

(b) The department of higher education shall report the information disaggregated by high school and school district of graduation, to the extent practicable, and by ethnicity, gender, financial aid status, and any other characteristic deemed relevant by the commission. The department of higher education and the department of education shall also make the report available on their respective websites.

(10) On or before February 15, 2009, and on or before April 15 each year thereafter, the department of higher education shall submit to the department of education the unit records used for its reporting purposes under this section to enable the department of education to evaluate the effectiveness of the alignment of the preschool through postsecondary education systems in preparing students who demonstrate postsecondary and workforce readiness and subsequently succeed in postsecondary education and to enable the department of higher education to disseminate the unit records to the appropriate school districts.

(11) As used in this section, unless the context otherwise requires:

(a) "Academic skills courses" means courses that teach the basic academic skills necessary to succeed at a postsecondary institution.

(b) "Developmental education courses" means courses that are prerequisites to the level of work expected at a postsecondary institution and include academic skills courses and preparatory courses.

(b.5) "Gateway course" means the first college-level course in English or mathematics that is approved for statewide transfer pursuant to section 23-1-125 (3) and that a student takes to fulfill the English or mathematics requirement for the student's program of study.

(c) "National assessment test scores" include, but are not limited to, ACT test scores and SAT test scores.

(d) "Preparatory courses" means courses designed for students who demonstrate a deficient skill level in the general competencies necessary to succeed in a standard postsecondary curriculum and include but are not limited to reading courses that focus on nontechnical vocabulary, word identification, and reading of everyday material; writing courses that focus primarily on grammar, usage, punctuation, and effective sentences and paragraphs; and mathematics courses primarily covering concepts introduced in elementary and intermediate algebra and geometry.

(e) (I) "Supplemental academic instruction" means academic support models that use peer or instructor study sessions or individualized in-class academic support to improve student learning, retention, or success. "Supplemental academic instruction" also includes co-requisite and modified co-requisite supports. "Supplemental academic instruction" does not include prerequisite developmental education courses.

(II) As referenced in subsection (11)(e)(I) of this section, co-requisite or modified co-requisite supports are designed for students identified as needing additional supports to be successful in college-level gateway courses. Co-requisite models pair a transfer-level course with a support course, extending the instructional time through additional lecture or lab hours, or require students to participate in academic support services in mathematics, English, or writing.

Source: L. 85: Entire article R&RE, p. 759, § 1, effective July 1. **L. 93:** (1)(a) amended, p. 2124, § 5, effective June 11. **L. 94:** (1)(c) amended, p. 1795, § 7, effective May 31. **L. 95:** (1)(b) and (1)(c) amended and (3) added, p. 54, § 3, effective March 20; (2) amended, p. 39, § 2, effective January 1, 1996. **L. 96:** (1)(b) and (1)(c) amended, p. 171, § 1, effective July 1; (2) and (3)(b) amended, p. 1236, § 78, effective August 7. **L. 99:** (2) repealed, p. 849, § 1, effective May 24. **L. 2000:** (1)(b) amended, p. 1484, § 2, effective June 1. **L. 2004:** (1)(b)(I)(B), (1)(c), and (3)(a) amended, p. 201, § 16, effective August 4. **L. 2007:** (4) added, p. 678, § 5, effective May 2. **L. 2008:** (5) to (10) added, p. 769, § 5, effective May 14. **L. 2010:** (6)(b) amended, (HB 10-1013), ch. 399, p. 1912, § 35, effective June 10; (1)(c) amended, (HB 10-1208), ch. 191, p. 822, § 2, effective August 11. **L. 2012:** (1), (8), (9), and (10) amended and (1.5) and (11) added, (HB 12-1155), ch. 255, p. 1273, § 1, effective August 8. **L. 2015:** (6) repealed, (HB 15-1323), ch. 204, p. 735, § 59, effective May 20. **L. 2017:** (9) amended, (HB 17-1251), ch. 253, p. 1058, § 4, effective August 9. **L. 2019:** (1)(c), (1.5), (8)(b), (8)(c), (8)(d), (9), (10), (11)(b), and (11)(e) amended and (11)(b.5) added, (HB 19-1206), ch. 133, p. 593, § 2, effective April 25. **L. 2020:** (1)(b) amended, (HB 20-1407), ch. 254, p. 1238, § 1, effective July 8.

Editor's note: Subsection (1)(d)(II) provided for the repeal of subsection (1)(d), effective June 30, 1988. (See L. 85, p. 759.)

Cross references: For the legislative declaration contained in the 1996 act amending subsections (2) and (3)(b), see section 1 of chapter 237, Session Laws of Colorado 1996. For the legislative declaration contained in the 2007 act enacting subsection (4), see section 1of chapter 182, Session Laws of Colorado 2007. For the legislative declaration in HB 19-1206, see section 1 of chapter 133, Session Laws of Colorado 2019.

23-1-113.2. Department directive - admission standards for students holding international baccalaureate diplomas - legislative declaration. (1) (a) The general assembly hereby finds and declares that:

(I) It is in the best interests of the state to encourage the development and adoption of innovative and effective curricula for high school students;

(II) The international baccalaureate diploma program is an established and well-respected program designed to provide innovative curricula world-wide;

(III) In most other Western educational systems, secondary education includes the equivalent of a thirteenth grade, and the international baccalaureate diploma program conforms to this approach with its rigorous course of study over two years;

(IV) A student who has successfully completed the international baccalaureate diploma program is viewed as a highly attractive student by institutions of higher education due to the student's ambition, work habits, and scholarship;

(V) Nationwide, institutions of higher education recognize the high level of academic sophistication of international baccalaureate students and many offer considerable college credit as an inducement for those students to attend their institutions;

(VI) Many Colorado international baccalaureate students leave the state to attend institutions of higher education that provide attractive offers of credit; and

(VII) It is in the best interests of Colorado to retain the state's best and brightest students who can establish permanent residency and subsequently contribute to the intellectual and economic vitality of the state.

(b) It is therefore the intent of the general assembly in enacting this section that Colorado institutions of higher education be required to adopt comprehensive and reasonable policies to offer credit to international baccalaureate students.

(2) (a) The department shall ensure that each governing board of a state-supported baccalaureate and graduate institution of higher education in the state adopt and implement, for each of the institutions under its control, a policy for the acceptance of first-time freshman students who have successfully completed an international baccalaureate diploma program.

(b) Each governing board shall report the policy adopted and implemented pursuant to paragraph (a) of this subsection (2) to the department and shall make the policy available to the public in an electronic format.

(c) Each governing board shall set the number of credits the institution may grant to a student who has successfully completed an international baccalaureate diploma program. Except as otherwise provided in paragraph (d) of this subsection (2), the number of credits granted by an institution shall be, at a minimum, twenty-four semester credits or their equivalent. Each governing board shall identify the specific general education or elective requirements that the student satisfies by having successfully completed the international baccalaureate diploma program and shall outline the conditions necessary to award the credits.

(d) Each institution may determine the level of student performance necessary to grant the credits, as measured by a student's exam performance in the specific courses constituting the international baccalaureate diploma program. An institution may only grant less than twenty-four semester credits or their equivalent if the student has received a score of less than four on an exam administered as part of the international baccalaureate diploma program, in which case the number of semester credits or their equivalent granted by the institution shall be reduced accordingly.

(3) The provisions of this section shall not apply to the Colorado school of mines while the institution is operating under a performance contract negotiated pursuant to section 23-41-104.6.

Source: L. 2003: Entire section added, p. 1213, § 1, effective August 6. **L. 2008:** (2)(a) and (2)(b) amended, p. 1474, § 12, effective May 28. **L. 2017:** (3) amended, (SB 17-297), ch. 210, p. 818, § 7, effective May 18.

23-1-113.3. Commission directive - developmental education courses - report. (1) (a) (I) As part of the policy adopted by the commission pursuant to section 23-1-113 (1.5)(a), the commission shall adopt and the governing boards shall implement standards and procedures whereby state institutions of higher education may offer developmental education courses, as defined in section 23-1-113 (11)(b), pursuant to this section, as prerequisites to a gateway course in English and mathematics, as defined in section 23-1-113 (11)(b.5). Beginning in the 2022-23 academic year, no more than ten percent of students enrolling in a state institution of higher education shall be enrolled directly into a developmental education course, as defined in section 23-1-113 (11)(b), that is prerequisite to a gateway course in English or mathematics if the developmental education course lengthens the student's time to degree beyond the time it would take the student to complete the degree if the student had enrolled directly into a gateway course.

(II) On or before August 1, 2021, each state institution of higher education authorized pursuant to subsection (2)(a) of this section to offer developmental education courses, as defined in section 23-1-113 (11)(b), shall have a plan in place to meet the requirements described in subsection (1)(a)(I) of this section. The commission's standards and procedures must allow an institution of higher education to request an extension from the commission of up to two years to meet the requirements described in subsection (1)(a)(I) of this section, upon demonstrating exceptional circumstances.

(III) The commission's standards and procedures adopted pursuant to subsection (1)(a)(I) of this section must allow state institutions of higher education serving groups of students who are not successful in supplemental academic instruction to pilot different approaches that are more successful for those students and to request a waiver from the commission's standards and procedures in order to duplicate or expand successful approaches.

(2) (a) Subject to the provisions of this section, Adams state university, Colorado Mesa university, Western Colorado university in Chaffee and Gunnison counties, any local community college, and any community college governed by the state board for community colleges and occupational education may offer developmental education courses, as defined in section 23-1-113 (11)(b), and receive stipend payments from the state on behalf of eligible undergraduate students, as defined in section 23-18-102 (5).

(b) Except as otherwise provided in subsection (5) of this section, any state institution of higher education not specified in subsection (2)(a) of this section is prohibited from offering a developmental education course, unless the course is offered by contract through any of the institutions of higher education specified in subsection (2)(a) of this section.

(c) Notwithstanding the provisions of subsection (2)(b) of this section, Metropolitan state university of Denver and the university of Colorado at Denver are prohibited from offering developmental education courses.

(3) Each state institution of higher education shall track all students who are identified as needing additional supports to be successful in gateway courses in English or mathematics pursuant to section 23-1-113 (1.5) in order to determine whether those students successfully complete requirements for graduation.

(4) (a) Notwithstanding section 24-1-136 (11)(a)(I) to the contrary, the department shall transmit annually to the education committees of the senate and the house of representatives, or any successor committees, the joint budget committee, the commission, and the department of education an analysis of the data:

(I) Regarding students who are identified as needing additional supports to be successful in gateway courses in English and mathematics, pursuant to section 23-1-113 (1.5), and who receive supplemental academic instruction or are enrolled in developmental education courses; and

(II) Regarding the costs of providing supplemental academic instruction or developmental education courses pursuant to section 23-1-113 (1.5) and whether students who receive supplemental academic instruction or complete developmental education courses successfully complete the requirements for graduation.

(b) (Deleted by amendment, L. 2019.)

(5) Any state institution of higher education not specified in subsection (2)(a) of this section offering a developmental education course on a cash-funded basis shall report annually to the department the same data that is required to be compiled and tracked pursuant to subsection (3) of this section.

(5.5) The institution and the department shall report the information specified in subsections (3) and (4) of this section on an individual student basis, using each student's unique student identifier.

(6) For purposes of this section, "local community college" includes Aims community college and Colorado mountain college.

Source: L. 2000: Entire section added, p. 1482, § 1, effective June 1. **L. 2002:** (1) and (2)(a) amended, p. 1021, § 37, effective June 1. **L. 2004:** (2)(a) amended, p. 718, § 5, effective July 1, 2005. **L. 2005:** (2)(a) amended, p. 1014, § 5, effective July 1, 2006. **L. 2008:** (1), (3)(c), (4), (5), and (6) amended, p. 1475, § 13, effective May 28. **L. 2010:** (5.5) added, (HB 10-1171), ch. 401, p. 1935, § 6, effective August 11. **L. 2011:** (2)(a), IP(3), and (5.5) amended, (SB 11-265), ch. 292, p. 1365, § 15, effective August 10. **L. 2012:** (2)(a), IP(3), and (5.5) amended, (HB 12-1080), ch. 189, p. 757, § 10, effective May 19; (2)(c) amended, (SB 12-148), ch. 125, p. 425, § 8, effective July 1; (1), (2)(a), (3), (4)(a), and (5.5) amended, (HB 12-1155), ch. 255, p. 1277, § 2, effective August 8. **L. 2014:** (2)(a) and IP(3) amended, (SB 14-004), ch. 13, p. 123, § 6, effective August 6. **L. 2017:** IP(4)(a) amended, (HB 17-1251), ch. 253, p. 1058, § 5, effective August 9. **L. 2019:** Entire section amended, (HB 19-1206), ch. 133, p. 596, § 3, effective April 25; (2)(a) and IP(3) amended, (HB 19-1178), ch. 400, p. 3544, § 8, effective July 1.

Editor's note: (1) Amendments to subsection (2)(a) and the introductory portion to subsection (3) by House Bill 12-1080 and House Bill 12-1155 were harmonized.

(2) Amendments to this section by HB 19-1206 and HB 19-1178 were harmonized.

Cross references: For the legislative findings and declarations contained in the 2004 act amending subsection (2)(a), see section 1 of chapter 215, Session Laws of Colorado 2004. For the legislative declaration in the 2011 act amending subsection (2)(a), the introductory portion to subsection (3), and subsection (5.5), see section 1 of chapter 292, Session Laws of Colorado 2011. For the legislative declaration in the 2012 act amending subsection (2)(c), see section 1 of chapter 125, Session Laws of Colorado 2012. For the legislative declaration in SB 14-004, see section 1 of chapter 13, Session Laws of Colorado 2014. For the legislative declaration in HB 19-1206, see section 1 of chapter 133, Session Laws of Colorado 2019.

23-1-113.5. Commission directive - resident admissions - report - definitions. (1) It is the intent of the general assembly that all state-supported institutions of higher education operate primarily to serve and educate the people of Colorado. The general assembly therefore directs the commission to develop admission policies to ensure that, beginning with the fall term of 1994 and for the fall term of each year thereafter, not less than fifty-five percent of the incoming freshman class at each state-supported institution of higher education are in-state students as defined in section 23-7-102 (5). Commencing with the fall term of 1995, this requirement shall be met if the percentage of in-state students in the incoming freshman class for the then current fall term and the two previous fall terms averages not less than fifty-five percent. Such fifty-five percent requirement shall also apply to the percentage of incoming freshmen students who are admitted based on criteria other than standardized test scores, high school class rank, and high school grade point average pursuant to section 23-1-113 (1)(b). In addition, the commission shall develop admission policies to ensure, beginning with the fiscal year which begins July 1, 1994, and for each fiscal year thereafter, that not less than two-thirds of the total student enrollment, including undergraduate and graduate students, at each campus of each state-supported institution of higher education, except the Colorado school of mines, are in-state students as defined in section 23-7-102 (5) and that not less than sixty percent of the total student enrollment, including undergraduate and graduate students, at the Colorado school of mines are in-state students as defined in section 23-7-102 (5). This requirement shall be met if, commencing with the fiscal year that begins July 1, 1995, the fraction of in-state students, as defined in section 23-7-102 (5), enrolled at each state-supported institution of higher education, except the Colorado school of mines, averages not less than two-thirds of the total fiscal year student enrollment for the then current fiscal year plus the two previous fiscal years. For the Colorado school of mines, this fraction of in-state students shall be not less than three-fifths. Such policies shall be implemented no later than July 1, 1994.

(2) (a) The provisions of subsection (1) of this section regarding the fraction of students who are in-state students attending the Colorado school of mines shall also apply to Western Colorado university.

(b) Repealed.

(c) After one hundred percent of all qualified Colorado applicants have been accepted by Adams state university, Colorado Mesa university, and Western Colorado university, the provisions of subsection (1) of this section regarding the fraction of students who are in-state students ceases to apply to said three state institutions of higher education.

(d) After one hundred percent of all qualified Colorado applicants have been accepted by Adams state university, Fort Lewis college, Colorado Mesa university, and Western Colorado

university, the provisions of subsection (1) of this section regarding the fraction of students who are in-state students ceases to apply to said four state institutions of higher education.

(3) The provisions of subsection (1) of this section regarding the fraction of students who are in-state students at institutions of higher education do not apply to any Native American student who attends Fort Lewis college. The calculation of the fraction of students at Fort Lewis college who are in-state students shall exclude any Native American student attending the college.

(4) (a) The provisions of subsection (1) of this section regarding the percentage and fraction of students who are in-state students, as defined in section 23-7-102 (5), do not apply to the university of Colorado system, Colorado state university, the university of northern Colorado, or the Colorado school of mines if the following requirements are met:

(I) The percentage of incoming freshmen admitted to the institution who are in-state students calculated on a three-year rolling average and excluding foreign students, is not less than fifty-five percent;

(II) The percentage of students enrolled at each campus of the university of Colorado system, at Colorado state university, at the university of northern Colorado, or at the Colorado school of mines who are in-state students is not less than fifty-five percent of the total student enrollment at each campus of the university of Colorado system, at Colorado state university, at the university of northern Colorado, or at the Colorado school of mines, respectively, including undergraduate and graduate students, calculated on a three-year rolling average and excluding foreign students and students enrolled solely in online courses;

(III) The institution continues to admit one hundred percent of all Colorado first-time freshman applicants who meet the guaranteed admissions criteria;

(IV) The percentage of in-state students admitted to each campus of the university of Colorado system, to the university of northern Colorado, or to Colorado state university based on criteria other than standardized test scores, high school class rank, and high school grade point average pursuant to section 23-1-113 (1)(b) does not fall below the average of the percentage admitted to the campus or to Colorado state university, respectively, for the three preceding academic years; and

(V) The total number of foreign students enrolled at each specific campus of the university of Colorado system, at Colorado state university, at the university of northern Colorado, or at the Colorado school of mines does not exceed fifteen percent of the total student enrollment, including undergraduate and graduate students, enrolled at the campus, at Colorado state university, at the university of northern Colorado, or at the Colorado school of mines, respectively.

(b) The university of Colorado and Colorado state university shall annually report to the commission information demonstrating that qualified in-state students are not displaced or denied admissions as a result of the provisions of this subsection (4) and that any increase in the enrollment of foreign students at a specific campus of the university of Colorado system or at Colorado state university is a result of increased capacity at the campus or at Colorado state university, respectively.

(c) For purposes of this subsection (4), "foreign student" means a student who is counted as foreign and present in the United States on a nonimmigrant visa.

(d) (I) (A) Beginning October 15, 2018, and no later than October 15 each year thereafter, the department shall submit a report to the joint budget committee and to the

education committees of the house of representatives and of the senate, or their successor committees, demonstrating that the institutions included in this subsection (4) have met resident admission and enrollment requirements set forth in this section for the prior fiscal year.

(B) Notwithstanding the provisions of section 24-1-136 (11)(a)(I), the reporting requirements in subsection (4)(d)(I)(A) of this section continue indefinitely.

(II) The department and the institutions shall ensure that the data required for these calculations is consistently included in the state's student records database, including data on the number of students with in-state classification and out-of-state classification, the number classified as international students for purposes of the calculation, the resident and nonresident students classified as online only students for purposes of the calculation, and the number of students classified as Colorado scholars pursuant to subsection (5) of this section. The report shall include both the nominal numbers of students in each relevant category and the calculation demonstrating the institution's compliance with this section.

(III) As part of the report required pursuant to this subsection (4)(d), in collaboration with the institutions, the department shall demonstrate that the institutions are complying with the provisions of section 23-1-113 (1)(a) that require that the academic admission standards for students who do not have in-state status, as determined pursuant to section 23-7-103, are equal to or exceed those established for determining admission of in-state students, and the requirements of subsection (4)(b) of this section, that require that certain institutions annually report information demonstrating that qualified in-state students are not displaced or denied admission as a result of the provisions of this subsection (4).

(5) (a) Notwithstanding any provision of this section to the contrary, beginning in the fall semester of 2013, a state-supported institution of higher education or a campus of the institution may count each Colorado scholar who enrolls at the institution or the campus of the institution as two in-state students for purposes of calculating the percentages and fractions of in-state students required in this section.

(b) Notwithstanding any provision of this section to the contrary, beginning in the fall semester of 2013, a state-supported institution of higher education or a campus of the institution meets the requirements specified in subparagraph (IV) of paragraph (a) of subsection (4) of this section if the percentage of in-state students admitted to the institution or to each campus of the institution based on criteria that are in lieu of the established statewide criteria as provided in section 23-1-113 (1)(b) plus the percentage of in-state students enrolling as Colorado scholars exceeds the percentage of nonresident students admitted to the institution or to each campus of the institution based on criteria that are in lieu of the established statewide criteria.

(c) The provisions of this subsection (5) apply only to a state-supported institution of higher education, or to a campus of the institution, that establishes and funds a Colorado scholar program.

(d) Notwithstanding any provision of this subsection (5) to the contrary, the number of Colorado scholars that each institution counts for purposes of subparagraphs (a) and (b) of this subsection (5) in an academic year shall not exceed eight percent of the total number of in-state students that the institution counts in the applicable fraction or percentage in that academic year.

(e) As used in this subsection (5):

(I) "Colorado scholar" means an in-state student who is eligible to participate in an institutional Colorado scholar program and is designated by the state-supported institution of higher education as a Colorado scholar. A student is eligible to participate in a Colorado scholar

program only if the student graduates in the top ten percent of the student's high school class or graduates with at least a 3.75 grade point average, having completed a highly rigorous college preparatory curriculum, and meets any additional criteria established by the institution.

(II) "Colorado scholar program" means an institutional program or group of programs that awards institutional financial aid or scholarships to undergraduate, degree-seeking, in-state students, with the goal of attracting in-state students to and retaining them in Colorado institutions of higher education. A state-supported institution of higher education shall provide each student who is designated as a Colorado scholar for purposes of paragraphs (a) and (b) of this subsection (5) at least two thousand five hundred dollars in annual financial aid or scholarship moneys through the institution's Colorado scholar program.

Source: L. 93: Entire section added, p. 2124, § 6, effective June 11. **L. 94:** Entire section amended, p. 1676, § 1, effective May 31. **L. 95:** (1) amended, p. 55, § 4, effective March 20. **L. 96:** (1) amended, p. 1236, § 79, effective August 7. **L. 97:** (2)(b) repealed, p. 25, § 1, effective March 20. **L. 2002:** (2)(c) added, p. 1281, § 5, effective July 1; (2)(d) added, p. 1260, § 18, effective July 1. **L. 2010:** (4) added, (SB 10-003), ch. 391, p. 1846, § 20, effective June 9. **L. 2011:** (2)(c) and (2)(d) amended, (SB 11-265), ch. 292, p. 1365, § 16, effective August 10. **L. 2012:** (2)(c) and (2)(d) amended, (HB 12-1080), ch. 189, p. 757, § 11, effective May 19; (2) amended, (HB 12-1331), ch. 254, p. 1268, § 9, effective August 1. **L. 2013:** (5) added, (HB 13-1320), ch. 383, p. 2245, § 1, effective June 5. **L. 2018:** (4)(a) amended and (4)(d) added, (SB 18-206), ch. 372, p. 2266, § 2, effective August 8. **L. 2019:** (2) amended, (HB 19-1178), ch. 400, p. 3544, § 9, effective July 1.

Editor's note: (1) Subsection (2)(d) was originally numbered as (2)(c) in House Bill 02-1419 but has been renumbered on revision for ease of location.

(2) Amendments to subsections (2)(c) and (2)(d) by House Bill 12-1080 and House Bill 12-1331 were harmonized.

Cross references: For the legislative declaration contained in the 1996 act amending this section, see section 1 of chapter 237, Session Laws of Colorado 1996. For the legislative declaration contained in the 2002 act enacting subsection (2)(c), see section 1 of chapter 307, Session Laws of Colorado 2002. For the legislative declaration contained in the 2002 act enacting subsection (2)(d), see section 1 of chapter 303, Session Laws of Colorado 2002. For the legislative declaration in the 2010 act adding subsection (4), see section 1 of chapter 391, Session Laws of Colorado 2010. For the legislative declaration in the 2011 act amending subsections (2)(c) and (2)(d), see section 1 of chapter 292, Session Laws of Colorado 2011. For the legislative declaration in SB 18-206, see section 1 of chapter 372, Session Laws of Colorado 2018.

23-1-113.7. Commission directive - nursing programs - employer-based gift and scholarship fund - reporting requirement - legislative declaration. (1) The general assembly recognizes the need to provide a high quality trained workforce necessary for the delivery of quality care to seniors and other individuals. The general assembly further recognizes that limiting the number of students participating in nursing programs in the state-supported

institutions of higher education frustrates the goal of delivering quality care to the number of those in need.

(2) The commission shall develop admissions policies for nursing programs at state-supported institutions of higher education that, subject to the availability of funds through the more nurses for Colorado fund created pursuant to subsection (4) of this section, allow for a greater number of students to be admitted to nursing education programs on or after July 1, 2002, who would otherwise not be admitted because of the limit on the number of students that the institution accepted in its nursing program prior to July 1, 2002.

(3) The commission shall direct the governing boards of state supported institutions of higher education with nursing programs to allow additional students of nursing to be admitted when there are sufficient funds available through the more nurses for Colorado fund created pursuant to subsection (4) of this section to support the increased costs associated with such students.

(4) There is hereby created in the office of the state treasurer the more nurses for Colorado fund. Such fund shall consist of gifts, grants, and donations from private entities and shall be continuously appropriated by the general assembly. Such moneys shall be used by the commission solely to support the development of additional capacity to allow a greater number of students to be admitted to the nursing programs in the state-supported institutions of higher education. Such moneys shall constitute gifts for the purposes of calculating fiscal year spending pursuant to section 20 of article X of the Colorado constitution.

(5) It is the intent of the general assembly that no general fund dollars be appropriated for the purposes of implementing the requirements of this section.

(6) Each state-supported institution of higher education that offers a bachelor of science degree in nursing shall submit an annual report to the department of higher education that includes the following information:

(a) The number of bachelor of science in nursing degrees and the number of associate nursing degrees, if any, awarded;

(b) The number of nursing program graduates who passed the state nursing licensure examination; and

(c) The total tuition for a student to complete the state-supported institution of higher education's bachelor of science degree in nursing program.

Source: L. 2002: Entire section added, p. 894, § 2, effective May 31. **L. 2018:** (6) added, (HB 18-1086), ch. 70, p. 631, § 4, effective March 24.

Cross references: For the legislative declaration contained in the 2002 act enacting this section, see section 1 of chapter 238, Session Laws of Colorado 2002. For the legislative declaration in HB 18-1086, see section 1 of chapter 70, Session Laws of Colorado 2018.

23-1-114. Commission directive - study of role of state board for community colleges and occupational education and the local councils. (Repealed)

Source: L. 85: Entire article R&RE, p. 760, § 1, effective July 1.

Editor's note: Subsection (2) provided for the repeal of the section, effective July 1, 1986. (See L. 85, p. 760.)

23-1-115. Commission directive - review and action on existing degree programs. (Repealed)

Source: L. 85: Entire article R&RE, p. 760, § 1, effective July 1. **L. 2008:** Entire section repealed, p. 1483, § 30, effective May 28.

23-1-116. Commission directive - education degree programs. (Repealed)

Source: L. 85: Entire article R&RE, p. 760, § 1, effective July 1. **L. 2000:** Entire section repealed, p. 1546, § 6, effective August 2.

23-1-117. Commission directive - administrative expense reduction. (Repealed)

Source: L. 87: Entire section added, p. 844, § 2, effective April 22. **L. 90:** Entire section amended, p. 1138, § 2, effective July 1. **L. 96:** Entire section repealed, p. 1834, § 8, effective June 5.

23-1-118. Commission directive - programs of excellence. (Repealed)

Source: L. 88: Entire section added, p. 842, § 1, effective July 1. **L. 90:** (1) and (4) amended and (6) added, p. 1140, § 4, effective July 1. **L. 91:** (1) amended, p. 512, § 6, effective June 6. **L. 96:** (4) and (5) amended, p. 1237, § 81, effective August 7. **L. 99:** (6)(b) amended, p. 882, § 8, effective July 1. **L. 2004:** (1) amended, p. 202, § 17, effective August 4. **L. 2017:** Entire section repealed, (SB 17-297), ch. 210, p. 819, § 8, effective May 18.

23-1-119. Department directive - transition between K-12 education system and postsecondary education system. (1) The general assembly hereby finds and declares that, in order for students to succeed at state-supported institutions of higher education, the Colorado public system of elementary and secondary education must have provided students with the skills and abilities necessary to make the transition to the postsecondary system. The general assembly further recognizes that the establishment of goals and standards for providing transition skills and abilities is the prerogative of the elementary and secondary public education system. The general assembly recognizes that, in establishing these goals and standards, the elementary and secondary education system should be in communication with the postsecondary education system regarding the skills and abilities that are needed to succeed in higher education. It is therefore the intent of the general assembly that the department, in consultation with the department of education, adopt necessary policies and procedures to facilitate the transition for students between the two systems.

(2) In consultation with the state board of education, appropriate school boards, and governing boards of state-supported institutions of higher education, the department and the governing boards shall adopt necessary policies and procedures to promote the establishment of

a mechanism for postsecondary institutions to report back to the secondary public education system concerning:

(a) The skills and abilities, and the level of proficiency thereof, that first-year students at such postsecondary institutions need to have in order to succeed;

(b) The level of proficiency in such skills and abilities currently exhibited by first-year students;

(c) The level of achievement currently exhibited by first-year students; and

(d) Any other information that will provide a better transition for students between the two education systems.

(3) In consultation with the state board of education, governing boards of state-supported institutions of higher education, and appropriate school district boards, the department shall aid the elementary and secondary public education system and the postsecondary public education system in establishing a network to connect the faculty of postsecondary institutions with the teachers in school districts for the purpose of exchanging information.

(4) For purposes of this section, "postsecondary" means related to instruction of students over the age of seventeen years who are not enrolled in a regular program of kindergarten through grade twelve in a public, independent, or parochial school.

(5) Repealed.

Source: L. 92: Entire section added, p. 557, § 1, effective March 25; (1) amended, p. 2184, § 62, effective June 2. **L. 97:** (1) amended, p. 951, § 10, effective August 6; (1) amended, p. 462, § 13, effective August 6. **L. 99:** (5) repealed, p. 849, § 2, effective May 24. **L. 2006:** (4) amended, p. 1214, § 8, effective July 1, 2007. **L. 2008:** (1), IP(2), and (3) amended, p. 1475, § 14, effective May 28.

Editor's note: Amendments to subsection (1) by House Bill 97-1253 and House Bill 97-1219 were harmonized.

Cross references: For the legislative declaration contained in the 2006 act amending subsection (4), see section 1 of chapter 265, Session Laws of Colorado 2006.

23-1-119.1. Department directive - notice of postsecondary educational opportunities and higher education admission guidelines. (1) Annually, beginning in the spring of 2006, upon receipt of the names and mailing addresses of students enrolled in the eighth grade from the board of education of each school district in Colorado and the state charter school institute, the department shall provide notice of postsecondary educational opportunities to the parents or legal guardians of all eighth-grade students enrolled in public schools in the state. Beginning January 1, 2021, the department shall provide such notice and disseminate related information through the free online career, education, and training resource created pursuant to section 24-46.3-106, if available. Otherwise, such notice is subject to available appropriation. At a minimum, the notice shall specify:

(a) The Colorado commission on higher education's higher education admission guidelines and an explanation that compliance with the higher education admission guidelines is necessary for acceptance, but is not a guarantee of admission, to a state-supported institute of higher education;

(b) A student's potential need for remedial education and any related financial obligations that may fall to the student's parent or legal guardian if the student desires to apply to a state-supported, four-year college or university in Colorado but does not meet the higher education admission guidelines;

(c) A student who fails to pass a course listed in the higher education admission guidelines may enroll in a gateway course, as defined in section 23-1-113 (11)(b.5), with additional supports through supplemental academic instruction, as defined in section 23-1-113 (11)(e), successful completion of which will satisfy the requirements of the higher education admission guidelines;

(d) The availability of and instructions for acquiring information regarding financial assistance to attend an institution of higher education, including stipend amounts, tuition, and other financial aid;

(e) The annual state stipend amount as determined pursuant to section 23-18-202;

(f) The annual cost of in-state tuition for attendance at a public higher education institution in the state;

(g) The amount of the student's share of tuition as determined pursuant to section 23-18-207; and

(h) Notification that the stipend amount and the amount of tuition may change annually.

Source: L. 2005: Entire section added, p. 445, § 2, effective August 8. **L. 2008:** IP(1) amended, p. 1476, § 15, effective May 28. **L. 2019:** (1)(c) amended, (HB 19-1206), ch. 133, p. 606, § 22, effective April 25. **L. 2020:** IP(1) amended, (HB 20-1396), ch. 138, p. 600, § 4, effective September 14.

Cross references: For the legislative declaration in HB 19-1206, see section 1 of chapter 133, Session Laws of Colorado 2019.

23-1-119.2. Commission directive - notice of college preparatory courses for high school students. (1) The commission shall adopt a policy on or before October 1, 2005, to:

(a) Obtain, on or before June 1 of each school year, from the appropriate test administrators the names and mailing addresses of all students enrolled in Colorado public schools who take a standardized, curriculum-based, achievement college entrance exam or a precollegiate exam;

(b) Beginning in the spring of 2006, send an annual notice concerning college preparatory courses to the parent or legal guardian of each student who takes a standardized, curriculum-based, achievement, college entrance exam or a precollegiate exam. The commission shall send the notice to the parent or legal guardian prior to the start of a student's twelfth-grade year if the student took the standardized, curriculum-based, achievement, college entrance exam, or prior to the start of a student's eleventh-grade year if the student took the precollegiate exam. Beginning January 1, 2021, the department shall provide such notice and disseminate related information through the free online career, education, and training resource created pursuant to section 24-46.3-106, if available. Otherwise, such notice is subject to available appropriation. At a minimum, the notice must include:

(I) A detailed description of what constitutes an inadequate score in mathematics, writing, or reading, based on the higher education admission guidelines established by the commission;

(II) Information regarding a student's ability to take basic, precollegiate skills courses while enrolled in a public high school; and

(III) Notice that a student's parent or legal guardian may contact the school in which the student is enrolled if he or she desires to develop a plan for the student to address the course work needed to meet the higher education admission guidelines adopted by the commission.

Source: L. 2005: Entire section added, p. 519, § 1, effective May 24. **L. 2015:** (1)(a) and IP(1)(b) amended, (HB 15-1323), ch. 204, p. 727, § 43, effective May 20. **L. 2020:** IP(1) amended, (HB 20-1396), ch. 138, p. 600, § 5, effective September 14.

23-1-119.3. Department directive - exchange of student records. (1) The department of higher education and the department of education shall establish a procedure that allows for the direct, electronic exchange of student unit record data for students enrolled in Colorado public high schools.

(2) Notwithstanding the provisions of section 22-2-111 (3)(a), C.R.S., the department of higher education, in collaboration with the department of education, shall identify the student data relevant to high school students' transitions to the postsecondary system to which the department of education has access and that shall be shared with the department of higher education.

(3) The department of education shall collect student authorization for the transfer of data where necessary and practicable through existing systems for the collection of student data.

(4) The implementation of the data exchange procedure established pursuant to this section and section 22-7-1016.5, C.R.S., must utilize student unit record data collected and maintained by the department of education and must be administered at no charge to local education providers, public institutions of higher education, or students.

(5) The data exchange procedure established pursuant to this section and section 22-7-1016.5 must ensure that the exchange of information is conducted in compliance with all state and federal laws and regulations concerning the privacy of information, including but not limited to the federal "Family Educational Rights and Privacy Act of 1974", 20 U.S.C. sec. 1232g, as amended, and all federal regulations and applicable guidelines adopted in accordance therewith.

(6) In compliance with all state and federal laws and regulations concerning the privacy of information, including but not limited to the federal "Family Educational Rights and Privacy Act of 1974", 20 U.S.C. sec. 1232g, as amended, and all federal regulations and applicable guidelines adopted in accordance therewith, the department of higher education shall share student unit record data with Colorado public institutions of higher education for recruitment, enrollment, and placement purposes.

(7) The department of higher education may use Colorado public high school students' student unit record data to provide students with relevant information concerning the transition from high school to colleges and universities.

(8) To the extent practicable and subject to available data and resources, the department of higher education may use the data obtained pursuant to this section for purposes of fulfilling

the requirements of section 23-1-119.1 and 23-1-119.2, as well as in the admission of eligible students to public institutions of higher education.

Source: L. 2013: Entire section added, (SB 13-053), ch. 112, p. 386, § 3, effective April 8. **L. 2017:** (5) and (6) amended, (SB 17-294), ch. 264, p. 1398, § 55, effective May 25.

Cross references: For the legislative declaration in the 2013 act adding this section, see section 1 of chapter 112, Session Laws of Colorado 2013.

23-1-119.5. Online career platform - appropriations from Colorado work force development council. Beginning on September 14, 2020, the department of higher education may receive and expend any money transferred to the department by the Colorado work force development council created in section 24-46.3-101, for the purposes of implementing and maintaining the online platform created pursuant to section 24-46.3-106, disseminating information regarding the online platform, and providing training about the online platform.

Source: L. 2020: Entire section added, (HB 20-1396), ch. 138, p. 600, § 6, effective September 14.

23-1-120. Commission directive - incentives for improvement initiative grants. (1) The general assembly finds that state encouragement would contribute to improving the quality and efficiency of the postsecondary education system in Colorado. Therefore, the general assembly finds and declares that an incentives for improvement initiative grant program should be implemented to encourage initiatives at state institutions of higher education demonstrating innovative solutions and successful approaches to increasing efficiency, productivity, quality, and diversity in the Colorado postsecondary education system through a system of competitive matching grants to such institutions.

(2) The governing boards of state institutions of higher education, including local district community colleges, or a consortia of such institutions may apply for grants from the commission by submitting proposals for initiatives at their institutions to be designated as incentives for improvement. As used in this section, "incentives for improvement initiative" means any academic initiative of a state institution of higher education that, consistent with the statewide master plan for Colorado postsecondary education, is developed to achieve greater efficiency, productivity, quality, and diversity.

(3) The commission, after consultation with the governing boards and the education committees of both houses of the general assembly, shall identify areas of statewide interest in the postsecondary education system and develop criteria to be employed in evaluating proposals for incentives for improvement at state institutions of higher education. Such criteria shall be developed on or before August 1, 1992. The criteria developed by the commission to evaluate such proposals, designate recipients, and award grants shall take into account the following:

(a) The commitment by the governing board to provide matching funds pursuant to subsection (5) of this section for a period not to exceed five years;

(b) The level of institutional commitment to the initiative measured partially in terms of the reallocation of existing resources to the support of the initiative;

(c) Whether the initiative includes measures for performance evaluation that will assist and enhance existing methods of assessment and that demonstrate how the initiative improves efficiency, productivity, quality, and diversity;

(d) Consistency with the goals identified in the statewide master plan and institutional academic master plan;

(e) The degree of collaboration with business, industry, and other public entities in forming partnerships to enhance the quality of the educational experience; and

(f) Such additional criteria as the commission may determine to be appropriate.

(4) Grant applications and proposals by the governing boards shall be submitted to the commission by November 1, 1992. Employing the criteria established pursuant to subsection (3) of this section, the commission shall designate an initial list of initiatives to be designated incentives for improvement and shall provide to the general assembly such list, an analysis of the projected funding requirements of the initiative, the proposed grants, and a plan for the support and enhancement of said initiatives. The list of initiatives and proposed grants shall be delivered to the general assembly annually, on or before January 1, commencing January 1, 1993. Initial grants may be awarded to the governing boards of such institutions for the implementation of such programs on or before July 1, 1993. Incentives for improvement designations shall be reviewed annually by the commission.

(5) (a) Any grant awarded pursuant to subsection (3) of this section shall be made annually for a period not to exceed five years, with receipt in any year of such a grant being dependent upon the state institution providing matching funds for such year from existing resources of such institution and any private contributions in the following amount:

(I) During the first three years of the initiative, an amount equaling forty to sixty percent of the annual grant; or

(II) During the fourth and fifth years of the initiative, an amount equaling sixty-five to eighty-five percent of the annual grant.

(b) In determining the precise matching fund requirements for each institution selected for an improvement initiative, the commission shall give consideration to the size of the institutional budget and the percentage of such budget that is state general fund moneys.

(6) The general assembly may make a separate annual appropriation to the commission, subject to available revenues, in an amount not to exceed one percent of the total annual department of higher education general fund appropriation to governing boards to be used to award incentives for improvement initiative grants. The total amount appropriated annually by the general assembly shall be allocated annually by the commission.

(7) The commission, in consultation with the governing boards, shall adopt policies necessary to carry out the direction of this section and may, in furtherance of such policies, establish and implement:

(a) A peer review process involving representation of the governing boards;

(b) A schedule for directing grants to areas of statewide interest within the postsecondary education system;

(c) A method for incorporating the cost of a successful incentives for improvement initiative into the annual appropriation to the governing board of an institution implementing such initiative upon completion of the five years of matching grants for such initiative; and

(d) A system for the dissemination of information on successful and unsuccessful incentives for improvement initiatives as well as information on applying for grants under this section.

(8) Repealed.

(9) The commission shall promulgate such policies as may be necessary for the implementation of this section.

Source: L. 92: Entire section added, p. 564, § 1, effective May 14. **L. 96:** (3)(c) amended, p. 790, § 3, effective May 23; (8) repealed, p. 1835, § 15, effective June 5.

23-1-120.9. Department directive - collaborative educator preparation grant program - created - reporting - legislative declaration - definitions - repeal. (Repealed)

Source: L. 2017: Entire section added, (HB 17-1003), ch. 220, p. 852, § 1, effective August 9. **L. 2018:** Entire section R&RE, (HB 18-1332), ch. 185, p. 1248, § 1, effective April 30. **L. 2019:** Entire section repealed, (SB 19-190), ch. 153, p. 1821, § 5, effective May 10.

Editor's note: This section was relocated to part 2 of article 78 of this title 23 in 2019.

23-1-121. Commission directive - approval of educator preparation programs - review - report. (1) As used in this section, unless the context otherwise requires:

(a) "Approved educator preparation program" means an educator preparation program that has been reviewed pursuant to the provisions of this section and has been determined by the commission to meet the performance-based standards established by the commission pursuant to this section and the requirements of section 23-1-108.

(a.5) "Candidate" means a person who is participating in an initial, advanced, or other preparation program for education professionals in order to enter the education profession.

(b) "Institution of higher education" means a public, private, or proprietary postsecondary institution authorized by the commission to offer educator preparation programs.

(c) (Deleted by amendment, L. 2011, (SB 11-245), ch. 201, p. 842, § 2, effective August 10, 2011.)

(d) "Program" means a planned sequence of undergraduate, post-baccalaureate, or graduate courses and experiences for the purpose of preparing teachers and other school professionals to be effective educators in prekindergarten through twelfth grade settings. A program may lead to a degree, a recommendation for a state license by the department of education, both, or neither.

(e) "Unit" means the college, school, department, or other administrative body in a college, university, or other organization with the responsibility for managing or coordinating all programs offered for the initial and advanced preparation of educators, regardless of where the programs are administratively housed in an institution.

(2) The commission shall adopt policies establishing the requirements for educator preparation programs offered by institutions of higher education. The department shall work in cooperation with the state board of education in developing the requirements for educator preparation programs. At a minimum, the requirements must ensure that each educator

preparation program complies with section 23-1-125, is designed on a performance-based model, and includes:

(a) Program design around a shared vision of candidate proficiency and professionalism that supports decision-making about partnerships and the integration of curricula, learners, and course work and clinical experiences;

(b) Mapping, planning, development, assessment, and support of candidate proficiencies, including candidates' deep understanding of content knowledge, pedagogical knowledge, the content knowledge required for educating, and the dispositions and professional qualities necessary to be successful;

(c) With regard to teacher and principal preparation programs, courses that provide content knowledge as described in part 10 of article 7 of title 22, specifically in teaching to the state preschool through elementary and secondary education standards adopted pursuant to section 22-7-1005;

(c.5) Course work that teaches teacher candidates the science of reading, including the foundational reading skills of phonemic awareness, phonics, vocabulary development, reading fluency including oral skills, and reading comprehension, and the skills and strategies to apply to ensure that every student learns to read. Reading course work and field practice opportunities must be a significant focus for teachers preparing for endorsement in elementary, early childhood, or special education.

(c.7) Course work that provides educator candidates with an overview of Title II of the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101 et seq., as amended, and its implementing regulations; section 504 of the federal "Rehabilitation Act of 1973", 29 U.S.C. sec. 701 et seq., as amended, and its implementing regulations; the "Individuals with Disabilities Education Act", 20 U.S.C. sec. 1400 et seq., as amended, and its implementing regulations; individualized education programs; and child find and that teaches educators effective special education classroom practices, including but not limited to inclusive learning environments;

(d) Intentional clinical experience, early and throughout preparation, relating to predetermined state content standards, which experiences afford candidates multiple, intentional experiences to learn from practice. Clinical experiences must be aligned with program curricula so that candidates develop pedagogical skills and pedagogical content knowledge. Teacher preparation candidates must complete a minimum of eight hundred hours, and principal and administrator candidates must complete a minimum of three hundred hours, of clinical practice. A teacher candidate must complete the hours of clinical practice while enrolled in an approved educator preparation program; except that a program, after review, may accept clinical practice hours completed before enrolling in the program. A majority of the clinical practice hours must be completed through a continuous placement. For every additional endorsement or advanced degree, a candidate must complete an appropriate period of supervised field experiences that relate to predetermined standards, including best practices and relevant national norms related to the candidate's endorsements.

(d.5) A requirement that each teacher candidate in an initial licensure program complete at least one semester or quarter-length course in behavioral health training using culturally responsive and trauma- and evidence-informed practices;

(e) A requirement that each candidate, prior to graduation, must demonstrate the skills required for licensure, as specified by rule of the state board of education pursuant to section 22-2-109 (3), in the manner specified by rule of the state board;

(f) A requirement that preparation program faculty, to improve their work, must engage in continuous evidence-based cycles of self-reflection and review regarding the impact of their programs on their candidates' development throughout the programs. These cycles must include data on current candidates throughout the program and available data on program completers.

(3) The commission shall also adopt policies to ensure that each educator preparation program offered by an institution of higher education includes implementation of procedures to monitor and improve the effectiveness of the program, as well as the effectiveness of its graduates pursuant to section 22-9-105.5, C.R.S., including at a minimum the following:

(a) Periodic review by the institution of higher education offering the educator preparation program to ensure that the program meets the requirements specified by the commission pursuant to this section;

(b) Implementation of a procedure for collecting and reviewing evaluative data concerning the educator preparation program, which shall include periodic surveys of graduates and employers and educator identifier system data, pursuant to section 22-2-112 (1)(q), C.R.S., for modifying the program as necessary in response to the data collected;

(c) Implementation of a procedure for reviewing the scores achieved on the professional competency assessments required pursuant to section 22-60.5-201, C.R.S., by candidates enrolled in and graduating from the program and modifying the program as necessary to improve those scores.

(d) (Deleted by amendment, L. 2011, (SB 11-245), ch. 201, p. 842, § 2, effective August 10, 2011.)

(4) (a) (I) The department, in conjunction with the department of education, shall review each educator preparation program offered by an institution of higher education as provided in subsection (4)(b) of this section and shall establish a schedule for review of each educator preparation program that ensures each program is reviewed as provided in this section not more frequently than once every five years; except that, if a program is placed on conditional approval or probationary status, the program must receive additional reviews within the five-year period, as determined by the department. Reviews of or decisions made concerning a program after it is placed on conditional approval or probationary status do not change the date of the program's next five-year review, as determined by the department.

(I.5) Notwithstanding the provisions of subsection (4)(a)(I) of this section to the contrary, if a new unit is approved and offers a new educator preparation program, the department shall review the new educator preparation program no sooner than twelve months but not more than twenty-four months after the new educator preparation program is initially approved.

(II) (Deleted by amendment, L. 2008, p. 1476, 16, effective May 28, 2008.)

(III) An institution of higher education that chooses to offer a new educator preparation program or modify an existing program, by significantly modifying the content, field experiences, or program delivery, shall submit the new or modified program to the department for review pursuant to this section. The commission shall adopt policies and procedures for the review of new and modified programs.

(b) Each program review conducted pursuant to subsection (4)(a) of this section must ensure that the program meets the minimum requirements adopted pursuant to subsections (2) and (3) of this section and the requirements of section 23-1-108 and any policies adopted pursuant thereto. In determining whether to initially approve or continue the approval of an

educator preparation program, the commission shall consider any recommendations made by the state board of education pursuant to section 22-2-109 (5) concerning the effectiveness of the program content. If the state board of education recommends that a program not be approved or be placed on conditional approval or probation, the commission shall follow the recommendation by refusing initial approval of the program, placing the program on conditional approval, or placing the program on probation.

(c) The department shall work cooperatively with each institution of higher education that offers an educator preparation program to obtain any data requested by the department to determine the admission and enrollment patterns, completion rates, and effectiveness of educator preparation programs offered by the institution. In addition, each institution of higher education shall, upon request from the department, prepare and submit an annual report to assist the department in reviewing the educator preparation programs pursuant to this section. The department shall collaborate with representatives from the governing boards of each institution of higher education that offer educator preparation programs in specifying the information to be included in the annual report.

(d) (I) Following review of an educator preparation program, if the commission determines that the program does not meet the requirements specified in subsection (4)(b) of this section, it shall grant the program conditional approval, place the program on probation, or terminate the program. The commission shall adopt policies specifying the procedures for placing a program on conditional approval, placing a program on probation, and terminating a program, including a procedure for appeal; the length of time that a program may remain on conditional approval or probation; and the process by which the level of approval of a program is reviewed and changed.

(II) A program that the commission places on conditional approval may continue to accept new students. A program that the commission places on probation must not accept new students until the commission removes the program from probationary status.

(III) If the commission determines that termination of the approval of a program is necessary, the program must be terminated within four years after the determination.

(IV) If the commission places a program on conditional approval or probation based on the recommendation of the state board of education, the commission shall consult with the state board of education in determining as provided in subsection (4)(d)(II) or (4)(d)(III) of this section whether the program should subsequently be reapproved, conditionally approved, placed on probation, or terminated.

(e) The commission shall adopt policies and procedures, including a procedure for appeal, to discontinue any educator preparation program at an institution of higher education that has not had any candidate successfully graduate during the previous five years.

(5) (Deleted by amendment, L. 2011, (SB 11-245), ch. 201, p. 842, § 2, effective August 10, 2011.)

(6) The department shall annually prepare a report concerning the enrollment in, graduation rates from, and effectiveness of the review of educator preparation programs authorized by the commission. In addition the report shall include data on the outcomes of graduates of educator preparation programs pursuant to section 22-2-112 (1)(q). The report shall also state the percentage of educator candidates graduating from each program during the preceding twelve months who applied for and received an initial license pursuant to section 22-60.5-201, and the percentage of the graduates who passed the assessments administered pursuant

to section 22-60.5-203. For purposes of completing the report required pursuant to this subsection (6), the department of higher education and the department of education shall share any relevant data that complies with state and federal regulations with the other agency. The department shall provide notice to the education committees of the senate and the house of representatives, or any successor committees, that the report is available to the members of the committees upon request. Notwithstanding the requirement in section 24-1-136 (11)(a)(I), the requirement to submit the report required in this subsection (6) continues indefinitely.

(7) The general assembly encourages the department to collaborate with national accrediting bodies of educator preparation and to offer concurrent and joint site visits to educator preparation programs at institutions of higher education to the extent feasible.

(8) Repealed.

Source: L. 93: Entire section added, p. 1049, § 11, effective June 3. **L. 97:** Entire section amended, p. 462, § 14, effective August 6; entire section amended, p. 951, § 11, effective August 6. **L. 98:** Entire section amended, p. 993, § 18, effective July 1. **L. 99:** Entire section R&RE, p. 1183, § 1, effective June 1. **L. 2000:** (5) and (6) amended, p. 1115, § 4, effective May 26; (1)(a) and (4)(b) amended, p. 1546, § 7, effective August 2. **L. 2005:** (6) amended, p. 189, § 33, effective April 7; (6) amended, p. 861, § 3, effective June 1. **L. 2007:** (4)(a)(II) amended, p. 116, § 1, effective August 3. **L. 2008:** (2)(c) amended, p. 771, § 6, effective May 14; IP(2), IP(3), (4)(a), (4)(b), (4)(c), and (6) amended, p. 1476, § 16, effective May 28. **L. 2009:** (6) amended, (SB 09-160), ch. 292, p. 1457, § 12, effective May 21. **L. 2011:** (1)(a) and (4)(b) amended, (SB 11-052), ch. 232, p. 1000, § 8, effective May 27; entire section amended, (SB 11-245), ch. 201, p. 842, § 2, effective August 10. **L. 2013:** (3)(b), (6), and (8) amended, (HB 13-1219), ch. 104, p. 365, § 19, effective August 7. **L. 2015:** IP(2) and (2)(c) amended, (HB 15-1323), ch. 204, p. 728, § 44, effective May 20. **L. 2019:** (2)(c.5) added and (2)(d) amended, (SB 19-190), ch. 153, p. 1820, § 4, effective May 10. **L. 2020:** (2)(c.7) added, (HB 20-1128), ch. 86, p. 346, § 6, effective March 24; (2), (4)(a)(I), (4)(a)(III), (4)(b), (4)(d), and (6) amended, (4)(a)(I.5) added, and (8) repealed, (SB 20-158), ch. 198, p. 972, § 8, effective June 30; (2)(d.5) added, (HB 20-1312), ch. 258, p. 1251, § 2, effective July 8.

Editor's note: (1) Amendments to this section by House Bill 97-1219 and House Bill 97-1253 were harmonized.

(2) Amendments to subsection (6) by House Bill 05-1026 and Senate Bill 05-213 were harmonized.

(3) Amendments to subsections (1)(a) and (4)(b) by Senate Bill 11-052 and Senate Bill 11-245 were harmonized.

Cross references: For the legislative declaration in the 2011 act amending subsections (1)(a) and (4)(b), see section 1 of chapter 232, Session Laws of Colorado 2011. For the legislative declaration in the 2011 act amending this section, see section 1 of chapter 201, Session Laws of Colorado 2011. For the legislative declaration in HB 20-1128, see section 1 of chapter 86, Session Laws of Colorado 2020.

23-1-121.1. Commission directive - approval of principal preparation programs - repeal. (Repealed)

Source: L. 2002: Entire section added, p. 1350, § 1, effective June 7.

Editor's note: Subsection (6) provided for the repeal of this section, effective July 1, 2005. (See L. 2002, p. 1350.)

23-1-121.2. Department directive - educator preparation pathways - public information. By October 1, 2020, the department shall post on the department website a description of each of the existing programs and pathways that lead to teacher licensure, including alternative teacher preparation programs approved pursuant to article 60.5 of title 22, teacher preparation programs approved pursuant to section 23-1-121, teacher residency programs, student teacher programs, concurrent enrollment programs, teacher cadet programs, grow your own educator programs established pursuant to section 22-60.5-208.5, programs funded through the collaborative educator preparation grant program created in section 23-78-203, and the teaching fellowship programs created pursuant to part 3 of article 78 of this title 23. The department shall annually update the descriptions of programs and pathways.

Source: L. 2020: Entire section added, (SB 20-158), ch. 198, p. 976, § 9, effective June 30.

23-1-121.3. Commission directive - principal and administrator preparation programs. (Repealed)

Source: L. 97: Entire section added, p. 43, § 2, effective March 20. **L. 2011:** Entire section repealed, (SB 11-245), ch. 201, p. 846, § 3, effective August 10.

Cross references: For the legislative declaration in the 2011 act repealing this section, see section 1 of chapter 201, Session Laws of Colorado 2011.

23-1-121.5. Commission directive - education in special education. (Repealed)

Source: L. 96: Entire section added, p. 1786, § 3, effective June 3. **L. 2011:** Entire section repealed, (SB 11-245), ch. 201, p. 850, § 14, effective August 10.

Cross references: For the legislative declaration in the 2011 act repealing this section, see section 1 of chapter 201, Session Laws of Colorado 2011.

23-1-121.7. Commission directive - paraprofessional programs. (1) The general assembly finds that:

(a) The number of paraprofessionals who assist teachers in the classroom has increased in recent years both in absolute numbers and as a proportion of all instructional staff;

(b) Paraprofessionals are a valuable asset to school districts, providing many hours of additional instructional time for students, especially as public schools are called upon to provide increasing services for children with disabilities and children for whom English is a second language;

(c) As parents are requesting and school districts are attempting to provide smaller class sizes, the prudent use of well-qualified paraprofessionals to maximize individualized instruction provides school districts with a means to reach every student and to assist every student in reaching his or her full potential;

(d) In passing the "No Child Left Behind Act of 2001", Public Law 107-110, congress has expressed the intention that all paraprofessionals working in Title I programs be highly qualified;

(e) A paraprofessional working in a Title I program may demonstrate that he or she is highly qualified in several ways, including completion of at least two years of postsecondary study, obtaining an associates or higher degree, or successfully taking an assessment selected by the state or by the employing school district that meets state and federal standards and that demonstrates knowledge of and the ability to assist in instruction of reading, writing, and mathematics;

(f) Because state and federal laws identify specific criteria for paraprofessional qualification and school districts retain flexibility for using paraprofessional instructional support services, further regulation of paraprofessionals, including certification or licensing, is not required;

(g) To assist school districts in identifying highly qualified paraprofessionals, community colleges and four-year institutions of higher education are strongly encouraged to provide education paraprofessional preparation programs, and it is useful to create a procedure for approval of education paraprofessional preparation programs.

(2) As used in this section, unless the context otherwise requires, "paraprofessional" means a person who is trained to assist a licensed teacher or special services provider.

(3) Repealed.

(4) At a minimum, an approved education paraprofessional preparation program shall:

(a) Be aligned with federal and state standards for paraprofessionals;

(b) Consist of courses designed to convey to a student knowledge in reading, writing, mathematics, and science, and the skills necessary to assist a licensed teacher in teaching reading, writing, mathematics, and science;

(c) Be aligned with statewide transfer agreements.

Source: L. 2003: Entire section added, p. 1040, § 1, effective April 17. **L. 2011:** (3) repealed, (SB 11-245), ch. 201, p. 850, § 15, effective August 10.

Cross references: (1) For the legislative declaration in the 2011 act repealing subsection (3), see section 1 of chapter 201, Session Laws of Colorado 2011.

(2) For the Title I requirements for hiring teachers and paraprofessionals, see 20 U.S.C. sec. 6319.

23-1-122. Commission directive - separately funded policy areas. (Repealed)

Source: L. 94: Entire section added, p. 43, § 2, effective March 11. **L. 95:** (1) amended and (7) to (11) added, p. 49, § 2, effective March 20. **L. 97:** Entire section repealed, p. 1644, § 1, effective June 5.

23-1-122.1. Commission directive - separately funded policy areas - fiscal years 1996-97 and 1997-98. (Repealed)

Source: L. 96: Entire section added, p. 89, § 2, effective March 20. **L. 97:** Entire section repealed, p. 1644, § 1, effective June 5.

23-1-123. Commission directive - fee policies - definitions. (Repealed)

Source: L. 94: Entire section added, p. 1992, § 1, effective June 2. **L. 97:** (1), (2)(a), (3), (5), (6)(a), and (7) amended, p. 1398, § 1, effective July 1. **L. 99:** (5)(a)(II), IP(5)(a)(III), (5)(b)(I), (5)(b)(II), and IP(5)(b)(III) amended, p. 902, § 1, effective August 4; (5)(c)(III) amended, p. 624, § 22, effective August 4. **L. 2000:** (5)(i) added, p. 310, § 1, effective April 7. **L. 2009:** (5)(i), IP(7)(b), and (7)(b)(I) amended, (HB 09-1313), ch. 243, p. 1097, § 1, effective May 11. **L. 2011:** Entire section repealed, (HB 11-1301), ch. 297, p. 1418, § 5, effective August 10.

23-1-124. Commission directive - sophomore assessments. (Repealed)

Source: L. 2000: Entire section added, p. 372, § 26, effective April 10. **L. 2008:** Entire section repealed, p. 1483, § 30, effective May 28.

23-1-125. Commission directive - student bill of rights - degree requirements - implementation of core courses - competency test - prior learning - prior work-related experience. (1) **Student bill of rights.** The general assembly hereby finds that students enrolled in public institutions of higher education shall have the following rights:

(a) Students should be able to complete their associate of arts and associate of science degree programs in no more than sixty credit hours or their baccalaureate programs in no more than one hundred twenty credit hours unless there are additional degree requirements recognized by the commission;

(b) A student can sign a two-year or four-year graduation agreement that formalizes a plan for that student to obtain a degree in two or four years, unless there are additional degree requirements recognized by the commission;

(c) Students have a right to clear and concise information concerning which courses must be completed successfully to complete their degrees;

(d) Students have a right to know which courses are transferable among the state public two-year and four-year institutions of higher education;

(e) Students, upon completion of core general education courses, regardless of the delivery method, should have those courses satisfy the core course requirements of all Colorado public institutions of higher education;

(f) Students have a right to know if courses from one or more public higher education institutions satisfy the students' degree requirements;

(g) A student's credit for the completion of the core requirements and core courses shall not expire for ten years from the date of initial enrollment and shall be transferrable.

(2) **Degree requirements.** The commission shall establish a standard of a one-hundred-twenty-hour baccalaureate degree, not including specific professional degree programs that have additional degree requirements recognized by the commission.

(3) **Core courses.** The department, in consultation with each Colorado public institution of higher education, is directed to outline a plan to implement a core course concept that defines the general education course guidelines for all public institutions of higher education. The core of courses shall be designed to ensure that students demonstrate competency in reading, critical thinking, written communication, mathematics, and technology. The core of courses shall consist of at least thirty credit hours but shall not exceed forty credit hours. Individual institutions of higher education shall conform their own core course requirements with the guidelines developed by the department and shall identify the specific courses that meet the general education course guidelines. Any such guidelines developed by the department shall be submitted to the commission for its approval. In creating and adopting the guidelines, the department and the commission, in collaboration with the public institutions of higher education, may make allowances for baccalaureate programs that have additional degree requirements recognized by the commission. If a statewide matrix of core courses is adopted by the commission, the courses identified by the individual institutions as meeting the general education course guidelines shall be included in the matrix. The commission shall adopt such policies to ensure that institutions develop the most effective way to implement the transferability of core course credits.

(4) **Competency testing.** On or before July 1, 2010, the commission shall, in consultation with each public institution of higher education, define a process for students to test out of core courses, including specifying use of a national test or the criteria for approving institutionally devised tests. Beginning in the 2010-11 academic year, each public institution of higher education shall grant full course credits to students for the core courses they successfully test out of, free of tuition for those courses.

(4.5) **Prior learning.** Beginning in the 2013-14 academic year, each public institution of higher education shall adopt and make public a policy or program to determine academic credit for prior learning.

(4.7) **Prior work-related experience.** Pursuant to section 23-5-145.5, the council created and existing pursuant to section 23-1-108.5, in collaboration with the commission, shall create, adopt, and implement a plan to determine and award postsecondary academic credit for work-related experience.

(5) **Nonpublic institutions of higher education.** (a) (I) A nonpublic institution of higher education may choose to conform its core course requirements with, or adopt core course requirements that meet, the general education course guidelines developed by the department pursuant to subsection (3) of this section and identify the specific courses that meet the general education course guidelines. The nonpublic institution of higher education may require all of the students enrolled in the institution to take the core course requirements that are conformed or adopted as provided in this paragraph (a) or may require only those students who are concurrently enrolled, pursuant to article 35 of title 22, C.R.S., in a high school and in the nonpublic institution of higher education to take said core course requirements.

(II) The core course requirements that a nonpublic institution of higher education conforms or adopts pursuant to this paragraph (a) shall comply with the number of credit hours required by the department and shall include courses in each of the subject areas identified by

the department. The nonpublic institution of higher education shall submit to the department a description of its core course requirements with the initial review fee established pursuant to paragraph (c) of this subsection (5), and the department shall determine whether the nonpublic institution's core course requirements comply with the department's general education course guidelines. If the department determines that the nonpublic institution of higher education's core course requirements comply with the guidelines, then the nonpublic institution's core course credits shall be transferable to public institutions of higher education, and the nonpublic institution of higher education shall accept transfers of core course credits from the public institutions of higher education.

(b) A nonpublic institution of higher education that chooses to seek transferability of its core course credits pursuant to paragraph (a) of this subsection (5) shall, prior to the beginning of each academic year in which it seeks transferability, allow the department to review its general education core course requirements and its general education courses to ensure that they continue to meet the general education core course guidelines. The department may assess a fee as provided in paragraph (c) of this subsection (5) to offset the costs of the annual review.

(c) The commission, in consultation with the department, shall establish the amounts of the initial review fee and the annual review fee of a nonpublic institution of higher education's general education core course requirements and core courses, which amounts shall not exceed the direct and indirect costs incurred by the department in initially reviewing and in annually reviewing the nonpublic institution's general education core course requirements and core courses. The department is authorized to collect the fees from nonpublic institutions of higher education as provided in paragraphs (a) and (b) of this subsection (5).

(d) On or before March 1, 2016, the commission shall submit to the education committees of the senate and the house of representatives, or any successor committees, a report concerning the implementation of this subsection (5). At a minimum, the report shall include:

(I) The names of the nonpublic institutions of higher education that are participating in the general education core course requirements;

(II) The number of students who have transferred core course credits to or from a nonpublic institution of higher education;

(III) Any issues that have arisen in the course of implementing this subsection (5); and

(IV) Any recommendations for changes to this subsection (5).

(e) As used in this subsection (5), "nonpublic institution of higher education" means an educational institution operating in this state that:

(I) Does not receive state general fund moneys in support of its operating costs;

(II) Admits as regular students only persons having a high school diploma or the recognized equivalent of a high school diploma;

(III) Is accredited by an accrediting agency or association approved by the United States department of education;

(IV) Provides an educational program for which it awards a bachelor's degree or a graduate degree;

(V) Is authorized by the department of higher education to do business in Colorado pursuant to section 23-2-103.3;

(VI) Maintains a physical campus or instructional facility in Colorado; and

(VII) Has been determined by the United States department of education to be eligible to administer federal financial aid programs pursuant to Title IV of the federal "Higher Education Act of 1965", as amended.

Source: L. 2001: Entire section added, p. 1473, § 1, effective June 6. **L. 2008:** (3) amended, p. 1478, § 17, effective May 28. **L. 2010:** (4) amended and (5) added, (SB 10-108), ch. 301, p. 1427, § 1, effective May 27. **L. 2012:** (3) amended, (HB 12-1155), ch. 255, p. 1281, § 8, effective August 8; (4.5) added and (5)(e)(III) amended, (HB 12-1072), ch. 62, p. 223, § 2, effective August 8. **L. 2020:** (4.7) added, (HB 20-1002), ch. 255, p. 1244, § 3, effective July 8.

Cross references: For the legislative declaration in the 2012 act adding subsection (4.5) and amending subsection (5)(e)(III), see section 1 of chapter 62, Session Laws of Colorado 2012. For the legislative declaration in HB 20-1002, see section 1 of chapter 255, Session Laws of Colorado 2020.

23-1-126. Commission directive - nursing programs. (1) The general assembly finds that Colorado is facing a shortage of nurses. It is determined by the general assembly that because nurses are crucial and integral to the health and welfare of the people of Colorado, it is therefore in the public interest to enhance educational opportunities for individuals pursuing a career in nursing.

(2) The commission shall evaluate and implement two-year educational programs for professional registered nursing. The commission shall adopt any necessary policies and rules for the implementation of a two-year program for professional registered nursing.

Source: L. 2002: Entire section added, p. 1306, § 25, effective June 7.

23-1-127. Commission directive - regional education providers - criteria. (1) The general assembly finds, determines, and declares that:

(a) The Colorado commission on higher education can better serve the citizens of this state by providing oversight and direction for the provision of regional education at Adams state university, Colorado Mesa university, and Western Colorado university; and

(b) As regional education providers, Adams state university, Colorado Mesa university, and Western Colorado university shall have as their primary goal the assessment of regional educational needs and, in consultation with the Colorado commission on higher education, the allocation of resources for the purposes of meeting those needs.

(2) A regional education provider's initiatives to meet its regional needs may include, but need not be limited to, the following:

(a) Extension of existing programs;

(b) Creation of new undergraduate programs;

(c) Development of partnerships with two-year institutions; and

(d) Facilitation of the delivery of graduate education through existing graduate institutions.

(3) The Colorado commission on higher education shall, in consultation with Adams state university, Colorado Mesa university, and Western Colorado university, establish the criteria for designation as a regional education provider.

Source: L. 2003: Entire section added, p. 788, § 7, effective July 1. **L. 2011:** (1)(a), (1)(b), and (3) amended, (SB 11-265), ch. 292, p. 1366, § 17, effective August 10. **L. 2012:** (1) and (3) amended, (HB 12-1080), ch. 189, p. 758, § 12, effective May 19; (1) and (3) amended, (HB 12-1331), ch. 254, p. 1269, § 10, effective August 1. **L. 2019:** (1) and (3) amended, (HB 19-1178), ch. 400, p. 3545, § 10, effective July 1.

Editor's note: Amendments to subsections (1) and (3) by House Bill 12-1080 and House Bill 12-1331 were harmonized.

Cross references: For the legislative declaration in the 2011 act amending subsections (1)(a), (1)(b), and (3), see section 1 of chapter 292, Session Laws of Colorado 2011.

23-1-128. Commission directive - American sign language in higher education institutions. (1) As used in this section, unless the context otherwise requires:

(a) "American sign language" means the natural language recognized globally that is used by members of the deaf community and that is linguistically complete with unique rules for language structure and use, that include phonology, morphology, syntax, semantics, and discourse.

(b) "Higher education institution" means a state-supported institution of higher education.

(2) On and after August 4, 2004, a higher education institution in the state may offer one or more elective courses in American sign language.

(3) (a) On or before December 1, 2004, the commission shall adopt the necessary policies and procedures to require higher education institutions in the state to treat American sign language as a foreign language for purposes of granting and receiving academic credit.

(b) The commission shall specify in the policies and procedures described in paragraph (a) of this subsection (3) that:

(I) A student who is enrolled in a higher education institution that offers American sign language courses may receive academic credit for the courses either by completing the courses or by demonstrating proficiency in American sign language, if the higher education institution gives credit for completing courses or demonstrating proficiency in any other foreign language;

(II) Academic credit received for either completing an American sign language course or demonstrating proficiency in American sign language may be counted toward satisfaction of any foreign language requirements of the higher education institution offering the courses, except those requirements related to the content of the academic major; and

(III) Academic credit received for either successful completion of American sign language courses in a secondary school or higher education institution or demonstrated proficiency in American sign language may be counted toward satisfaction of the foreign language entrance requirements of a higher education institution in the state.

Source: L. 2004: Entire section added, p. 254, § 1, effective August 4.

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.

Source: L. 2010: Entire section added, (HB 10-1428), ch. 390, p. 1831, § 9, effective June 9.

23-1-130. Department duty to report on workforce needs and credential production - repeal. (Repealed)

Source: L. 2012: Entire section added, (HB 12-1061), ch. 74, p. 251, § 1, effective August 8. **L. 2016:** (2)(a) amended, (HB 16-1082), ch. 58, p. 143, § 11, effective August 10.

Editor's note: (1) Subsection (4) provided for the repeal of this section, effective July 1, 2016. (See L. 2012, p. 251.)

(2) Subsection (2)(a) was amended by HB 16-1082, effective August 10, 2016; however, those amendments did not take effect because of the repeal of this section, effective July 1, 2016.

23-1-131. Commission directive - associate degree completion program - legislative declaration - definitions. (1) (a) The general assembly finds and declares that, due to the demands of a global economy, the state and the nation have an increasing need for individuals with a postsecondary credential or degree. Many students begin their postsecondary education in a two-year institution and transfer to a four-year institution prior to receiving an associate degree. Some students who subsequently accumulate the credit hours necessary for an associate degree while at the four-year institution, or who leave the four-year institution prior to completing a bachelor's degree, would benefit from the award of an associate degree. The award of an associate degree not only rewards the student's efforts in attaining postsecondary education but also recognizes the investment of financial resources in postsecondary education by both the student and the state.

(b) Therefore, the general assembly declares that the state's two-year and four-year institutions should work in collaboration with the commission to develop a process that reduces a potential barrier to degree completion by providing students with information about the student's eligibility for an associate degree.

(2) As used in this section, unless the context otherwise requires:

(a) "Associate degree" means an associate of arts or associate of science degree.

(b) "Four-year institution" means a state-supported institution of higher education that is authorized to grant baccalaureate degrees.

(c) "Two-year institution" means a state-supported institution of higher education, or a local district college, that is authorized to grant associate degrees.

(3) (a) The commission shall collaborate with the governing boards of the two-year and four-year institutions to develop and coordinate a process to notify students concerning eligibility for the award of an associate degree. The notification process shall apply to students at a four-year institution who have accumulated seventy credit hours at a four-year institution and who transferred to the institution after completing the residency requirements for an associate degree at a two-year institution. The notification process developed pursuant to this section shall specify the role of the student, the department, and the two-year and four-year institutions in the

process, with the role of the four-year institutions limited to providing contact information for eligible students. The notification process shall be implemented no later than the beginning of the 2013-14 academic year.

(b) The two-year and four-year institutions shall agree upon the contents of the notification to eligible students. At a minimum, the notification shall include the requirements for the degree audit by the two-year institution and information concerning the process for a student to be awarded an associate degree in the future if the degree requirements are not met or the student declines the associate degree at the time of the notification.

(c) Nothing in this section limits the ability of the governing boards of two-year and four-year institutions to develop reverse transfer agreements that are consistent with the intent of this section.

(4) Each two-year and four-year institution shall provide students with information concerning the process developed pursuant to this section.

Source: L. 2012: Entire section added, (SB 12-045), ch. 124, p. 419, § 1, effective April 18.

23-1-132. Commission directive - tuition waivers for exonerated persons. (1) On or before September 1, 2013, the commission shall implement a policy whereby, except as limited in this section, each institution of higher education in the state shall waive all tuition costs, including any mandatory fees associated with attendance at the institution, for an exonerated person, as defined in section 13-65-101 (3), C.R.S., and for any child of an exonerated person or custodial child of an exonerated person, as defined in section 13-65-101 (2), C.R.S., if:

(a) The exonerated person, or the child or custodial child of the exonerated person, satisfies the criteria described in subsection (2) of this section;

(b) The exonerated person, or the child or custodial child of the exonerated person, satisfies the admission requirements of the institution; and

(c) The exonerated person, or the child or custodial child of the exonerated person, remains in satisfactory academic standing in accordance with the academic policies of the institution.

(2) To receive a tuition waiver from an institution of higher education as described in subsection (1) of this section, an exonerated person or child or custodial child of an exonerated person shall apply to the institution and request such waiver in writing not later than two years after the later of the following dates:

(a) The date upon which a court issued to the state court administrator directions to compensate an exonerated person pursuant to section 13-65-103, C.R.S.; or

(b) In the case of a child or custodial child of an exonerated person, the date upon which the child graduated from high school.

(3) The policy described in subsection (1) of this section must be implemented by all state-supported institutions of higher education, including but not limited to all postsecondary institutions in the state supported in whole or in part by state funds, including community colleges, extension programs of the state-supported universities and colleges, local district colleges, and area technical colleges.

Source: L. 2013: Entire section added, (HB 13-1230), ch. 409, p. 2425, § 4, effective June 5. **L. 2016:** (3) amended, (HB 16-1082), ch. 58, p. 143, § 12, effective August 10.

Cross references: For the legislative declaration in the 2013 act adding this section, see section 1 of chapter 409, Session Laws of Colorado 2013.

23-1-133. Commission directive - bachelor of applied science degree programs - community colleges - approval. (1) (a) The state board for community colleges and occupational education, referred to in this section as the "state board", shall submit to the commission for its approval technical, career, and workforce development bachelor of applied science degree programs to be offered at one or more community colleges within the state system. The commission shall consider the following criteria in determining whether to approve a bachelor of applied science degree program:

(I) Whether the state board provides data demonstrating workforce and student demand for the degree program;

(II) The regional and professional accreditation requirements for the degree program, if applicable, and whether the college can satisfy those requirements, as appropriate, at both the institutional and program levels;

(III) Whether the state board can demonstrate that providing the degree program within the community college system is cost-effective for the student and the community college system;

(IV) Whether the state board can demonstrate that the degree program is sufficiently distinguishable from:

(A) An existing degree program at a state four-year institution of higher education that is provided to a student who resides in the community college's geographic service area, as defined by the commission pursuant to section 23-1-109 (2), without the student having to change his or her residence; or

(B) A degree program that has been successfully offered previously in conjunction with a state four-year institution of higher education, which degree program will be reinstated sooner than the degree program could be offered by the community college; and

(V) Whether the bachelor of applied science degree program could be provided through a statewide transfer agreement pursuant to section 23-1-108 (7) with an accredited state four-year institution in the community college's geographic service area or with an accredited state four-year institution of higher education that has a statewide service area, as defined by the commission pursuant to section 23-1-109 (2), that will deliver an existing bachelor of applied science program in the community college's geographic service area sooner than the degree program could be offered by the community college.

(b) In addition, in determining whether to approve a bachelor of applied science degree program, the commission:

(I) Shall consider whether the state board has met the criteria set forth in subparagraphs (I) to (IV) of paragraph (a) of this subsection (1) and whether the proposed bachelor of applied science degree program is in the best interests of the state of Colorado;

(II) Shall consult with the state board and state four-year institutions of higher education concerning whether the collaboration described in subparagraph (V) of paragraph (a) of this subsection (1) is feasible; and

(III) May consult with any state four-year institution of higher education that shares the same geographic service area, as defined by the commission pursuant to section 23-1-109 (2), concerning the proposed degree program to inform the commission of any anticipated systemwide effects of the new degree program.

(2) (a) In determining whether to approve a bachelor of applied science degree program for Aims community college pursuant to section 23-71-102, the commission shall consider the following criteria:

(I) Whether Aims community college provides data demonstrating workforce and student demand for the degree program;

(II) The regional and professional accreditation requirements for the degree program, if applicable, and whether the college can satisfy those requirements, as appropriate, at both the institutional and program levels;

(III) Whether Aims community college can demonstrate that providing the degree program within its service area is cost-effective for the student and Aims community college;

(IV) Whether Aims community college can demonstrate that the degree program is sufficiently distinguishable from:

(A) An existing degree program at a state four-year institution of higher education that is provided to a student who resides in Aims community college's geographic service area, as defined by the commission pursuant to section 23-1-109 (2), without the student having to change his or her residence; or

(B) A degree program that has been successfully offered previously in conjunction with a state four-year institution of higher education, which degree program will be reinstated sooner than the degree program could be offered by the community college; and

(V) Whether the bachelor of applied science degree program could be provided through a statewide transfer agreement pursuant to section 23-1-108 (7) with an accredited state four-year institution in Aims community college's geographic service area or with an accredited state four-year institution of higher education that has a statewide service area, as defined by the commission pursuant to section 23-1-109 (2), that will deliver an existing bachelor of applied science program in Aims community college's geographic service area sooner than the degree program could be offered by Aims community college.

(b) In addition, in determining whether to approve a bachelor of applied science degree program, the commission:

(I) Shall consider whether Aims community college has met the criteria set forth in subparagraphs (I) to (IV) of paragraph (a) of this subsection (2) and whether the proposed bachelor of applied science degree program is in the best interests of the state of Colorado;

(II) Shall consult with Aims community college and state four-year institutions of higher education concerning whether the collaboration described in subparagraph (V) of paragraph (a) of this subsection (2) is feasible; and

(III) May consult with any state four-year institution of higher education that shares the same geographic service area, as defined by the commission pursuant to section 23-1-109 (2), concerning the proposed degree program to inform the commission of any anticipated systemwide effects of the new degree program.

Source: L. 2014: Entire section added, (SB 14-004), ch. 13, p. 119, § 4, effective August 6.

Cross references: For the legislative declaration in SB 14-004, see section 1 of chapter 13, Session Laws of Colorado 2014.

23-1-134. Commission directive - open educational resources - course notice - definition. (1) The commission shall adopt guidelines to require public institutions of higher education to ensure that, beginning in the fall of 2021, students are informed prior to course registration concerning which courses and sections use open educational resources or other low-cost materials.

(2) As used in this section, "public institution of higher education" has the same meaning as provided in section 23-4.5-102.

Source: L. 2017: Entire section added, (SB 17-258), ch. 191, p. 693, § 1, effective May 3. **L. 2018:** Entire section R&RE, (HB 18-1331), ch. 186, p. 1259, § 2, effective April 30.

23-1-135. Department directive - undergraduate degree and certificate programs - annual return on investment report - definition - repeal. (1) (a) The general assembly finds and declares that:

(I) Colorado's economic growth depends upon a strong workforce with the education and training necessary to succeed in twenty-first-century careers;

(II) Colorado's state system of higher education is the primary source of education and training for Coloradans pursuing these careers;

(III) Further, Colorado's system of higher education must meet the postsecondary education needs of all of its residents, including providing reasonable access to higher education statewide, in order for Colorado to succeed in meeting its goals for an educated workforce;

(IV) With future state funding levels for higher education uncertain due to competing demands on the state's budget, the state has an obligation to taxpayers and to consumers of higher education in Colorado to make the best possible use of state resources; and

(V) Ensuring that state policymakers and consumers of higher education have access to information concerning undergraduate degree and certificate programs, including student costs and average debt, as well as employment and earnings outcomes, is critical to evaluating higher education program choices as well as Colorado's economic and workforce goals.

(b) Therefore, the general assembly declares that it is appropriate for the department of higher education to prepare an annual return on investment report that includes an analysis of student costs and employment outcomes of undergraduate degree or certificate programs offered at Colorado public institutions of higher education.

(2) As used in this section, unless the context otherwise requires, "institution of higher education" or "institution" means the state institutions, as defined in section 23-18-102 (10)(a), the local district colleges, and the area technical colleges.

(3) (a) On or before July 31, 2019, and on or before July 31 each year thereafter, the department of higher education shall prepare a return on investment report of undergraduate degree and certificate programs offered by institutions of higher education. The department, in consultation with the governing boards of the institutions, shall determine the designation of degree and certificate programs for purposes of the return on investment report.

(b) The return on investment report must include information concerning the undergraduate degree and certificate programs offered at each institution including, at a minimum:

(I) The number of students enrolled in the undergraduate degree or certificate program and the number of degrees and certificates awarded annually for the program;

(II) The average time to completion for students completing the undergraduate degree or certificate program and the average number of credits earned by students completing the degree or certificate program;

(III) The average cost for completion of the undergraduate degree or certificate program, including mandatory program and institutional fees, for a student with in-state tuition classification;

(IV) The average student loan debt for students in the undergraduate degree or certificate program;

(V) The employment rate of undergraduate degree or certificate program graduates. For purposes of the report, information relating to the employment rate includes the number of individual graduates, the number of individual graduates matched through available data sources, and the number of individual graduates that are not included in the employment rate, with an explanation of why the graduates are excluded from the employment rate.

(VI) The average annual earnings of undergraduate degree or certificate program graduates one, five, and ten years after graduation or completion; and

(VII) Any other information necessary to complete the return on investment report.

(4) Notwithstanding section 24-1-136 (11)(a)(I), the department shall annually submit the return on investment report to the education committees of the house of representatives and of the senate, or any successor committees, and shall post the report on the department's website for public access.

(4.5) The department may collect the data necessary to calculate return on investment metrics similar to the information described in subsection (3)(b) of this section from a private occupational school, as defined by section 23-64-103 (20), approved by the private occupational school board; or an out-of-state public institution, as defined by section 23-2-102 (9), private college or university, as defined by section 23-2-102 (11), private nonprofit college or university, as defined by section 23-2-102 (12), private occupational school, as defined by section 23-2-102 (13), or seminary or religious training institution, as defined by section 23-2-102 (14), authorized by the commission. The department may include the collected information in the return on investment report.

(5) This section is repealed, effective July 1, 2027.

Source: L. 2018: Entire section added, (HB 18-1226), ch. 246, p. 1519, § 1, effective August 8. **L. 2020:** (4.5) added, (HB 20-1280), ch. 96, p. 376, § 1, effective September 14.

23-1-136. Department directive - federal student loan repayment and forgiveness program information. In addition to any other powers and duties set forth in law, the department shall annually distribute to the governing board for each state institution of higher education informational materials received from the department of personnel pursuant to section 24-5-102 relating to federal student loan repayment programs and student loan forgiveness programs.

Source: L. 2019: Entire section added, (SB 19-057), ch. 35, p. 115, § 8, effective August 2.

ARTICLE 1.5

Statewide Enrollment Plan

23-1.5-101 to 23-1.5-103. (Repealed)

Source: L. 2008: Entire article repealed, p. 1483, § 30, effective May 28.

Editor's note: This article was added in 1994 and was not amended prior to its repeal in 2008. For the text of this article prior to 2008, consult the 2007 Colorado Revised Statutes.

ARTICLE 2

Degrees - Honorary - Academic
Achievement

23-2-101. Legislative declaration. The general assembly declares that this article is enacted for the general improvement of the educational programs available to the residents of the state of Colorado; to establish high standards for the education of such residents; to prevent misrepresentation, fraud, and collusion in offering such educational programs to the public; to eliminate those practices relative to such programs which are incompatible with the public interest; and to protect, preserve, foster, and encourage the educational programs offered by private educational institutions which meet generally recognized criteria of quality and effectiveness as determined through voluntary accreditation. To these ends, this article shall be liberally construed.

Source: L. 65: p. 1042, § 1. **C.R.S. 1963:** § 124-21-1. **L. 81:** Entire section amended, p. 1084, § 1, effective May 27.

23-2-102. Definitions. As used in this article 2, unless the context otherwise requires:

(1) "Alternate enrollment" means the opportunity for a student enrolled in a private college or university that ceases operation to meet the student's educational objectives through education provided by another authorized private college or university, a community college, an area technical college, or any other educational arrangement acceptable to the department and the commission.

(2) "Authorization" means the authorization granted to a private college or university or seminary or religious training institution by the commission as provided in this article and the policies adopted pursuant to this article. Authorization is not an endorsement of the institution by either the commission or the department.

(3) "Commission" means the Colorado commission on higher education created pursuant to section 23-1-102.

(4) "Degree" means a statement, diploma, certificate, or other writing in any language that indicates or represents, or that is intended to indicate or represent, that the person named thereon is learned in or has satisfactorily completed a prescribed course of study in a particular field of endeavor or that the person named thereon has demonstrated proficiency in a field of endeavor as a result of formal preparation or training.

(5) "Department" means the department of higher education created and existing pursuant to section 24-1-114, C.R.S.

(6) "Enrollment agreement" means the contract prepared by a private college or university or seminary or religious training institution that a student signs to indicate agreement to the terms of admission, delivery of instruction, and monetary terms as outlined in the institution's student handbook or catalog.

(7) "Governing board" means the elected or appointed group of persons that oversees and controls a private college or university or a seminary or religious training institution.

(8) "Honorary degree" means a statement, diploma, certificate, or other writing in any language that indicates or represents, or that is intended to indicate or represent, that the person named thereon is learned in a field of public service or has performed outstanding public service or that the person named thereon has demonstrated proficiency in a field of endeavor without having completed formal courses of instruction or study or formal preparation or training.

(9) "Out-of-state public institution" means an institution of higher education that is established by statute in a state other than Colorado.

(10) "Owner" means:

(a) An individual, if a private for-profit college or university is structured as a sole proprietorship;

(b) Partners, if a private for-profit college or university is structured as a partnership;

(c) Members in a limited liability company, if a private for-profit college or university is structured as a limited liability company; or

(d) Shareholders in a corporation that hold a controlling interest, if a private for-profit college or university is structured as a corporation.

(11) "Private college or university" means a postsecondary educational institution doing business or maintaining a place of business in the state of Colorado, which institution enrolls the majority of its students in a baccalaureate or postgraduate degree program.

(12) "Private nonprofit college or university" means a private college or university that maintains tax-exempt status pursuant to 26 U.S.C. sec. 501 (c)(3).

(13) "Private occupational school" means an institution authorized by the private occupational school division under the provisions of article 64 of this title 23.

(14) "Seminary" or "religious training institution" means a bona fide religious postsecondary educational institution that is operating or maintaining a place of business in the state of Colorado, that is exempt from property taxation under the laws of this state, and that offers baccalaureate, master's, or doctoral degrees or diplomas.

(15) "State college or university" means a postsecondary educational institution, including a community or local district college, established and existing pursuant to law as an agency of the state of Colorado and supported wholly or in part by tax revenues.

Source: L. 65: p. 1042, § 2. **C.R.S. 1963:** § 124-21-2. **L. 78:** (5) amended, p. 375, § 1, effective July 1. **L. 81:** (3) to (5) amended and (3.5) added, p. 1084, § 2, effective May 27. **L.**

90: (3.5) amended, p. 1172, § 31, effective July 1. **L. 2008:** (1), (3), and (4) amended and (1.3) and (1.5) added, p. 1646, § 1, effective May 29. **L. 2012:** Entire section amended, (HB 12-1155), ch. 255, p. 1282, § 9, effective August 8. **L. 2016:** (1) amended, (HB 16-1082), ch. 58, p. 143, § 13, effective August 10. **L. 2017:** IP and (13) amended, (HB 17-1239), ch. 261, p. 1204, § 9, effective August 9.

23-2-102.5. Applicability of article. (1) (a) A private college or university that enrolls a majority of its students at the certificate or associate level is regulated by the private occupational school division and the private occupational school board pursuant to article 64 of this title 23 and is not subject to the provisions of this article 2.

(b) If, as a result of changes in student enrollment, a private college or university at times meets the definition provided in section 23-2-102 (11) and should therefore be regulated by the department and the commission, and at other times meets the requirements of paragraph (a) of this subsection (1) and should therefore be regulated by the private occupational school division and the private occupational school board, the private college or university is subject to regulation by the entity that is appropriate as of July 1, 2012, if the private college or university is authorized as of said date, or as of the date the institution applies for authorization, and the institution shall be regulated by the same entity for the following three years. The department shall review the status of the private college or university every three years after July 1, 2012, or every three years after initial authorization, whichever is appropriate, to determine whether the institution should be subject to regulation by the department and the commission or by the private occupational school division and the private occupational school board.

(2) An out-of-state public institution may request authorization pursuant to the provisions of this article from the department and the commission. In seeking and maintaining authorization pursuant to this article, an out-of-state public institution is subject to the same criteria and requirements that apply to a private college or university.

Source: L. 2012: Entire section added, (HB 12-1155), ch. 255, p. 1283, § 10, effective August 8. **L. 2017:** (1)(a) amended, (HB 17-1239), ch. 261, p. 1205, § 10, effective August 9.

23-2-103. Awarding degrees. Notwithstanding the provisions of section 7-50-105 or any other law to the contrary, a person, partnership, corporation, company, society, or association doing business in the state of Colorado shall not award, bestow, confer, give, grant, convey, or sell to any other person a degree or honorary degree upon which is inscribed, in any language, the word "associate", "bachelor", "baccalaureate", "master", or "doctor", or any abbreviation thereof, or offer courses of instruction or credits purporting to lead to any such degree, unless the person, partnership, corporation, company, society, or association is a state college or university; a private college or university that is authorized pursuant to this article 2; a private occupational school; a seminary or religious training institution that is authorized pursuant to this article 2; or a school, college, or university that offers courses of instruction or study in compliance with standards prescribed by part 1 of article 255 of title 12 and articles 100, 120, 215, 220, 240, 245, 275, 280, 285, 290, and 315 of title 12.

Source: L. 65: p. 1043, § 3. **C.R.S. 1963:** § 124-21-3. **L. 76:** Entire section amended, p. 414, § 10, effective July 1; entire section amended, p. 424, § 6, effective July 1. **L. 78:** Entire

section amended, p. 314, § 2, effective July 1. **L. 81:** Entire section amended, p. 1085, § 3, effective May 27. **L. 83:** Entire section amended, p. 575, § 9, effective April 22. **L. 88:** Entire section amended, p. 568, § 7, effective July 1. **L. 91:** Entire section amended, p. 1912, § 23, effective June 1. **L. 2012:** Entire section amended, (HB 12-1155), ch. 255, p. 1284, § 11, effective August 8. **L. 2019:** Entire section amended, (HB 19-1172), ch. 136, p. 1683, § 118, effective October 1. **L. 2020:** Entire section amended, (HB 20-1183), ch. 157, p. 701, § 53, effective July 1.

Cross references: For authority of corporations existing for educational purposes to award degrees, see § 7-50-105.

23-2-103.1. Commission - department - duties - limitation - reciprocity. (1) The commission shall:

(a) Establish procedures for authorizing, reauthorizing, and revoking the authorization of private colleges and universities and seminaries and religious training institutions in accordance with the provisions of this article, including but not limited to procedures by which an institution may apply for authorization or reauthorization and the procedures the department shall follow in reviewing applications and making recommendations to the commission;

(b) Grant or deny authorizations, renew authorizations, and revoke authorizations pursuant to sections 23-2-103.3 and 23-2-103.4;

(c) Establish the types and amounts of fees that a private college or university or seminary or religious training institution shall pay as required in section 23-2-104.5; and

(d) Establish policies to require private colleges and universities and seminaries and religious training institutions to submit to the department, upon request, data that is directly related to student enrollment and degree completion and, if applicable, student financial aid and educator preparation programs as described in section 23-1-121. The director of the commission and an employee of the department of higher education shall not divulge or make known in any way data for individual students or personnel, except in accordance with judicial order or as otherwise provided by law. A person who violates this paragraph (d) commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S., and shall be removed or dismissed from public service on the grounds of malfeasance in office.

(2) The department shall administer the provisions of this article in accordance with the provisions of this article and the policies, guidelines, and procedures adopted by the commission for the administration of this article. To administer this article, the department shall have, but need not be limited to, the following duties:

(a) Recommending that the commission grant, deny, revoke, or renew an authorization to operate a private college or university or seminary or religious training institution;

(b) Maintaining a list of the private colleges and universities and seminaries and religious training institutions that have authorizations on file with the department; and

(c) Establishing and maintaining a process in accordance with section 23-2-104 for reviewing and appropriately acting on a complaint concerning a private college or university or seminary or religious training institution operating in this state, including enforcing applicable state laws if the complaint is based on a claim of deceptive trade practice.

(3) The commission and the department are not authorized to regulate the operations of, including but not limited to the content of courses provided by, a private college or university or seminary or religious training institution except to the extent expressly set forth in this article.

(4) The commission may negotiate and enter into interstate reciprocity agreements with other states if, in the judgment of the commission, the agreements do not obligate a private college or university or seminary or religious training institution to comply with standards or requirements that exceed the standards and requirements specified in this article and the agreements will assist in accomplishing the purposes of this article.

Source: L. 2012: Entire section added, (HB 12-1155), ch. 255, p. 1284, § 12, effective August 8.

23-2-103.3. Authorization to operate in Colorado - renewal. (1) (a) To operate in Colorado, a private college or university shall apply for and receive authorization from the commission. A private college or university shall obtain a separate authorization for each campus, branch, or site that is separately accredited. A private, nonprofit college or university shall submit with its application verification of nonprofit status, including a copy of the institution's tax-exempt certificate issued by the Colorado department of revenue.

(b) After receiving an application, the department shall review the application to determine whether the private college or university is institutionally accredited by a regional or national accrediting body recognized by the United States department of education. The department shall not recommend and the commission shall not approve an application from a private college or university that, in the two years preceding submission of the application, has had its accreditation suspended or withdrawn or has been prohibited from operating in another state or that has substantially the same owners, governing board, or principal officers as a private college or university that, in the two years preceding submission of the application, has had its accreditation suspended or withdrawn or has been prohibited from operating in another state.

(2) To operate in Colorado, a private college or university shall be institutionally accredited on the basis of an on-site review by a regional or national accrediting body recognized by the United States department of education; except that a private college or university may operate for an initial period without accreditation if the commission determines, in accordance with standards established by the commission, that the private college or university is likely to become accredited in a reasonable period of time or is making progress toward accreditation in accordance with the accrediting body's policies. The commission may grant a provisional authorization to a private college or university to operate for an initial period without accreditation. The private college or university shall annually renew its provisional authorization and report annually to the commission concerning the institution's progress in obtaining accreditation.

(3) A private college or university shall immediately notify the department of any material information related to an action by the institution's accrediting body concerning the institution's accreditation status, including but not limited to reaffirmation or loss of accreditation, approval of a request for change, a campus evaluation visit, a focused visit, or approval of additional locations. In addition, the institution shall immediately notify the department if the institution's accrediting body is no longer recognized by the United States department of education.

(4) To operate in Colorado, a seminary or religious training institution shall apply for and receive authorization from the department and establish that it qualifies as a bona fide religious institution and as an institution of postsecondary education, as defined by rules promulgated by the commission. A seminary or religious training institution that meets the criteria and rules established by this subsection (4) is exempt from the provisions of subsections (1), (2), and (3) of this section. A bona fide religious institution and an institution of postsecondary education that applies for authorization pursuant to this subsection (4) shall pay the fee established according to section 23-2-104.5.

(5) A private college or university that has authorization from the commission pursuant to this section and maintains its accreditation shall apply to the department for reauthorization in accordance with the schedule for reaccreditation by its accrediting body or every three years, whichever is longer. A seminary or religious training institution shall apply for reauthorization every three years. A private college or university or seminary or religious training institution that seeks reauthorization shall submit an application in accordance with the procedures and policies adopted by the commission and shall pay the reauthorization fee established by the commission pursuant to section 23-2-104.5.

(6) Nothing in this section shall preclude a seminary or religious training institution from seeking accreditation.

(7) (a) By January 1, 2013, the commission shall adopt procedures by which a private college or university or seminary or religious training institution may renew its authorization to operate in Colorado. To renew its authorization to operate in Colorado, a private college or university or seminary or religious training institution shall demonstrate that it continues to meet the minimum operating standards specified in this section and section 23-2-103.8, if applicable.

(b) (I) A private college or university that has had its accreditation reaffirmed without sanction, is in compliance with section 23-2-103.8, and is not subject to investigation pursuant to section 23-2-103.4 is presumed qualified for renewal of authorization, and the department shall recommend renewal for a period of three years or the length of the institution's accreditation, if applicable, whichever is longer.

(II) A seminary or religious training institution that continues to meet the minimum operating standards specified in this section is presumed qualified for renewal of authorization, and the department shall recommend that the commission renew the institution's authorization for three additional years.

(c) If a private college or university or seminary or religious training institution cannot demonstrate that it meets the minimum operating standards specified in this section or section 23-2-103.8, if applicable, the department shall recommend that the commission deny the institution's application for renewal of the authorization. If, within six months after receiving the notice of denial of the application for renewal, the institution corrects the action or condition that resulted in denial of the application for renewal, the institution may reapply for renewal of the authorization. If the institution does not correct the action or condition within the six-month period, it may submit a new application for authorization after correcting the action or condition.

(d) If a private college or university is under a sanction from its accrediting body at the time it files an application for renewal of authorization to operate in Colorado, the department may recommend that the commission renew the institution's authorization or that the commission grant a probationary renewal of the institution's authorization. If an institution receives a probationary renewal of its authorization, the institution shall reapply for renewal of

its authorization annually until the accrediting body lifts the sanction, and the institution shall annually report to the commission concerning the institution's progress in removing the sanction.

(e) If the department recommends that the commission grant a probationary renewal of authorization or deny an application for renewal of authorization, the commission shall notify the private college or university or seminary or religious training institution concerning the recommendation, and the department and the commission shall proceed in accordance with the provisions of the "State Administrative Procedure Act", article 4 of title 24, C.R.S.

Source: L. 2008: Entire section added, p. 1647, § 2, effective May 29. **L. 2009:** (5)(b) amended, (SB 09-292), ch. 369, p. 1966, § 70, effective August 5. **L. 2012:** Entire section amended, (HB 12-1155), ch. 255, p. 1286, § 13, effective August 8.

23-2-103.4. Authorization - revocation - probationary status. (1) (a) If the commission has reason to believe that a private college or university or seminary or religious training institution meets one or more of the grounds specified in subsection (2) or (3) of this section for revocation of authorization or for placing an institution on probationary status, the commission may order the department to investigate the private college or university or seminary or religious training institution and make a recommendation concerning whether to revoke the institution's authorization or to place the institution on probationary status.

(b) To assist the department in conducting an investigation pursuant to this subsection (1), the commission may subpoena any persons, books, records, or documents pertaining to the investigation, require answers in writing, under oath, to questions the commission or the department may ask, and administer an oath or affirmation to any person in connection with the investigation. In conducting the investigation, the department may physically inspect an institution's facilities and records. A subpoena issued by the commission pursuant to this paragraph (b) is enforceable by any court of record in this state.

(c) Based on the findings of an investigation pursuant to this subsection (1), the department shall recommend to the commission that the commission should or should not revoke the institution's authorization or place the institution on probationary status. If the department recommends revocation or probationary status, it shall identify the applicable grounds for revocation or probationary status specified in subsection (2) or (3) of this section, and the department and the commission shall proceed in accordance with the provisions of the "State Administrative Procedure Act", article 4 of title 24, C.R.S.

(2) With regard to the authorization of a private college or university, the commission may:

(a) Revoke the private college's or university's authorization or place the institution on probationary status if the private college or university:

(I) Fails to meet any of the minimum standards set forth in this article or in the commission's policies or rules adopted to implement this article;

(II) Fails to substantially comply with the applicable laws or rules adopted or implemented by other state-level boards or agencies that have jurisdiction over the institution; or

(III) Violates the federal criminal laws or the criminal laws of this state or any other state in which the institution operates;

(b) Revoke the private college's or university's authorization if the institution loses its accreditation;

(c) Place the private college or university on probationary status if the institution's accrediting body places the institution on probation or the equivalent; or

(d) Revoke the private college's or university's authorization or place the private college or university on probationary status if the United States department of education ceases to recognize the institution's accrediting body.

(3) The commission may revoke a seminary's or religious training institution's authorization or place the institution on probationary status if the seminary or religious training institution:

(a) No longer meets the definition of a seminary or religious training institution specified in section 23-2-102;

(b) Fails to meet any of the other minimum standards set forth in this article or in the commission's policies or rules adopted to implement this article; or

(c) Violates the federal criminal laws or the criminal laws of this state or any other state in which the institution operates.

Source: L. 2012: Entire section added, (HB 12-1155), ch. 255, p. 1289, § 14, effective August 8.

23-2-103.5. Deposit of records upon discontinuance. (1) (a) If a private college or university or seminary or religious training institution ceases operating within this state, the owner of the institution or his or her designee shall deposit with the department the original or legible true copies of all educational records of the institution.

(b) If the commission determines that the records of a private college or university or seminary or religious training institution that ceases operating within the state are in danger of being destroyed, secreted, mislaid, or otherwise made unavailable to the department, the commission may seek a court order authorizing the department to seize and take possession of the records.

(c) The department or the attorney general may enforce the provisions of this subsection (1) by filing a request for an injunction with a court of competent jurisdiction.

(d) The commission shall adopt policies for the implementation of this subsection (1).

(2) A person may request, in accordance with the provisions of the "Colorado Open Records Act", part 2 of article 72 of title 24, C.R.S., a copy of a record held by the department pursuant to this section.

(3) The department shall permanently retain any student transcripts received pursuant to this section. The department shall retain any other records received pursuant to this section for ten years following the date on which it receives or obtains the records. After the required retention period, the department shall dispose of the records in a manner that will adequately protect the privacy of personal information included in the records.

Source: L. 85: Entire section added, p. 772, § 1, effective June 6. **L. 2008:** Entire section amended, p. 1478, § 18, effective May 28; entire section amended, p. 1649, § 3, effective May 29. **L. 2012:** Entire section R&RE, (HB 12-1155), ch. 255, p. 1290, § 15, effective August 8.

Editor's note: Amendments to this section by Senate Bill 08-018 and Senate Bill 08-167 were harmonized.

23-2-103.7. Authorized institutions - responsibilities. (1) A private college or university or seminary or religious training institution that is authorized pursuant to this article:

(a) Shall not make or cause to be made any oral, written, or visual statement or representation that violates section 23-2-104 (4);

(b) Shall annually provide to the department a copy of the institution's enrollment agreement if the institution uses an enrollment agreement;

(c) Shall provide bona fide instruction, in accordance with the standards and criteria set by the institution's accrediting body; and

(d) If the ownership of the institution changes, shall provide to the department, within thirty days after the change, any material information concerning the transaction that is requested by the department.

(2) If a private college or university or seminary or religious training institution violates any of the requirements specified in subsection (1) of this section, the department may recommend to the commission that the institution's authorization be revoked or placed on probationary status.

Source: L. 2012: Entire section added, (HB 12-1155), ch. 255, p. 1291, § 16, effective August 8.

23-2-103.8. Financial integrity - surety. (1) A private college or university is exempt from the provisions of this section if:

(a) The private college or university is a party to a performance contract with the commission pursuant to section 23-18-201 (2); or

(b) The private college or university:

(I) Has been accredited for at least twenty years by an accrediting agency that is recognized by the United States department of education;

(II) Has operated continuously in this state for at least twenty years; and

(III) Has not at any time filed for bankruptcy protection pursuant to title 11 of the United States code.

(2) (a) If a private college or university is not exempt from the requirements of this section pursuant to subsection (1) of this section, the commission shall determine the financial integrity of the private college or university by confirming that the institution meets or does not meet the criteria specified in paragraph (b) or (c) of this subsection (2). The private college or university shall present as part of the application for authorization verifiable evidence that the institution meets the criteria specified in paragraph (b) or (c) of this subsection (2).

(b) (I) A private college or university may demonstrate financial integrity by meeting the following criteria:

(A) The institution has been accredited for at least ten years by an accrediting agency that is recognized by the United States department of education;

(B) The institution has operated continuously in this state for at least ten years;

(C) During its existence, the institution has not filed for bankruptcy protection pursuant to title 11 of the United States code;

(D) The institution maintains a composite score of at least 1.5 on its equity, primary reserve, and net income ratios, as required in 34 CFR 668.172; and

(E) The institution meets or exceeds the pro rata refund policies required by the federal department of education in 34 CFR 668 or, if the institution does not participate in federal financial aid programs, the institution's refund and termination procedures comply with the requirements of the institution's accrediting body.

(II) Notwithstanding any provision of subparagraph (I) of this paragraph (b) to the contrary, a private college or university is not required to meet the criteria specified in sub-subparagraphs (A) and (B) of subparagraph (I) of this paragraph (b) if the institution is part of a group of private colleges and universities that are owned and operated by a common owner, so long as all of the other institutions in the group meet the criteria specified in sub-subparagraphs (A) and (B) of subparagraph (I) of this paragraph (b).

(c) A private college or university may demonstrate financial integrity by meeting the following criteria:

(I) The institution has received and maintains full accreditation without sanction from an accrediting agency that is recognized by the United States department of education, which accrediting agency requires the institution to maintain surety or an escrow account or has affirmatively waived or otherwise removed the requirement for the institution;

(II) The institution has been continuously authorized by the commission for at least five years;

(III) The institution owns and operates a permanent instructional facility in the state;

(IV) The institution annually provides to the commission audited financial statements for the most recent fiscal year that demonstrate that the institution maintains positive equity and profitability;

(V) The institution maintains a composite score of at least 1.5 on its equity, primary reserve, and net income ratios, as required in 34 CFR 668.172; and

(VI) The institution meets or exceeds the pro rata refund policies required by the federal department of education in 34 CFR 668 or, if the institution does not participate in federal financial aid programs, the institution's refund and termination procedures comply with the requirements of the institution's accrediting body.

(3) (a) Each private college or university that is not exempt from the requirements of this section pursuant to subsection (1) of this section and cannot demonstrate financial integrity as provided in subsection (2) of this section, as determined by the commission, shall file evidence of surety in the amount calculated pursuant to subsection (5) of this section prior to receiving authorization to operate in Colorado. The surety may be in the form of a savings account, deposit, or certificate of deposit that meets the requirements of section 11-35-101, C.R.S., or an alternative method approved by the commission, or one bond as set forth in this section covering the applying institution. The commission may disapprove an institution's surety if the commission finds the surety is not sufficient to provide students with the indemnification and alternative enrollment required by this section.

(b) If a private college or university files a bond, the bond shall be executed by the institution as principal and by a surety company authorized to do business in this state. The bond shall be continuous unless the surety is released as set forth in this section.

(4) The surety shall be conditioned to provide indemnification to any student or enrollee, or to any parent or legal guardian of a student or enrollee, that the commission finds to have suffered loss of tuition or any fees as a result of any act or practice that is a violation of this article 2; to provide alternate enrollment as provided in subsection (7) of this section for students

enrolled in an institution that ceases operation; and to reimburse the department for any actual administrative costs associated with an institution ceasing operation.

(5) The amount of the surety that a private college or university submits pursuant to subsection (3) of this section is the greater of five thousand dollars or an amount equal to a reasonable estimate of the maximum prepaid, unearned tuition and fees of the institution for the period or term during the applicable academic year for which programs of instruction are offered including, but not limited to, programs offered on a semester, quarter, monthly, or class basis; except that the institution shall use the period or term of greatest duration and expense in determining this amount if the institution's academic year consists of one or more periods or terms. Following the initial filing of the surety with the department, the private college or university shall recalculate the amount of the surety annually based on a reasonable estimate of the maximum prepaid, unearned tuition and fees received by the institution for the applicable period or term.

(6) (a) A student or enrollee, or a parent or guardian of the student or enrollee, who claims loss of tuition or fees may file a claim with the commission if the claim results from an act or practice that violates a provision of this article. The claims that are filed with the commission are public records and are subject to the provisions of article 72 of title 24, C.R.S.; except that the department shall not make the claims records public if the release would violate a federal privacy law.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (6), the commission shall not consider a claim that is filed more than two years after the date the student discontinues his or her enrollment with the institution.

(7) (a) If a private college or university ceases operation, the commission may make demand on the surety of the institution upon the demand for a refund by a student or for the implementation of alternate enrollment for the students enrolled in the institution and may make demand on the surety to reimburse the department for actual administrative costs associated with the institution ceasing operation. In such case, the holder of the surety or, if the surety is a bond, the principal on the bond shall pay the claim due in a timely manner. To the extent practicable, the commission shall use the amount of the surety to provide alternate enrollment for students of the institution that ceases operation through a contract with another authorized private college or university, a community college, an area technical college, or any other arrangement that is acceptable to the department. The alternate enrollment provided to a student replaces the original enrollment agreement, if any, between the student and the private college or university; except that the student shall make the tuition and fee payments as required by the original enrollment agreement, if any.

(b) A student who is enrolled in a private college or university that ceases operation and who declines the alternate enrollment required to be offered pursuant to paragraph (a) of this subsection (7) may file a claim with the commission for the student's prorated share of the prepaid, unearned tuition and fees that the student paid, subject to the limitations of paragraph (c) of this subsection (7). The commission shall not make a subsequent payment to a student unless the student submits proof of satisfaction of any prior debt to a financial institution in accordance with the commission's rules concerning the administration of this section.

(c) If the amount of the surety is less than the total prepaid, unearned tuition and fees that have been paid by students at the time the private college or university ceases operation, the department shall prorate the amount of the surety among the students.

(c.5) Any amount of the surety that is greater than the amount necessary to satisfy costs to provide alternate enrollment for the student pursuant to subsection (7)(a) of this section, and any demand for a refund by a student pursuant to subsection (7)(b) of this section, may be retained by the department as reimbursement up to the amount of any actual administrative costs incurred by the department that are associated with the school closure.

(d) The provisions of this subsection (7) are applicable only to those students enrolled in the private college or university at the time it ceases operation, and, once an institution ceases operation, no new students shall be enrolled therein.

(e) The commission is the trustee for all prepaid, unearned tuition and fees, student loans, Pell grants, and other student financial aid assistance if an authorized private college or university ceases operation.

(f) The commission shall determine whether offering alternate enrollment for students enrolled in an authorized private college or university that ceases operation is practicable without federal government designation of the commission as trustee for student loans, Pell grants, and other student financial aid assistance pursuant to paragraph (e) of this subsection (7).

(8) For claims made pursuant to this section that do not involve a private college or university that ceases operation, the commission shall conduct a hearing to determine whether there is loss of tuition or fees, and, if the commission finds that a claim is valid and due the claimant, the commission shall make demand upon the surety. If the holder of the surety or, if the surety is a bond, the principal on the bond fails or refuses to pay the claim due, the commission shall commence an action on the surety in a court of competent jurisdiction; except that the commission shall not file an action more than six years after the date of the violation that gives rise to the right to file a claim pursuant to this section.

(9) The authorization for a private college or university is suspended by operation of law when the institution is no longer covered by surety as required by this section. The department shall give written notice to the institution at the last-known address, at least forty-five days before the release of the surety, to the effect that the institution's authorization is suspended by operation of law until the institution files evidence of surety in like amount as the surety being released.

(10) The principal on a bond filed under the provisions of this section is released from the bond after the principal serves written notice thereof to the commission at least sixty days before the release. The release does not discharge or otherwise affect a claim filed by a student or enrollee or his or her parent or legal guardian for loss of tuition or fees that occurred while the bond was in effect or that occurred under any note or contract executed during any period of time when the bond was in effect, except when another bond is filed in a like amount and provides indemnification for any such loss.

(11) Each private college or university that files a surety pursuant to subsection (3) of this section shall provide annual verification of continued coverage by surety as required by this section in a report to the commission due by January 1 of each year. The commission may disapprove a surety if it finds that the surety is not adequate to provide students with the indemnification and alternate enrollment required by this section.

(12) If a private college or university that is exempt from the provisions of this section or that demonstrates financial integrity pursuant to subsection (2) of this section ceases to operate in this state, the state attorney general may file a claim against the institution on behalf of

students enrolled in the institution at the time it ceases operation to recover any amount of unearned, prepaid tuition that may be owed to the students.

(13) A seminary or religious training institution is not subject to the requirements of this section.

Source: L. 2012: Entire section added, (HB 12-1155), ch. 255, p. 1291, § 16, effective August 8. **L. 2016:** (7)(a) amended, (HB 16-1082), ch. 58, p. 144, § 14, effective August 10. **L. 2017:** (1)(a) amended, (SB 17-297), ch. 210, p. 819, § 10, effective May 18. **L. 2018:** (4) and (7)(a) amended and (7)(c.5) added, (SB 18-177), ch. 196, p. 1288, § 1, effective August 8.

23-2-104. Administration of article - complaints - injunctive proceedings. (1) The department shall administer this article pursuant to statute and appropriate policies adopted by the commission.

(2) (a) The commission shall specify procedures by which a student or former student of a private college or university or seminary or religious training institution may file a complaint with the department concerning the institution in which the student is or was enrolled. If a former student files a complaint, he or she must do so within two years after discontinuing enrollment at the institution. The department may investigate complaints based on a claim of a deceptive trade practice as described in subsection (4) of this section. The department does not have jurisdiction to consider complaints that infringe on the academic freedom or religious freedom of, or question the curriculum content of, a private college or university or seminary or religious training institution; except that the department has jurisdiction to consider a complaint that pertains to the general education core course requirements of a private college or university or seminary or religious training institution, or to any of the specific core courses included in said requirements, if the private college or university or seminary or religious training institution chooses to seek transferability of its general education core courses pursuant to section 23-1-125 (5).

(b) Upon receipt of a complaint, the department shall verify that the complaint warrants investigation under the guidelines established by the commission and as a deceptive trade practice. A complaint will warrant investigation only when the student has exhausted all complaint and appeals processes available at the institution. The department shall dismiss a complaint if it does not warrant investigation under the commission's guidelines and is not a deceptive trade practice. If the complaint warrants investigation, the department shall first forward the complaint to the institution for a written response. The institution shall have thirty days to respond in writing to the department and to forward a copy of the response to the student. During the thirty-day period, the institution may attempt to resolve the complaint with the student, and the department shall assist in the efforts to resolve the complaint. If the department determines at any time that a complaint no longer warrants investigation, the department shall dismiss the complaint.

(c) If a complaint is not resolved during the thirty-day period, the department may dismiss the complaint based on the institution's response, investigate the complaint further, or recommend that the commission evaluate the merits of the complaint. If the commission finds the complaint is meritorious, it may recommend that the private college or university or seminary or religious training institution take appropriate action to remedy the complaint.

(d) If the private college or university or seminary or religious training institution does not take the action recommended by the commission, the commission may forward the complaint and findings to the attorney general.

(3) The commission, acting through the attorney general, may proceed by injunction against any violation of this article, but an injunction proceeding or an order issued therein or as a result thereof shall not bar the imposition of any other penalty for violation of this article.

(4) It is a deceptive trade practice for:

(a) An institution or agent to make or cause to be made any statement or representation, oral, written, or visual, in connection with the offering of educational services if the institution or agent knows or reasonably should have known the statement or representation to be materially false, substantially inaccurate, or materially misleading;

(b) An institution or agent to represent falsely or to deceptively conceal, directly or by implication, through the use of a trade or business name, the fact that an institution is a school;

(c) An institution or agent to adopt a name, trade name, or trademark that represents falsely, directly or by implication, the quality, scope, nature, size, or integrity of the institution or its educational services;

(d) An institution or agent to intentionally and materially represent falsely, directly or by implication, that students who successfully complete a course or program of instruction may transfer the credits earned to any institution of higher education;

(e) An institution or agent to intentionally and materially represent falsely, directly or by implication, in its advertising or promotional materials or in any other manner, the size, location, facilities, or equipment of the institution; the number or educational experience qualifications of its faculty; the extent or nature of any approval received from any state agency; or the extent or nature of any accreditation received from any accrediting agency or association;

(f) An institution or agent to provide prospective students with testimonials, endorsements, or other information that has the tendency to materially mislead or deceive prospective students or the public regarding current practices of the institution;

(g) An agent representing an out-of-state school to represent, directly or by implication, that the school is authorized by the state of Colorado or approved or accredited by an accrediting agency or body when the institution has not been authorized, approved, or accredited;

(h) An institution to designate or refer to its sales representatives by titles that imply the sales representatives have training in academic counseling or advising if they do not.

Source: L. 65: p. 1044, § 4. **C.R.S. 1963:** § 124-21-4. **L. 78:** Entire section amended, p. 375, § 2, effective July 1. **L. 2008:** Entire section amended, p. 1649, § 4, effective May 29. **L. 2010:** (2)(a) amended, (SB 10-108), ch. 301, p. 1429, § 2, effective May 27. **L. 2012:** Entire section amended, (HB 12-1155), ch. 255, p. 1296, § 17, effective August 8.

23-2-104.5. Fees - public hearing. (1) The commission shall establish fees to be paid by a private college or university or seminary or religious training institution for the administration of this article. The amount of the fees shall reflect the direct and indirect costs of administering this article. The commission shall propose, as part of the department's annual budget request, an adjustment in the amount of the fees that it is authorized to collect pursuant to this section. The budget request and the adjusted fees shall reflect the direct and indirect costs of administering this article.

(2) The commission may establish a fee to be paid to the department by a private college or university that is authorized pursuant to this article and that applies for approval of an educator preparation program pursuant to section 23-1-121. The amount of the fee shall reflect the direct and indirect costs of the department in administering the provisions of section 23-1-121.

(3) Prior to establishing a new fee or increasing the amount of an existing fee, the commission shall hold a public hearing to discuss and take testimony concerning the new fee or increase in fees. The commission shall provide notice of the public hearing and the proposed new fee or fee increase to each private college or university and seminary and religious training institution at least thirty days prior to the date of the public hearing.

Source: L. 2008: Entire section added, p. 1648, § 2, effective May 29. **L. 2012:** Entire section amended, (HB 12-1155), ch. 255, p. 1298, § 18, effective August 8.

23-2-105. Violation. Any person, partnership, corporation, company, society, association, or agent thereof doing business or maintaining a place of business in the state of Colorado who violates the provisions of section 23-2-103 commits a class 3 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S.

Source: L. 65: p. 1044, § 5. **C.R.S. 1963:** § 124-21-5. **L. 81:** Entire section amended, p. 1085, § 4, effective May 27. **L. 2002:** Entire section amended, p. 1529, § 238, effective October 1.

Cross references: For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 318, Session Laws of Colorado 2002.

ARTICLE 3

Higher and Career and Technical Education
Loan Guarantee Act

23-3-101. Short title. The short title of this article 3 is the "Higher and Career and Technical Education Loan Guarantee Act of 1968".

Source: L. 68: p. 172, § 1. **C.R.S. 1963:** § 124-22-13. **L. 2017:** Entire section amended, (SB 17-294), ch. 264, p. 1398, § 56, effective May 25.

23-3-102. Legislative declaration. The general assembly finds and declares that the provision of a higher or career and technical education for all residents of this state who desire such an education and are properly qualified therefor is important to the welfare and security of this state and nation and, consequently, serves an important public purpose and that many qualified students are deterred by financial considerations from completing their education, with a consequent irreparable loss to the state and nation of talents vital to welfare and security. The number of qualified persons who desire higher or career and technical education is increasing rapidly, and the physical facilities, faculties, and staffs of the institutions of higher education

operated by the state will have to be expanded greatly to accommodate such persons, with an attendant sharp increase in the cost of educating such persons. A system of financial assistance through guaranteed loans for qualified residents of college age will enable them to attend qualified institutions of their choice.

Source: L. 68: p. 172, § 1. **C.R.S. 1963:** § 124-22-12. **L. 2017:** Entire section amended, (SB 17-294), ch. 264, p. 1398, § 57, effective May 25.

23-3-103. Definitions. As used in this article, unless the context otherwise requires:

(1) "College" means any public or nonprofit institution of higher education which is recognized and approved by the regional accrediting agency for the state where such educational institution is situated or which is approved by the United States commissioner of education and which provides a course of study leading to the granting of a postsecondary degree or diploma.

(2) "Vocational school" means any eligible business or trade school, technical institution, or other vocational institution as determined by the state board for community colleges and occupational education or as approved by the United States commissioner of education.

Source: L. 68: p. 172, § 1. **C.R.S. 1963:** § 124-22-14.

23-3-104. Designation of commission. The Colorado commission on higher education, referred to in this article as the "commission", shall be the state agency to administer and supervise the administration of funds under Title IV of Public Law 89-329, known as the "Higher Education Act of 1965", and amendments thereto, and Public Law 89-287, known as the "National Vocational Student Loan Insurance Act of 1965", and amendments thereto.

Source: L. 68: p. 173, § 1. **C.R.S. 1963:** § 124-22-15.

Cross references: For the provisions of Public Law 89-329 and Public Law 89-287, see chapters 27 and 28 of title 20, U.S.C.

23-3-105. Duties, powers, and limitations of commission with respect to the guarantee loan program. (1) The commission has the following powers in furtherance of the guarantee loan program:

(a) To arrange for the guarantee by nongovernmental organizations of loans of money by private lenders to persons who are residents of this state and who have been accepted for enrollment or who are in good standing at colleges or vocational schools in this state or elsewhere in order to assist them in meeting the expenses of their education. Any agreement entered into by the commission to effect such arrangement shall require that any such nongovernmental organization hold the funds received from the commission in a reserve fund to be expended only upon the certification to it by such a private lender that any such loan is in default and only upon the assignment to such organization of the promissory note in default. Such funds then may be applied to reimburse said lender the principal amount of the loan and accrued interest thereon remaining unpaid. Such agreement shall contain provisions for termination upon thirty days' written notice of either contracting party. Upon the effective date

of such termination, such organization shall refund to the state such portion of the reserve fund as may exceed the total amount of loans guaranteed by the organization pursuant to such agreement and remaining unpaid. As additional repayments of loans are reported to it by a private lender, the organization shall refund such portion of the reserve fund then remaining as from time to time exceeds the total loans remaining unpaid.

(b) To enter into contracts with the United States government, or any department, agency, or office thereof, or any nongovernmental organization for the purpose of receiving funds or services therefrom or providing for the administration of the program thereby or in connection with any acts necessary or incidental to the performance of its powers or duties under this article;

(c) To adopt rules and regulations governing the guarantee loan program;

(d) To secure commitments from private lenders to make loans to students under the program;

(e) To participate in any federal government program for guaranteed loans or subsidies to students and to receive, hold, and disburse funds made available by any agency of the United States for the purpose for which they are made available;

(f) To perform such other acts as may be necessary or appropriate in connection with the guarantee loan program;

(g) To provide that there shall be no fee or other charge made to the applicant for loans for processing and periodic review of the qualifications for such loans.

(2) The commission shall be under the following limitations:

(a) It shall not itself lend any moneys under the program.

(b) It shall not become responsible for or guarantee any debt, contract, or liability of any other person, company, or corporation under the program.

(c) It shall not expend funds under the program greater than the amounts appropriated to it by the general assembly and available to it as a result of contributions.

Source: L. 68: p. 173, § 1. **C.R.S. 1963:** § 124-22-16.

23-3-106. Contributions to commission. (1) The commission is empowered to accept and receive from any individual, association, or corporation or any governmental unit gifts, grants, donations, or contributions of money or property.

(2) Such contributions or the proceeds thereof shall be used by the commission in furtherance of postsecondary education.

Source: L. 68: p. 174, § 1. **C.R.S. 1963:** § 124-22-17. **L. 77:** (2) amended, p. 1096, § 2, effective February 24.

23-3-107. Age qualification for loan guarantee. Any person otherwise qualifying for a loan shall not be disqualified to receive a loan under the guarantee loan program by reason of his being under the age of twenty-one years. For the purpose of applying for, receiving, and repaying a 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.

Source: L. 68: p. 174, § 1. **C.R.S. 1963:** § 124-22-18.

Cross references: For age of competence generally, see § 13-22-101.

ARTICLE 3.1

Student Loan Program

Cross references: For exclusion from the "Uniform Consumer Credit Code" of loans made or guaranteed by an agency, instrumentality, or political subdivision of the state pursuant to this article, see § 5-1-202 (1)(f); for the "Higher Education Act of 1965", see 20 U.S.C. 1001 et seq.

PART 1

ADMINISTRATION OF PROGRAM

23-3.1-101. 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 this state and that the establishment of a student loan program will assist such residents in meeting the expenses incurred in availing themselves of such opportunities.

Source: L. 79: Entire article added, p. 807, § 1, effective July 1. **L. 84:** Entire section amended, p. 617, § 1, effective April 10.

23-3.1-102. Definitions. As used in this article 3.1 or in the specified portion of this article 3.1, unless the context otherwise requires:

(1) "Borrower" means any person who receives a loan made, originated, disbursed, serviced, or guaranteed by the division, or made, purchased, originated, disbursed, or serviced by collegeinvest, created by part 2 of this article, or made from or in anticipation of an institutional loan as defined in section 23-3.1-202 by one or more institutions of higher education or a nonprofit corporation acting on behalf of one or more institutions of higher education.

(1.3) "Clock hour" means a period of time that is the equivalent of:

(a) A fifty-to-sixty-minute class, lecture, or recitation; or

(b) A fifty-to-sixty-minute faculty-supervised laboratory, shop training, or internship.

(1.5) "Commission" means the Colorado commission on higher education.

(2) "Department" means the department of higher education.

(3) "Director", as used in this part 1, means the director of the division.

(4) "Division" means the student loan division in the department which shall constitute the successor division for all obligations incurred by the loan guarantee division formerly established by this part 1.

(4.2) "Educational loan" means a student loan which is:

(a) Secured in such manner as the division or the authority created by part 2 of this article deems appropriate or prudent; and

(b) Not authorized by Title IV, Part B of the federal "Higher Education Act of 1965", as amended.

(4.5) "Guaranteed student loan" means a student loan authorized by Title IV, Part B of the federal "Higher Education Act of 1965", as amended.

(5) "Institution of higher education" means an educational institution which meets all of the following criteria:

(a) It admits as regular students persons having a certificate of graduation from a school providing secondary education or comparable qualifications and persons for enrollment in courses which they reasonably may be expected to complete successfully or persons who have the ability to benefit from the training offered;

(b) (I) It is a college, university, or community or local district college inside the United States which is either accredited by a nationally recognized accrediting agency or association or, if not so accredited, meets the alternative criteria set forth in the federal "Higher Education Act of 1965", as amended, 20 U.S.C. sec. 1085 (b); or

(II) It is a vocational or occupational school inside the United States which is either accredited by a nationally recognized accrediting agency or association or meets the criteria set forth in the federal "Higher Education Act of 1965", as amended, 20 U.S.C. sec. 1085 (c)(4), and, in the case of private occupational schools located in Colorado, holds a certificate of approval as required by article 64 of this title 23;

(c) (I) It provides an educational program for which it awards a bachelor's degree; or

(II) It provides not less than a two-year program which is acceptable for full credit towards such a degree; or

(III) It provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation; or

(IV) It is a private occupational school providing a program of not less than three hundred clock hours of classroom instruction or its equivalent to prepare students for gainful employment in a recognized occupation.

(6) "Lender" means any bank operating under a national or state charter, any domestic savings and loan association operating under a national or state charter, any domestic branch or agency of a foreign bank duly licensed by a state or the United States, any credit union established pursuant to federal law or the law of the state in which its principal place of operation is established, any insurance company authorized to do business within this state, any institution of higher education that applies for and receives formal approval of the division as an eligible lender pursuant to the rules of the division, any pension fund eligible under the federal "Higher Education Act of 1965", 20 U.S.C. 1071 et seq., as amended, any secondary market operation established pursuant to the federal "Education Amendments of 1972", as amended, or the authority created by part 2 of this article.

(7) (a) "Resident" means any person attending an institution of higher education in Colorado, any person attending an institution of higher education outside Colorado who would qualify for Colorado in-state tuition status under article 7 of this title, or any person attending an institution of higher education outside Colorado who has applied for a loan from a lender approved by the division.

(b) "Resident" includes a parent of any person specified in paragraph (a) of this subsection (7) if such person is a dependent of such parent.

(8) "Student loan" means a loan made to finance higher education opportunities or to consolidate or refinance loans made to finance higher education opportunities, which loan is made, originated, disbursed, or serviced by the division or by collegeinvest, created pursuant to

part 2 of this article, or which one or more institutions of higher education or a nonprofit corporation acting on behalf of one or more institutions of higher education may make from or in anticipation of an institutional loan as defined in section 23-3.1-202 or which is guaranteed by the division and may include guaranteed student loans and educational loans.

Source:. **L. 79:** Entire article added, p. 807, § 1, effective July 1. **L. 81:** (1) R&RE, (1.5) added, and (7) amended, p. 1087, §§ 1, 2, effective May 29; (5)(b) and (5)(c)(IV) amended, p. 852, § 26, effective July 1. **L. 82:** (1.3) added and (5)(c)(IV) amended, p. 342, § 1, effective March 22. **L. 83:** (5)(a) and (5)(b) amended, p. 782, § 1, effective April 5; (6) amended, p. 784, § 1, effective April 5. **L. 84:** (1) and (4) R&RE, (4.2), (4.5), and (8) added, and (6) amended, p. 617, 618, §§ 2, 3, effective April 10; (6) amended, p. 376, § 12, effective July 1. **L. 85:** (7)(a) amended, p. 773, § 2, effective April 5. **L. 2000:** IP and (3) amended, p. 1296, § 17, effective May 26. **L. 2004:** (1), (6), and (8) amended, p. 558, § 1, effective July 1. **L. 2017:** IP and (5)(b)(II) amended, (HB 17-1239), ch. 261, p. 1205, § 11, effective August 9.

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 the director of the 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.

(2) Personnel hired by the director, with the approval of the executive director of the commission, on and after July 1, 2002, to carry out the duties and functions of the division shall receive compensation for their services as determined by the director. Such personnel are declared to hold educational offices and to be exempt from the state personnel system but shall, by acceptance of employment, be subject to the provisions of article 51 of title 24, C.R.S.

(3) Any personnel hired within the state personnel system pursuant to subsection (1) of this section prior to July 1, 2002, shall retain all rights related to state personnel system and retirement benefits under the laws of this state until termination of employment with the division; except that, if such personnel accept a promotion, a voluntary demotion, or a transfer for purposes of a change of duties performed for the benefit of the division, such personnel shall become exempt from the state personnel system. Nothing in this subsection (3) shall prohibit personnel hired prior to July 1, 2002, from continuing membership in the public employees' retirement association pursuant to the provisions of article 51 of title 24, C.R.S., with all attendant rights and duties.

Source: L. 79: Entire article added, p. 808, § 1, effective July 1. **L. 84:** Entire section amended, p. 618, § 4, effective April 10. **L. 2002:** Entire section amended, p. 961, § 1, effective June 1. **L. 2006:** (1) amended, p. 511, § 1, effective July 1.

23-3.1-103.5. Enterprise status of division. (1) (a) The division 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.

(b) and (c) (Deleted by amendment, L. 2006, p. 511, § 2, effective July 1, 2006.)

(d) Repealed.

(2) (a) As used in this section, "grant" means any direct cash subsidy or other direct contribution of money from the state or any local government in Colorado which is not required to be repaid.

(b) "Grant" does not include:

(I) Any indirect benefit conferred upon the division from the state or any local government in Colorado;

(II) Any revenues resulting from rates, fees, assessments, or other charges imposed by the division for the provision of goods or services by the division;

(III) Any federal funds, regardless of whether such federal funds pass through the state or any local government in Colorado prior to receipt by the division.

(3) Repealed.

Source: L. 93: Entire section added, p. 1827, § 11, effective June 6. **L. 94:** (1) amended, p. 100, § 3, effective March 18. **L. 95:** (3) added, p. 717, § 1, effective May 23. **L. 2000:** (3) repealed, p. 29, § 1, effective March 10. **L. 2006:** (1)(a), (1)(b), and (1)(c) amended, p. 511, § 2, effective July 1.

Editor's note: Subsection (1)(d)(II) provided for the repeal of subsection (1)(d), effective July l, 1994. (See L. 94, p. 100.)

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

(a) Promulgate rules and regulations for administration of the Colorado student loan program established by this article, including but not limited to the following:

(I) Criteria for eligibility of borrowers, lenders, and institutions of higher education to participate in the network;

(II) Procedures to be followed by participating borrowers, lenders, and institutions of higher education;

(III) With the advice of the authority created by part 2 of this article, procedures and criteria by which the powers of the division pursuant to section 23-3.1-104.5 may be exercised;

(b) Approve or arrange for approval of loan applications for guarantee;

(c) Establish the level of the insurance premium charged to borrowers of guaranteed student loans, not to exceed the amount permitted by federal law;

(d) Assist lenders in seeking payment from delinquent borrowers;

(e) Purchase defaulted guaranteed student loans promptly;

(f) Collect or provide for the collection of defaulted guaranteed student loans purchased from lenders;

(g) Repealed.

(h) Train lenders in the requirements of the network;

(i) Evaluate lender performance in the network;

(j) Train personnel of institutions of higher education in the requirements of the network;

(k) Evaluate the performance of institutions of higher education in the network;

(l) Educate borrowers in the requirements of the network;

(m) Communicate on a periodic basis with borrowers to inform them of the status of their loans;

(n) Bill the federal government for administrative allowances and reinsurance payments;

(o) Repealed.

(p) (I) At times prescribed by the department of revenue, but not less frequently than annually, certify to the department of revenue information regarding persons who owe a loan repayment to the division, the amount of which has been determined to be owing as a result of a final agency determination or judicial decision pursuant to section 39-21-108 (3), C.R.S., or which has been reduced to judgment.

(II) Such information shall include the name and social security number of the person owing the debt, the amount of the debt, and any other identifying information required by the department of revenue.

(III) Upon notification by the department of revenue of amounts deposited with the state treasurer pursuant to section 39-21-108 (3), C.R.S., the state treasurer shall disburse such amounts to the division.

(q) (I) At least quarterly, certify to the controller information regarding persons who owe a loan repayment to the division.

(II) Such information shall include the name and social security number of the person owing the debt, the amount of the debt, and any other identifying information required by the controller.

(III) Upon notification by the controller to the state agency of amounts deposited with the state treasurer pursuant to section 24-30-202.4 (3.5)(a)(V), C.R.S., the state treasurer shall disburse such amounts to the division.

(2) The division may:

(a) Permit lenders to require cosigners;

(b) Provide incentives to lenders, which may include but are not limited to:

(I) Billing the federal government for interest payments owed to lenders;

(II) Preparing federal reports required of lenders;

(III) Guaranteeing, originating, servicing, making, and purchasing consolidation loans and refinancing loans pursuant to the provisions of section 23-3.1-112;

(IV) Verifying in-school status of students;

(c) Employ legal counsel;

(d) Garnish wages of defaulted borrowers;

(e) Enter into contracts and guarantee agreements with approved lenders, approved institutions of higher education, state and federal governmental agencies, and corporations, including agreements for federal insurance of losses resulting from death, default, bankruptcy, or total and permanent disability of borrowers. Contracts with corporations to provide services shall clearly specify the role and duties of such corporations and may be entered into without regard to the provisions of the "Procurement Code", articles 101 to 112 of title 24, C.R.S., without regard to the provisions of section 17-24-111, C.R.S., and without regard to the provisions of part 11 of article 30 of title 24, C.R.S.

(f) Make, originate, disburse, service, or guarantee student loans;

(g) Establish the level of insurance premium or interest rate charged to the borrowers of student loans;

(h) Purchase defaulted student loans;

(i) Collect or provide for the collection of defaulted student loans purchased from lenders;

(j) and (k) Repealed.

(l) Advise the commission and the department on matters pertaining to student loans;

(m) Make and enter into contracts and all other instruments necessary or convenient for the exercise of its powers and functions pursuant to this part 1 without regard to the provisions of the "Procurement Code", articles 101 to 112 of title 24, C.R.S., without regard to the provisions of section 17-24-111, C.R.S., and without regard to the provisions of part 11 of article 30 of title 24, C.R.S.;

(n) Do all things necessary or convenient to carry out the purposes of this part 1;

(o) Repealed.

(p) Require a lender or institution of higher education to take reasonable corrective action to remedy a violation of applicable laws, regulations, special arrangements, agreements, or limitations, including but not limited to requiring such lender or institution to make payments to the secretary of the United States department of education, the division, or their designated recipients of any funds that the lender or institution improperly received, withheld, or disbursed or caused to be disbursed;

(q) Establish an investigations unit, which shall have the following powers and duties:

(I) To conduct investigations, as it deems necessary, to determine whether applications and other data submitted to the division contain any misrepresentations or false statements made for the purpose of cheating or defrauding and to locate defaulted borrowers;

(II) To investigate, as it deems necessary, alleged violations of any state or federal criminal statute related to fraud committed by any person who has obtained or attempted to obtain or who aids, assists, or abets in obtaining or attempting to obtain student loans or loan guarantees or other money from the division;

(III) To work in conjunction with the appropriate law enforcement and prosecuting authorities in the investigation and prosecution of cases where evidence of criminal activity exists;

(IV) To request and obtain information, assistance, and data from any department, division, board, bureau, commission, or other agency of the local, state, or federal government, including, but not limited to, arrest and conviction records available from any law enforcement agency or crime information center pursuant to the provisions of part 3 of article 72 of title 24, C.R.S.

(3) On or after July 1, 1979, all rules and regulations promulgated by the division pursuant to the provisions of paragraph (a) of subsection (1) of this section shall be subject to sections 24-4-103 (8) and 24-4-108, C.R.S. Any guarantee made pursuant to any rule or regulation shall continue to be governed by the rule or regulation in effect at the time when the guarantee was made, whether or not such rule or regulation has been continued.

Source: L. 79: Entire article added, p. 808, § 1, effective July 1. **L. 80:** (3) amended, p. 787, § 20, effective June 5. **L. 81:** (1)(a)(I), (1)(a)(II), (1)(c), (1)(l), (1)(m), (1)(o), and (2)(e) amended, p. 1087, § 3, effective May 29. **L. 84:** (1)(p) added and (2)(d) amended, p. 1008, §§ 1,

2, effective March 29; (2)(f) to (2)(o) added, p. 619, 1008, §§ 5, 2, 6, effective April 10. **L. 85:** (2)(p) added, p. 773, § 4, effective April 5; (2)(q) added, p. 776, § 1, effective April 30. **L. 87:** (2)(b)(III) amended, p. 845, § 1, effective February 26. **L. 97:** (1)(q) added, p. 941, § 4, effective July 1. **L. 2002:** (2)(e) and (2)(m) amended, p. 962, § 2, effective June 1; (1)(p)(I) amended, p. 100, § 2, effective August 7. **L. 2004:** IP(1)(a), (1)(a)(I), (1)(g), (1)(h), (1)(i), (1)(j), (1)(k), (1)(l), (2)(j), and (2)(o) amended, pp. 578, 559, §§ 38, 2, effective July 1. **L. 2006:** IP(1)(a) amended, p. 512, § 5, effective July 1. **L. 2010:** (1)(g), (1)(o), (2)(j), (2)(k), and (2)(o) repealed, (HB 10-1428), ch. 390, p. 1829, § 4, effective June 9.

23-3.1-104.5. Additional powers of division. (1) The division is hereby authorized to make, originate, disburse, or service student loans directly to residents. "Resident" for the purpose of this section means any person attending an institution of higher education in Colorado, or any person attending an institution of higher education outside Colorado who would qualify for Colorado in-state tuition status under article 7 of this title. In order to obtain funds to make, originate, disburse, or service such student loans, the division is authorized to borrow or enter into other types of agreements with any person, corporation, financial institution, state or federal authority, political subdivision, or state or federal government agency for the advancement of funds for such purposes, so long as such student loans are insured against default.

(1.5) Repealed.

(2) Any agreement made by the division to repay funds borrowed from any person, corporation, financial institution, state or federal authority, political subdivision, or state or federal government agency shall not constitute or become an indebtedness, a debt, or a liability of the state or constitute the giving, pledging, or loaning of the full faith and credit of the state. Repayment of such borrowed funds shall be made solely from funds received from proceeds or earnings derived from the funds borrowed, from borrowers and insurers, or from federal payments, and the state shall have no liability with respect to such an agreement.

(3) The division is hereby authorized to issue revenue bonds 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.

Source: L. 81: Entire section added, p. 1088, § 4, effective May 29. **L. 84:** Entire section amended p. 619, § 7, effective April 10. **L. 85:** (1) R&RE, (1.5) repealed, and (2) amended, pp. 774, 775, §§ 5, 10, 6, effective April 5. **L. 93:** (3) added, p. 1827, § 12, effective June 6. **L. 2006:** (3) amended, p. 513, § 6, effective July 1.

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:

(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) The employment of persons who formerly were responsible for administering student loans guaranteed by the federal government.

Source: L. 2010: Entire section added, (HB 10-1428), ch. 390, p. 1827, § 1, effective June 9.

23-3.1-105. Advisory committee established - duties - membership - repeal. (Repealed)

Source: L. 79: Entire article added, p. 810, § 1, effective July 1. **L. 84:** IP(1) amended, p. 620, § 8, effective April 10. **L. 86:** (3) added, p. 413, § 21, effective March 21. **L. 91:** (2) and (3) amended, p. 695, § 8, effective April 20. **L. 2004:** Entire section R&RE, p. 372, § 1, effective April 8. **L. 2006:** Entire section repealed, p. 512, § 3, effective July 1.

23-3.1-106. Student loan program established. (1) (a) There is hereby established a student loan program, to be administered by the division, which shall guarantee, in accordance with applicable provisions of federal law, a percentage of the unpaid principal and interest on all guaranteed student loans approved by the division. No guaranteed student loan shall be guaranteed to a percentage or an amount in excess of the limits authorized by federal law, nor shall interest charged on any guaranteed student loan exceed the interest rate permitted by federal law, but each guaranteed student loan may carry a special loan insurance premium which shall not exceed that permitted by federal law. No guaranteed student loan shall be guaranteed or made to any borrower which would not be eligible for federal reinsurance as authorized by Title IV, Part B of the federal "Higher Education Act of 1965", as amended. A loan guarantee made by the division in good faith for a student loan which has been disbursed and which does not meet the requirements of this article, except for cases of misfeasance by the holder, shall not be invalidated.

(b) On and after July 1, 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 student loan program. On and after July 1, 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 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, 2006, are hereby validated as obligations of the Colorado student loan program.

(2) It is the intent of the general assembly that the Colorado 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.

(3) (a) Loan guarantees made by the division shall not constitute or become an indebtedness, a debt, or a liability of the state, nor shall such loan guarantees constitute the giving, pledging, or loaning of the full faith and credit of the state. The state shall have no liability with respect to loan guarantees which shall be payable solely from the user fees and federal payments provided for in section 23-3.1-107.

(b) The loan guarantees shall not obligate the state, directly, indirectly, or contingently, nor empower the state or the general assembly to levy or collect any form of taxes or assessments, to create any indebtedness payable out of taxes or assessments, or to make any appropriation for their payment, and any such appropriation, levy, or collection is prohibited. Nothing in this part 1 shall be construed to authorize the division to create a debt of the state within the meaning of the constitution or statutes of Colorado or to authorize the division to levy or collect any form of taxes or assessments.

(c) The state shall not be liable in any event for the purchase of defaulted loans made, originated, disbursed, serviced, or guaranteed by the division or for the performance of any pledge, obligation, or agreement of any kind in connection with such loans which may be undertaken by the division except from the user fees and federal payments provided for in section 23-3.1-107. No breach of any such pledge, obligation, or agreement shall impose any pecuniary liability upon the state or a charge upon the general credit or taxing power of the state.

(4) On and after July 1, 2015, the Colorado student loan program may enter into an agreement with the department or another state entity to administer all or part of the college opportunity fund program created in parts 1 and 2 of article 18 of this title 23.

Source: L. 79: Entire article added, p. 811, § 1, effective July 1. **L. 81:** (3)(c) amended, p. 1088, § 5, effective May 29. **L. 84:** (1), (2), and (3)(c) amended, p. 620, § 9, effective April 10. **L. 85:** (1) amended, p. 774, § 7, effective April 5. **L. 94:** (1) amended, p. 453, § 1, effective March 29. **L. 2004:** (1) and (2) amended, p. 559, § 3, effective July 1. **L. 2006:** (1)(b) and (2) amended, p. 513, § 7, effective July 1. **L. 2017:** (4) added, (HB 17-1131), ch. 29, p. 84, § 2, effective March 8.

23-3.1-106.5. Special funds. (1) The division may create a special fund into which any funds borrowed from any person, corporation, financial institution, state or federal authority, political subdivision, or state or federal agency pursuant to the provisions of section 23-3.1-104.5 (1) may be deposited.

(1.5) Repealed.

(2) All moneys deposited or paid into any special fund established by this section shall be continuously available and are hereby appropriated to the division to be expended in accordance with the provisions of this article. Any income from the investment of this special fund shall be deposited in such fund.

Source: L. 81: Entire section amended, p. 1089, § 6, effective May 29. **L. 84:** Entire section amended, p. 621, § 10, effective April 10. **L. 85:** (1) amended and (1.5) repealed, p. 775, §§ 8, 10, effective April 5.

23-3.1-107. Student loan guarantee fund - created. (1) (a) There is hereby created in the state treasury a fund to be known as the student loan guarantee fund that shall contain:

(I) A reserve account for guaranteed student loans that is established to fulfill the functions of the federal student loan reserve fund established by section 422A of the federal "Higher Education Act of 1965", as amended;

(II) An operating account that is established to fulfill the functions of the agency operating fund established by section 422B of the federal "Higher Education Act of 1965", as amended;

(III) A loan servicing account; and

(IV) Such other accounts as the division may require.

(b) The reserve account shall be used only for those purposes permitted by section 422A of the federal "Higher Education Act of 1965", as amended. All moneys required to be deposited by the division in the federal student loan reserve fund created by said act shall be deposited in the reserve account. The division shall maintain at all times a minimum reserve requirement that is equal to, and calculated in the same manner as, that which is required for the federal student loan reserve fund established by said act. Such minimum reserve requirement may be maintained in cash in such account or in federal reinsurance receivables held by the division.

(c) The operating account shall be used only for those purposes permitted by section 422B of the federal "Higher Education Act of 1965", as amended. All moneys required to be deposited by the division in the agency operating fund created by said act shall be deposited in the operating account.

(d) The loan servicing account shall be used for the deposit of revenues generated by the division's loan servicing activities and for the payment of expenses related to those activities. Until such time as the division has reached agreement with the federal department of education as to the monetary amount of any federal interest in the loan servicing account, and has made arrangements to satisfy that interest, moneys in the loan servicing account shall be considered the property of the United States. After any federal interest in the loan servicing account has been satisfied pursuant to the agreement, all revenues remaining in the loan servicing account, after payment of expenses attributable to the account, may be transferred to either the operating account or the reserve account for such uses as are permitted for those accounts.

(e) Other income earned or received by the division that is not required to be deposited in the reserve account or the loan servicing account may be deposited in the operating account, which shall be used to pay staff compensation and other expenses of the division.

(f) Repealed.

(2) All moneys deposited or paid into the student loan guarantee fund, including any interest earned from the investment of this fund and income earned or received by the division, shall be continuously available and are hereby appropriated to the division to be expended in accordance with the provisions of this article. Any income or interest earned from the investment of this fund shall be credited to the student loan guarantee fund. Such investment income or interest, together with any other income earned or received by the division, shall be apportioned to each account as required by applicable law and may be used only for the purposes permitted thereby.

Source: L. 79: Entire article added, p. 811, § 1, effective July 1. **L. 84:** Entire section R&RE, p. 621, § 11, effective April 10. **L. 85:** (1)(b) amended, p. 775, § 9, effective April 5. **L.**

91: (1)(b) amended, p. 590, § 1, effective March 28. **L. 2001:** (1) R&RE and (2) amended, pp. 165, 166, §§ 1, 2, effective March 28. **L. 2004:** (1)(f) repealed, p. 202, § 18, effective August 4.

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 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.

Source: L. 79: Entire article added, p. 812, § 1, effective July 1. **L. 84:** Entire section amended, p. 622, § 12, effective April 10. **L. 2004:** Entire section amended, p. 578, § 39, effective July 1. **L. 2006:** Entire section amended, p. 513, § 8, effective July 1.

23-3.1-109. Subject to audit. The Colorado student loan program shall be audited annually by the state auditor.

Source: L. 79: Entire article added, p. 812, § 1, effective July 1. **L. 81:** Entire section amended, p. 341, § 4, effective March 27. **L. 84:** Entire section amended, p. 622, § 13, effective April 10. **L. 96:** Entire section amended, p. 1238, § 83, effective August 7. **L. 99:** Entire section amended, p. 849, § 3, effective May 24. **L. 2004:** Entire section amended, p. 578, § 40, effective July 1. **L. 2006:** Entire section amended, p. 513, § 9, effective July 1.

Cross references: For the legislative declaration contained in the 1996 act amending this section, see section 1 of chapter 237, Session Laws of Colorado 1996.

23-3.1-110. Designation as sole state agency. The division is the agency authorized to enter into contracts concerning the programs established by Title IV, Part B of the federal "Higher Education Act of 1965", 20 U.S.C. 1071, as amended. To the extent any fiscal policies required by the federal "Higher Education Act of 1965", 20 U.S.C. 1071, as amended, are in conflict with state fiscal policies, the division shall comply with the required federal policies.

Source: L. 79: Entire article added, p. 812, § 1, effective July 1. **L. 2004:** Entire section amended, p. 578, § 37, effective July 1.

23-3.1-111. Authority of division to enter into agreements to provide administrative and guarantee services. (1) The division is hereby authorized to enter into contracts or other agreements or both contracts and other agreements with private or public entities to make, originate, disburse, or service guaranteed student loans, educational loans, and student loans. Such authorization includes but shall not be limited to the power to enter into agreements with collegeinvest, established by part 2 of this article, to make, originate, disburse, or service "institutional loans" and "student obligations" as those terms are defined in section 23-3.1-202, whether or not such "institutional loans" and "student obligations" are eligible for federal reinsurance as authorized by Title IV, Part B of the federal "Higher Education Act of 1965", as amended.

(2) The division may enter into contracts or other agreements or both contracts and other agreements with private or public entities to guarantee or reinsure student loans or educational loans which may include but not be limited to guaranteeing or reinsuring the "institutional loans" or "student obligations" as those terms are defined in section 23-3.1-202.

(3) No guarantee or reinsurance agreement made by the division pursuant to subsection (2) of this section shall constitute or become an indebtedness, a debt, or a liability of the state, nor shall such loan guarantee constitute the giving, pledging, or loaning of the full faith and credit of the state.

(4) All income and interest thereon earned pursuant to the exercise of the power established in subsections (1) and (2) of this section are continuously available and are hereby appropriated to the division and may be used to pay the operating expenses thereof, or a portion of such income or interest may be deposited into any applicable reserve or guarantee account.

Source: L. 84: Entire section added, p. 622, § 14, effective April 10. **L. 2004:** (1) and (2) amended, p. 560, § 4, effective July 1.

23-3.1-112. Authority and power of the division to guarantee, originate, service, make, and purchase consolidation loans and refinancing loans. (1) Notwithstanding any provisions or definitions contained in this article to the contrary, the division is hereby authorized to guarantee, originate, service, make, and purchase consolidation loans and refinancing loans for all persons eligible for the consolidation and refinancing of student loans under Part B of Title IV of the federal "Higher Education Act of 1965", as amended. For the purposes of this section, "student loans" means, notwithstanding any provisions of this article to the contrary, those loans eligible for consolidation and refinancing under the federal provisions of Part B of Title IV of the "Higher Education Act of 1965", as amended.

(2) The powers and duties of the division specified in section 23-3.1-104 shall also pertain to the authority of the division with respect to consolidation loans and refinancing loans under this section.

Source: L. 87: Entire section added, p. 845, § 2, effective February 26.

PART 2

STUDENT OBLIGATIONS AND INSTITUTIONAL LOANS

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 prepaid postsecondary education expense program will 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 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.

Source: L. 79: Entire article added, p. 812, § 1, effective July 1. **L. 84:** Entire section amended, p. 623, § 15, effective April 10. **L. 96:** Entire section amended, p. 421, § 1, effective April 22. **L. 2000:** Entire section amended, p. 1268, § 1, effective May 26. **L. 2004:** Entire section amended, p. 560, § 5, effective July 1. **L. 2010:** Entire section amended, (HB 10-1428), ch. 390, p. 1830, § 5, effective June 9.

23-3.1-202. Definitions. As used in this part 2, unless the context otherwise requires:

(1) "Advance payment contract" means a contract entered into by the authority, as defined in subsection (2) of this section, and a purchaser in connection with the prepaid postsecondary education expense program as authorized in section 23-3.1-206.7.

(2) "Authority" means collegeinvest, transferred to the department and existing as a division of the department pursuant to section 23-3.1-203.

(3) "Board" means the board of directors of the authority.

(4) "Bond" means any bond, note, debenture, interim certificate, or other evidence of indebtedness authorized to be issued by the authority pursuant to this part 2, including refunding bonds.

(5) "Bond resolution" means the resolution authorizing the issuance of or providing the terms and conditions related to bonds issued pursuant to this part 2 and includes any trust agreement or trust indenture providing terms and conditions for such bonds.

(6) "Collegeinvest" means:

(a) The Colorado student obligation bond authority, as it existed prior to May 26, 2000, as an independent public body politic in accordance with section 23-3.1-203, as it existed prior to said date;

(b) On and after May 26, 2000, but prior to July 1, 2004, the Colorado student obligation bond authority transferred to the department and existing as a division of the department pursuant to section 23-3.1-203, as it existed prior to said date;

(c) On and after July 1, 2004, the successor to the Colorado student obligation bond authority existing as a division of the department pursuant to section 23-3.1-203, but designated and formally and legally known, as of July 1, 2004, as collegeinvest.

(7) "Contract price" means the aggregate of all payment amounts to be remitted during the contract term by purchasers under the outstanding advance payment contracts as provided on the respective dates of execution thereof.

(8) "Director" means the executive officer of collegeinvest, appointed in accordance with section 23-3.1-203.

(9) "Excess amount" means the assets in the Colorado prepaid postsecondary education expense trust fund that the actuarial calculation under section 23-3.1-206.7 (5) demonstrates are in excess of the assets required to pay the obligations of the prepaid expense trust fund with a likelihood of such sufficiency of at least ninety-five percent.

(10) "Executive director" means the executive director of the department of higher education.

(11) "Executive officer" means the director of collegeinvest, transferred to the department and existing as a division of the department pursuant to section 23-3.1-203.

(12) "Expected tuition units" means the total tuition units paid for and not distributed or refunded together with the portion of tuition units available for purchase under outstanding

advance payment contracts that, based on an actuarial projection, are expected to be paid for and become obligations of the Colorado prepaid postsecondary education expense trust fund.

(13) "Institutional loan" means a loan made by collegeinvest from bond proceeds, or other available moneys, to one or more institutions of higher education, to a nonprofit corporation acting on behalf of one or more institutions of higher education, to the division, or to purchasers, and made for the purpose of funding student obligations or payments to be made under advance payment contracts.

(14) "Investable assets" means cash and cash equivalents on deposit in the prepaid expense trust fund and investments of amounts deposited to the prepaid expense trust fund.

(15) "Prepaid expense program" means the Colorado prepaid postsecondary education expense program authorized in section 23-3.1-206.7.

(16) "Prepaid expense trust fund" means the Colorado prepaid postsecondary education expense trust fund established by the authority in accordance with section 23-3.1-206.7 (5) and transferred on May 26, 2000, pursuant to section 23-3.1-206.7 (5).

(17) "Purchaser" means a person who makes or is obligated to make a payment or payments in accordance with an advance payment contract on behalf of a qualified beneficiary.

(18) "Qualified beneficiary" means a person identified in an advance payment contract as the recipient of moneys or benefits to be disbursed in accordance with an advance payment contract.

(19) "State institution" shall have the same meaning as provided in section 23-3.3-101 (4).

(20) "Student" means a student who, under rules promulgated by the division, is enrolled or accepted for enrollment at an institution of higher education and who is making suitable progress in his or her education toward obtaining a degree or other appropriate certification in accordance with standards promulgated by the division.

(21) "Student obligations" means student obligation notes and other debt obligations evidencing loans made for higher education purposes, or to any person for the purposes of consolidating or refinancing loans for higher education purposes, which are either guaranteed student loans, educational loans, or loans eligible for consolidation or refinancing under Part B of Title IV of the federal "Higher Education Act of 1965", as amended, which the authority may make, acquire, buy, sell, or endorse pursuant to this part 2, or which one or more institutions of higher education, or a nonprofit corporation acting on behalf of one or more institutions of higher education, or the division may make from or in anticipation of an institutional loan and which include a direct or indirect interest, in whole or part, of the notes or obligations.

(22) "Tuition" means the quarter, semester, or term charges imposed by an institution of higher education and such fees or charges as may be included in the advance payment contract at the option of the authority.

Source: L. 79: Entire article added, p. 812, § 1, effective July 1. **L. 81:** (7) amended, p. 1090, § 1, effective May 29. **L. 84:** (1.5) and (4.5) added and (7) amended, p. 623, § 16, effective April 10. **L. 87:** (7) amended, p. 846, § 3, effective February 26. **L. 96:** (1) and (1.5) amended and (1.2), (4.2), (4.4), (5.1), (5.2), (5.3), (5.5), (5.6), (5.7), (5.8), (5.9), and (8) added, p. 421, § 2, effective April 22. **L. 2000:** Entire section amended, p. 1268, § 2, effective May 26. **L. 2004:** Entire section R&RE, p. 560, § 6, effective July 1.

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, 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.

(2) (a) Effective May 26, 2000, the board of directors of the authority, as it existed prior to May 26, 2000, shall be transferred with the authority to the department of higher education. The board shall continue to consist of nine members who shall continue to be appointed by the governor, with the consent of the senate. Such members shall be residents of the state. The term of office of each member shall be four years; except that, of the appointments made on or after May 26, 2000, and prior to July 1, 2000, three members shall serve for terms of two, three, and four years, respectively. Each member shall serve until his or her successor has been appointed by the governor and qualified. Any member shall be eligible for reappointment. The governor shall fill any vacancy by appointment for the remainder of an unexpired term. Any member appointed by the governor when the general assembly is not in regular session, whether appointed for an unexpired term or for a full term, shall be deemed to be duly appointed and qualified until the appointment of such member is approved or rejected by the senate. Such appointment shall be submitted to the senate for its approval or rejection during the next regular session of the general assembly following the appointment.

(b) Any member of the board appointed by the governor may be removed by the governor.

(3) (a) On and after July 1, 2004, the division of the department of higher education known prior to said date as the Colorado student obligation bond authority shall be formally and legally known as and designated collegeinvest.

(b) On and after July 1, 2004, whenever the Colorado student obligation bond authority or the board of directors of the Colorado student obligation bond authority is referred to or designated by a contract or other document, such reference or designation shall be deemed to apply to collegeinvest as a division of the department of higher education pursuant to this section. All contracts entered into by or on behalf of the Colorado student obligation bond authority or its board prior to July 1, 2004, are hereby validated as obligations of collegeinvest.

Source: L. 79: Entire article added, p. 813, § 1, effective July 1. **L. 84:** (2) R&RE, p. 624, § 17, effective April 10. **L. 87:** (2)(a) amended, p. 906, § 13, effective June 15. **L. 2000:** Entire section amended, p. 1271, § 3, effective May 26. **L. 2004:** (1) amended and (3) added, p. 563, § 7, effective July 1. **L. 2006:** (1) amended, p. 513, § 10, effective July 1.

Cross references: For limitation on issuance of private activity bonds, see part 17 of article 32 of title 24; for the provisions that designate the Colorado student obligation bond authority as a "special purpose authority" for the purposes of section 20 of article X of the Colorado constitution, see § 24-77-102 (15).

23-3.1-204. Organizational meeting - chairperson - conflict of interest. (1) On or before July 15, 2000, a member of the board, designated by the governor, shall call and convene the initial organizational meeting of the board after transfer of the authority to the department and shall serve as its chairperson pro tempore. At such meeting, appropriate bylaws shall be presented for adoption. The bylaws may provide for the delegation of certain powers and duties and such other matters as the authority deems proper. At such meeting, and annually thereafter, the board shall elect one of its members as chairperson and one as vice-chairperson.

(2) The director or any other person designated by the board shall keep a record of the proceedings of the board and shall be custodian of all books, documents, and papers filed with the board and the minute books or journal of the board. Said director or other person may cause copies to be made of all minutes and other records and documents of the board and may give certificates to the effect that such copies are true copies and all persons dealing with the authority may rely on such certificates.

(3) The board may delegate to one or more of its members or to its director such powers and duties as it may deem proper and to its director or any other person designated by the board, the power to fix the interest rates of any particular issue, subject to such limitations as shall be prescribed by the board.

(4) (Deleted by amendment, L. 2004, p. 563, § 8, effective July 1, 2004.)

(5) Any member of the board shall disqualify himself or herself from voting on any issue in which he or she has a conflict of interest unless such member has disclosed such conflict of interest in compliance with section 18-8-308, C.R.S.

Source: L. 79: Entire article added, p. 813, § 1, effective July 1. **L. 84:** (3) amended and (5) R&RE, pp. 624, 625, §§ 18, 19, effective April 10. **L. 2000:** Entire section amended, p. 1272, § 4, effective May 26. **L. 2004:** (3) and (4) amended, p. 563, § 8, effective July 1.

23-3.1-205. Meetings of board - quorum - expenses. (1) Five members of the board shall constitute a quorum. Action may be taken by the board upon the affirmative vote of a majority of the members present at any meeting at which a quorum is present. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the board.

(2) Pursuant to part 4 of article 6 of title 24, C.R.S., each meeting of the board shall be open to the public. Notice of meetings shall be as provided in accordance with applicable law. One or more members of the board may participate in any board meeting and may vote on resolutions through the usage of telecommunications devices, including, but not limited to, the usage of a conference telephone or similar communications equipment. Such participation through telecommunications devices shall constitute presence in person at such meeting. Such use of telecommunications shall not supersede any requirements for public hearing otherwise provided by law. Resolutions need not be published or posted, but resolutions and all proceedings and other acts of the board shall be a public record.

(3) Members of the board shall receive no compensation for services but shall be entitled to the necessary expenses, including traveling and lodging expenses, incurred in the discharge of their official duties. Any payments for expenses shall be paid from funds of the authority.

Source: L. 79: Entire article added, p. 814, § 1, effective July 1. **L. 83:** (2) amended, p. 785, § 1, effective April 29. **L. 84:** (1) amended, p. 625, § 20, effective April 10. **L. 91:** (2) amended, p. 901, § 2, effective April 19; (2) amended, p. 820, § 4, effective June 1. **L. 2000:** Entire section amended, p. 1273, § 5, effective May 26. **L. 2004:** (1) amended, p. 564, § 9, effective July 1.

Editor's note: Amendments to subsection (2) in Senate Bill 91-33 and House Bill 91-1119 were harmonized.

23-3.1-205.3. Transfer of property. (1) On May 26, 2000, all items of property, real and personal, including office furniture and fixtures, books, documents, funds and accounts, and records of the authority shall be transferred with the authority to the department of higher education, and shall remain the property of the authority.

(2) Amounts in the existing administrative fund of the authority transferred on May 26, 2000, shall be deposited as provided in section 23-3.1-205.4. Funds of the authority held by a corporate trustee pursuant to a trust indenture shall continue to be held and invested in accordance with such trust indenture. The prepaid tuition expense fund shall be transferred to be held by the state treasury and shall be administered in accordance with the provisions of this part 2.

(3) On and after May 26, 2000, whenever the Colorado student obligation bond authority or the board of directors of the Colorado student obligation bond authority is referred to or designated by any contract or other document or in other state statutory provisions, such reference or designation shall be deemed to apply to the authority as a division of the department of higher education pursuant to section 23-3.1-203. All contracts entered into by or on behalf of the Colorado student obligation bond authority or its board prior to May 26, 2000, are hereby validated, with the authority in the department of higher education succeeding to all rights and assuming all obligations under such contracts.

(4) No suit, action, or other judicial or administrative proceeding lawfully commenced prior to May 26, 2000, or that could have been commenced prior to said date, by or against the Colorado student obligation bond authority, its board of directors, or any officer thereof in such officer's official capacity or in relation to the discharge of the official's duties shall abate by reason of the transfer of the authority and its board to the department of higher education.

Source: L. 2000: Entire section added, p. 1274, § 6, effective May 26. **L. 2004:** (1) and (3) amended, p. 564, § 10, effective July 1.

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 savings programs 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.

(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.

(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.

(III) to (IV) Repealed.

(2) The moneys in the collegeinvest fund may be used by the authority for the payment of salaries and operating and administrative expenses of the authority and for the payment of any other expenses incurred by the authority in carrying out its statutory powers and duties.

(3) The moneys in the collegeinvest fund that are not needed for immediate use by the authority may be invested by the state treasurer in investments authorized by sections 24-36-109, 24-36-112, and 24-36-113, C.R.S. The authority shall determine the amount of moneys in the fund that may be invested and shall notify the state treasurer in writing of such amount.

(4) The authority may request authorization to transfer or loan moneys from the collegeinvest fund to the prepaid expense trust fund, created in section 23-3.1-206.7, or to any fund created for the implementation of the savings programs, established pursuant to part 3 of this article, as necessary to carry out the authority's powers and duties under this part 2 and part 3 of this article. The authority shall submit any such transfer or loan request to the executive

director for approval. The authority shall not transfer or loan moneys from the collegeinvest fund to the prepaid expense trust fund or to any fund created for the implementation of the savings programs unless such transfer or loan is approved by the executive director.

Source: L. 2000: Entire section added, p. 1274, § 6, effective May 26. **L. 2003:** (4) added, p. 552, § 1, effective August 6. **L. 2004:** Entire section amended, p. 564, § 11, effective July 1. **L. 2006:** (1) amended, p. 514, § 13, effective July 1. **L. 2008:** (2) amended, p. 203, § 1, effective August 5. **L. 2010:** (1)(c) and (1)(c)(III.5) added and (1)(c)(IV) amended, (HB 10-1428), ch. 390, p. 1828, 1831, §§ 2, 10, effective June 9. **L. 2014:** (1)(c)(III.5) repealed and (1)(c)(IV) amended, (HB 14-1363), ch. 302, p. 1266, § 18, effective May 31; (1)(c)(I) and (1)(c)(II) amended and (1)(c)(III) and (1)(c)(IV) repealed, (HB 14-1384), ch. 347, p. 1559, § 4, effective August 6. **L. 2015:** (1)(a) and (4) amended, (HB 15-1359), ch. 269, p. 1054, § 14, effective June 3.

Editor's note: Subsection (1)(c)(IV) was amended in HB 14-1363. Those amendments were superseded by the repeal of subsection (1)(c)(IV) in HB 14-1384.

23-3.1-205.5. Collegeinvest - enterprise status. (1) Collegeinvest shall constitute an enterprise for the purposes of section 20 of article X of the state constitution, so long as collegeinvest retains the ability to issue revenue bonds and receives less than ten percent of its total annual revenues in grants, as defined in section 24-77-102 (7), C.R.S., from all Colorado state and local governments combined. So long as it constitutes an enterprise pursuant to this subsection (1), collegeinvest shall not be subject to any provisions of section 20 of article X of the state constitution. Agreements between collegeinvest and the student loan division in the department of higher education for the guarantee of payment of student loans are not grants for purposes of the definition of enterprise under section 20 (2)(d) of article X of the state constitution.

(2) For purposes of part 2 of article 72 of title 24, C.R.S., the records of collegeinvest and the board shall be public records, as defined in section 24-72-202 (6), C.R.S., except to the extent otherwise specified by law, regardless of whether collegeinvest and the board constitute an enterprise pursuant to subsection (1) of this section.

Source: L. 2000: Entire section added, p. 1274, § 6, effective May 26. **L. 2004:** Entire section amended, p. 565, § 12, effective July 1.

23-3.1-205.7. Department of higher education - executive director - powers and duties. In addition to any other powers and duties specifically granted by law, the executive director shall have such powers and duties as are not otherwise granted to the authority in this part 2 and in part 3 of this article, and shall also have all powers and duties necessary to oversee the authority, including, but not limited to, its management and direction.

Source: L. 2000: Entire section added, p. 1274, § 6, effective May 26.

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:

(a) (Deleted by amendment, L. 2000, p. 1276, § 7, effective May 26, 2000.)

(b) To adopt and from time to time amend or repeal policies for the regulation of its affairs and the conduct of its business, consistent with the provisions of this part 2;

(c) to (e) (Deleted by amendment, L. 2000, p. 1276 § 7, effective May 26, 2000.)

(f) To borrow money and issue bonds, notes, bond anticipation notes, or other obligations and to fund or refund such obligations as provided in this part 2;

(g) To engage the services of private consultants and legal counsel and to otherwise contract with providers to render professional and technical assistance, advice, and other services in carrying out the purposes of this part 2 and part 3 of this article without regard to the provisions of the "Procurement Code", articles 101 to 112 of title 24, C.R.S.;

(h) Repealed.

(i) To purchase or participate in the purchase of student obligations;

(j) To sell or participate in the sale of student obligations;

(k) To collect and pay reasonable fees and charges in connection with making, purchasing, originating, disbursing, and servicing or causing to be made, purchased, originated, disbursed, or serviced student obligations or institutional loans by the authority, including payment to the division for services performed for the authority and pursuant to part 3 of this article without regard to the provisions of the "Procurement Code", articles 101 to 112 of title 24, C.R.S.;

(l) To procure insurance, guarantees, or other credit support with respect to all student obligations made or purchased or all institutional loans made by the authority;

(m) To consent, whenever it deems it necessary or desirable in the fulfillment of its purposes, to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms of any student obligation to which the authority is a party, but no such consent shall be made or given if its effect would be to obviate insurance coverage with respect to any student obligation;

(n) To make and execute contracts, including advance payment contracts with purchasers and all other instruments necessary or convenient for the exercise of its powers and functions under this part 2;

(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;

(p) to (r) (Deleted by amendment, L. 2000, p. 1276, § 7, effective May 26, 2000.)

(s) To establish policies, procedures, and criteria to implement and administer the prepaid expense program;

(t) To assure that nothing shall cause the authority to exceed the limitations prescribed in section 23-3.1-205.5;

(u) (I) At times prescribed by the department of revenue, but not less frequently than annually, to certify to the department of revenue information regarding persons who owe a loan repayment to the division, the amount of which has been determined to be owing as a result of a final agency determination or judicial decision pursuant to 39-21-108 (3), C.R.S., or which has been reduced to judgment.

(II) Such information shall include the name and social security number of the person owing the debt, the amount of the debt, and any other identifying information required by the department of revenue.

(III) Upon notification by the department of revenue of amounts deposited with the state treasurer pursuant to section 39-21-108 (3), C.R.S., the state treasurer shall disburse such amounts to the division.

(v) To implement and administer, including marketing, the Colorado collegeinvest scholarship program established in section 23-3.1-206.9;

(w) To deposit moneys into the Colorado collegeinvest scholarship trust fund; to accept moneys appropriated to the fund by the general assembly; to accept gifts, grants, and donations from third parties for deposit into the fund; and to expend moneys from the fund for Colorado collegeinvest scholarships;

(x) To organize entities pursuant to title 7, C.R.S., and transfer funds to the entities for the purpose of investing the moneys in the Colorado collegeinvest scholarship trust fund and any other trusts and funds under the authority's control; and

(y) To develop and administer loan forgiveness programs.

(2) No actions taken by the authority pursuant to this section shall be interpreted to constitute or become an indebtedness, a debt, or a liability of the state, nor shall any actions taken by the authority be interpreted to constitute the giving, pledging, or loaning of the full faith and credit of the state.

Source: L. 79: Entire article added, p. 815, § 1, effective July 1. **L. 84:** (1)(h) to (1)(l) amended, p. 625, § 21, effective April 10. **L. 96:** (1)(g) and (1)(n) amended and (1)(p) to (1)(s) added, p. 423, § 3, effective April 22. **L. 2000:** Entire section amended, p. 1276, § 7, effective May 26. **L. 2002:** (1)(u) added, p. 101, § 5, effective August 7. **L. 2004:** (1)(h), (1)(k), and (1)(l) amended, p. 566, § 13, effective July 1. **L. 2005:** (1)(x) amended, p. 1017, § 13, effective June 2; (1)(t) amended and (1)(v), (1)(w), and (1)(x) added, p. 168, § 2, effective July 1. **L. 2008:** (1)(g), (1)(k), (1)(o), (1)(v), (1)(w), and (1)(x) amended and (1)(y) added, p. 203, § 2, effective August 5. **L. 2010:** (1)(o) amended, (HB 10-1428), ch. 390, p. 1830, § 7, effective June 9; (1)(h) repealed, (HB 10-1428), ch. 390, p. 1830, § 6, effective September 30. **L. 2011:** (1)(y) amended, (HB 11-1281), ch. 180, p. 689, § 13, effective May 19.

23-3.1-206.2. Financial need scholarships and grants - fund - repeal. (Repealed)

Source: L. 2010: Entire section added, (HB 10-1428), ch. 390, p. 1829, § 3, effective June 9. **L. 2014:** (3) added, (HB 14-1384), ch. 347, p. 1559, § 3, effective August 6.

Editor's note: Subsection (3) provided for the repeal of this section, effective September 1, 2014. (See L. 2014, p. 1559.)

23-3.1-206.5. Servicing of student obligations and institutional loans.

(1) (Deleted by amendment, L. 2004, p. 566, § 14, effective July 1, 2004.)

(2) The authority may contract with the division to service student obligations made or purchased by the authority.

Source: L. 84: Entire section added, p. 625, § 22, effective April 10. **L. 2004:** Entire section amended, p. 566, § 14, effective July 1. **L. 2010:** (2) amended, (HB 10-1428), ch. 390, p. 1831, § 8, effective June 9.

23-3.1-206.7. Prepaid expense program. (1) The authority shall develop and administer, in accordance with this part 2, the Colorado prepaid postsecondary education expense program, which program is hereby created. Through the prepaid expense program, all or part of tuition or other costs, as determined by the authority, may be paid in advance of or accumulated toward enrollment at institutions of higher education.

(2) (Deleted by amendment, L. 2000, p. 1278, § 8, effective May 26, 2000.)

(3) No purchaser or qualified beneficiary participating in the prepaid expense program shall be classified as a resident for tuition purposes as a result of such participation. Purchasers and qualified beneficiaries shall be required to establish residency status based on the requirements of the state institution at which the qualified beneficiary is seeking to enroll.

(4) The selection by a purchaser in an advance payment contract of a particular state institution shall not in any way constitute a promise or guarantee that a qualified beneficiary will be admitted to any particular state institution or other institution of higher education or allowed to continue enrollment in or graduate from any state institution or other institution of higher education.

(5) (a) The Colorado prepaid postsecondary education expense trust fund is hereby created. The prepaid expense trust fund shall consist of moneys remitted by purchasers, moneys acquired from governmental and private sources, and general fund appropriations, if any. In addition, the prepaid expense trust fund may include any moneys transferred or loaned thereto pursuant to section 23-3.1-205.4. All income derived from the deposit and investment of moneys in the prepaid expense trust fund shall be credited to the fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the prepaid expense trust fund shall remain therein and shall not be credited or transferred to the general fund or any other fund. On May 26, 2000, the prepaid expense trust fund, and all moneys in said fund, including all interest and earnings in said fund shall be transferred with the authority as provided in section 23-3.1-205.3. All moneys remitted by purchasers and other moneys received by the authority in connection with the prepaid expense program shall be transmitted by the authority to the state treasurer and credited to the prepaid expense trust fund. The state treasurer shall invest moneys in the prepaid expense trust fund based upon the direction of the authority and shall make disbursements from the prepaid expense trust fund in connection with the prepaid expense program based upon the direction of the authority and in a manner appropriate to carry out the prepaid expense program. All income derived from the deposit and investment of moneys in the prepaid expense trust fund shall be credited to the fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the prepaid expense trust fund shall remain therein and shall not be credited or transferred to the general fund or any other fund.

(b) (Deleted by amendment, L. 2000, p. 1278, § 8, effective May 26, 2000.)

(c) The state treasurer shall maintain on behalf of the authority the prepaid expense trust fund as a separate fund. The state treasurer shall credit all moneys remitted to the state treasurer by the authority as provided in paragraph (a) of this subsection (5) to the prepaid expense trust fund.

(d) (I) The authority shall evaluate the actuarial soundness of the prepaid expense trust fund if, on the last day of the fiscal year, the aggregate amount of moneys of the prepaid expense trust fund invested in any of the following forms of investment exceeds ten percent of the market value of investable assets of the prepaid expense trust fund:

(A) Common or preferred stock; or

(B) Corporate bonds, notes, or debentures that are convertible into common or preferred stock; or

(C) Investment trust shares.

(II) The authority may contract with a private consultant or consultants to perform an actuarial evaluation of the prepaid expense trust fund and to provide financial advice to the authority in connection with the prepaid expense trust fund. Any actuarial report and written financial advice shall be provided by the authority to the state treasurer. If, based upon an actuarial evaluation, the authority determines that the prepaid expense trust fund is not actuarially sound, the authority may direct the state treasurer to distribute the available assets of the prepaid expense trust fund in a manner permitted by outstanding advance payment contracts. In connection with the evaluation of the prepaid expense trust fund, a calculation based on key assumptions approved by the board shall be made by or on behalf of the authority to determine whether an excess amount exists in the prepaid expense trust fund. If, based on this calculation, the authority determines that an excess amount exists in the prepaid expense trust fund, the authority shall calculate, by dividing such excess amount by the total number of expected tuition units in the prepaid expense trust fund, the portion of such excess amount that would be attributable on a pro rata basis to each such expected tuition unit. At the time the value of any tuition units under an advance payment contract is disbursed from the prepaid expense trust fund during the academic year immediately following such calculation, the portion of the excess amount attributable to such tuition units as a result of the calculation made pursuant to this paragraph (d) shall be paid as part of such disbursement. The excess amount shall otherwise remain in the prepaid expense trust fund as a part of the stabilization reserve.

(e) (I) All expenses of the authority incurred in developing and administering the prepaid expense program shall be payable from the prepaid expense trust fund. The authority may use moneys in the prepaid expense trust fund to reimburse the expenses of the authority incurred in connection with the development and administration of the prepaid expense program. In no event shall annual administration expenses of the authority exceed one percent of the contract price. Any recovery of development costs by the authority shall not include interest or finance charges, but may include moneys transferred from the collegeinvest fund to the prepaid expense trust fund under section 23-3.1-205.4 (4). Any moneys in the prepaid expense trust fund that are not needed for immediate use by the authority shall be invested by the state treasurer in accordance with paragraph (a) of this subsection (5) and with the actuarial report provided by the authority and in investments permitted by section 23-3.1-216 (1) and (3). The authority shall determine the amount of moneys in the fund that shall be invested and shall notify the state treasurer in writing of the amount.

(II) (Deleted by amendment, L. 2000, p. 1278, § 8, effective May 26, 2000.)

(6) and (7) (Deleted by amendment, L. 2000, p. 1278, § 8, effective May 26, 2000.)

(8) If, at any time, the authority determines that the prepaid expense program, or any aspect thereof, is not financially sound, the authority may discontinue permanently or for a period of time the prepaid expense program or that particular aspect of the program and the

execution of additional advance payment contracts. The state treasurer shall continue to invest moneys in the prepaid expense trust fund based upon the direction of the authority and shall continue to make disbursements from the prepaid expense trust fund in connection with the prepaid expense program based upon the direction of the authority for the benefit of existing purchasers and qualified beneficiaries except as otherwise authorized.

Source: L. 96: Entire section added, p. 423, § 4, effective April 22. **L. 98:** (5)(a) amended, p. 213, § 4, effective August 5. **L. 2000:** Entire section amended, p. 1278, § 8, effective May 26. **L. 2003:** (5)(a) amended, p. 553, § 3, effective August 6. **L. 2004:** (1), (5)(a), (5)(d), and (8) amended, p. 566, § 15, effective July 1. **L. 2008:** (5)(e)(I) amended, p. 204, § 3, effective August 5.

23-3.1-206.9. Colorado collegeinvest scholarship program - administration - fund - policies. (1) There is hereby created the Colorado collegeinvest scholarship program for the purpose of increasing access to postsecondary education. The Colorado collegeinvest scholarship program shall be implemented and administered by the authority. A scholarship under the Colorado collegeinvest scholarship program may be awarded only to an undergraduate student who, each year:

(a) (I) Attends a state institution of higher education or a participating private institution of higher education as defined in section 23-18-102 (8) and is eligible to receive a stipend pursuant to article 18 of this title; or

(II) Attends a local district college that is part of a local college district organized pursuant to article 71 of this title; or

(III) Attends an area technical college, as defined in section 23-60-103 (1), and is earning postsecondary credits that may be transferred into an associate degree program at a community college or into a degree program at a four-year institution of higher education as provided in section 23-1-108 (7) and the state credit transfer policies established by the Colorado commission on higher education; and

(b) Demonstrates financial need through the student's eligibility for the federal Pell grant or its successor program; and

(c) Meets any other eligibility requirements established by the board, which shall include but need not be limited to requiring the student to maintain a high school cumulative grade point average of at least 2.5.

(2) (a) The Colorado collegeinvest scholarship trust fund, which is hereby created, shall consist of moneys deposited into the fund by the authority, any moneys appropriated to the fund by the general assembly, and any gifts, grants, and donations received by the authority for the Colorado collegeinvest scholarship program. Moneys deposited into the Colorado collegeinvest scholarship trust fund shall be deemed to be trust funds and shall be administered by the authority and shall be used for the direct and indirect costs of implementing and administering, including marketing, the Colorado collegeinvest scholarship program and may be used for need-based financial aid. Annual expenditures on direct marketing shall not exceed five percent of the annual revenue of the trust. Any unexpended and unencumbered moneys remaining in the Colorado collegeinvest scholarship trust 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 to any other fund. Any moneys

appropriated by the general assembly to the Colorado collegeinvest scholarship trust fund shall be subject to annual appropriation.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (2) to the contrary, on July 1, 2009, of moneys credited to the Colorado collegeinvest scholarship trust fund other than moneys transferred from the student loan guarantee fund created in section 23-3.1-107 (1)(a), the state treasurer shall deduct fifteen million dollars from the Colorado collegeinvest scholarship trust fund and transfer such sum to the general fund.

(c) Notwithstanding any provision of paragraph (a) of this subsection (2) to the contrary, of moneys credited to the Colorado collegeinvest scholarship trust fund other than moneys transferred from the student loan guarantee fund created in section 23-3.1-107 (1)(a), the state treasurer shall deduct twenty-nine million eight hundred thousand dollars from the Colorado collegeinvest scholarship trust fund and transfer such sum to the general fund if the revenue estimate prepared in June of 2010 in accordance with section 24-75-201.3 (2), C.R.S., indicates for the fiscal year commencing July 1, 2010, that general fund expenditures for that fiscal year based on appropriations enacted by law will result in the use of more than three-eighths of the reserve required by section 24-75-201.1 (1)(d), C.R.S., or if the revenue estimate prepared in September or December of 2010 or in March or June of 2011 in accordance with section 24-75-201.3 (2), C.R.S., indicates for the fiscal year commencing July 1, 2010, that general fund expenditures for that fiscal year based on appropriations then in effect will result in the use of more than three-eighths of the reserve required by section 24-75-201.1 (1)(d), C.R.S.; however, said amount shall be deducted and transferred by the state treasurer only once pursuant to this paragraph (c).

(3) The board shall adopt any policies necessary for the implementation and administration of the Colorado collegeinvest scholarship program, which shall include but need not be limited to implementing the program for the high school graduating class of 2008, providing awards to both part-time and full-time students, and specifying that a scholarship under the program shall only be paid to a student for up to five academic years. The board shall develop an application for the Colorado collegeinvest scholarship program that shall be returned as specified by the board. The application shall include the requirements for and the disqualifications from the Colorado collegeinvest scholarship program. The policies adopted by the board for the implementation and administration of the Colorado collegeinvest scholarship program shall be approved by the executive director.

(4) Notwithstanding section 24-1-136 (11)(a)(I), on or before February 1 of each year, the board shall report to the education committees of the senate and the house of representatives, or any successor committees, on the status of the Colorado collegeinvest scholarship program. The report shall include, but need not be limited to, the financial status of the Colorado collegeinvest scholarship trust fund, the amount of money annually spent on administration, the average scholarship award amount, and the number of students participating in the Colorado collegeinvest scholarship program.

Source: L. 2005: Entire section added, p. 166, § 1, effective July 1. **L. 2008:** IP(1), (1)(c), (2), (3), and (4) amended, p. 205, § 4, effective August 5. **L. 2009:** (2) amended, (SB 09-279), ch. 367, p. 1926, § 6, effective June 1. **L. 2010:** (2) amended, (HB 10-1383), ch. 361, p. 1713, § 1, effective June 7. **L. 2016:** (1)(a)(III) amended, (HB 16-1082), ch. 58, p. 144, § 15,

effective August 10. **L. 2017:** (4) amended, (HB 17-1251), ch. 253, p. 1059, § 6, effective August 9.

23-3.1-207. Notes. (1) The authority may issue from time to time its negotiable notes for any of its purposes as provided in this part 2, including purchase of student obligations or the making of student obligations or institutional loans, and may renew from time to time any notes by the issuance of new notes, whether the notes to be renewed have or have not matured. The authority may issue notes partly to renew notes or to discharge other obligations then outstanding and partly for any other purpose. The notes may be authorized, sold, executed, and delivered in the same manner as bonds.

(2) Any resolution authorizing notes of the authority or any issue of such notes may contain any provisions which the authority is authorized to include in any resolution authorizing bonds of the authority or any issue of bonds, and the authority may include in any notes any terms, covenants, or conditions which it is authorized to include in any bonds.

(3) All such notes shall be payable from the proceeds of bonds or renewal notes or from the revenues of the authority or other moneys available for such payment and not otherwise pledged, subject only to any contractual rights of the holders of any of its notes or other obligations outstanding at the time of issuance of such notes.

Source: L. 79: Entire article added, p. 816, § 1, effective July 1. **L. 84:** (1) amended, p. 626, § 23, effective April 10. **L. 2004:** (1) amended, p. 568, § 16, effective July 1.

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. 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 the financing will help alleviate such insufficient access.

(b) (Deleted by amendment, L. 2004, p. 568, § 17, effective July 1, 2004.)

(c) In anticipation of the sale of its bonds, the authority may issue bond anticipation notes and may renew the same from time to time. Such notes shall be paid from any revenues of the authority or other moneys available for payments and not otherwise pledged or from proceeds of the sale of the bonds of the authority in anticipation of which they were issued. The bond anticipation notes shall be issued in the same manner as bonds. Such notes and the resolution authorizing them may contain any provisions, conditions, or limitations which a bond resolution of the authority contains.

(2) (a) All bonds issued by the authority shall be payable solely out of the revenues and receipts of the authority as designated in the resolution of the authority under which the bonds are authorized to be issued or as designated in a trust indenture authorized by the authority which shall name a bank or trust company as trustee or out of other moneys available for payments and not otherwise pledged.

(b) Bonds may be executed and delivered by the authority at such times, may be in such form and denominations and include such terms and maturities, may be in fully registered form or in bearer form registerable either as to principal or interest or both, may bear such conversion privileges, may be payable in such installments and at such time or times not exceeding forty

years from the date thereof, may be payable at such place or places whether within or without the state of Colorado, may bear interest at such fixed or variable rate or rates per annum as determined by the authority or in accordance with methods approved by the authority without regard to any interest rate limitation appearing in any other law of this state, may be evidenced in such manner, may be executed by such officers of the authority, including the use of one or more facsimile signatures so long as at least one manual signature appears on the bonds, which may be either an officer of the authority or an officer of the trustee authenticating the same, may be in the form of coupon bonds which have attached interest coupons bearing the facsimile signature of an authorized officer of the authority, and may contain such provisions not inconsistent with this part 2, all as provided in the resolution of the authority under which the bonds are authorized to be issued or as provided in a trust indenture authorized by the authority.

(3) If deemed advisable by the authority, there may be retained in the resolution or the trust indenture under which any bonds of the authority are authorized to be issued an option to redeem all or any part of said bonds as may be specified in such resolution or in such trust indenture, at such price or prices and on such terms and conditions as may be set forth in such resolution or in such trust indenture. Nothing in this part 2 shall be construed to confer on the authority the right or option to redeem any bonds except as provided in the resolution or in such trust indenture under which they are issued.

(4) The bonds or notes of the authority may be sold at public or private sale for such price or prices, in such manner, and at such times as determined by the authority, and the authority may pay all expenses, premiums, and commissions which it may deem necessary or advantageous in connection with the issuance of bonds or notes. The power to fix the date of sale of bonds and notes, to receive bids or proposals, to award and sell bonds and notes, and to take all other necessary action to sell and deliver bonds and notes may be delegated to the executive officer by resolution of the authority. Pending preparation of the definitive bonds, the authority may issue interim receipts or certificates which shall be exchanged for such definitive bonds.

(5) (a) Any outstanding bonds of the authority may be refunded or advance refunded at any time and from time to time by the authority by the issuance of its bonds for such purpose in a principal amount determined by the authority, which may include interest accrued or to accrue with or without giving effect to investment income and other expenses necessary to be paid in connection with such issuance.

(b) (I) Any such refunding may be effected whether the bonds to be refunded have then matured or will mature thereafter, either by sale of the refunding bonds and the application of the proceeds of such sale for the payment of the bonds to be refunded or by the exchange of the refunding bonds for the bonds to be refunded with the consent of the holders of the bonds to be so refunded, regardless of whether or not the bonds proposed to be refunded are payable on the same date or different dates or are due serially or otherwise.

(II) The proceeds of any such bonds issued for the purpose of refunding outstanding bonds may be applied, in the discretion of the authority, to the purchase or retirement at maturity or redemption of such outstanding bonds either on their earliest or any subsequent redemption date or upon the purchase or at the maturity thereof and, pending such application, may be placed in escrow to be applied to such purchase or retirement at maturity or redemption on such date as may be determined by the authority. Any such escrowed proceeds, pending such use, may be invested and reinvested in securities meeting the investment requirements established in part 6 of article 75 of title 24, C.R.S., maturing at such time or times as are appropriate to assure

the prompt payment as to principal, interest, and redemption premium, if any, of the outstanding bonds to be so refunded. The interest, income, and profit, if any, earned or realized on any such investment may also be applied, in the discretion of the authority, to the payment of the outstanding bonds or notes to be so refunded or to the payment of principal and interest on the refunding bonds or for any other purpose under this part 2. After the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and interest, income, and profits, if any, earned or realized on the investments may be returned to the authority for use by it in any lawful manner.

(c) All such refunding bonds shall be subject to the provisions of this part 2 in the same manner and to the same extent as other bonds issued pursuant to this part 2.

(6) The proceeds of any bonds, notes, bond anticipation notes, or other obligations may be used and applied to the payment of financing costs, including legal, underwriting and investment banking, accounting, and other similar costs; the funding of any reserve funds deemed necessary or advisable by the authority; interest on such bonds, notes, bond anticipation notes, or other obligations for a period not to exceed three years; and all other necessary and incidental costs and expenses.

Source: L. 79: Entire article added, p. 816, § 1, effective July 1. **L. 81:** (1)(a) amended, p. 1090, § 2, effective May 28. **L. 83:** (1)(a) amended, p. 785, § 2, effective April 29. **L. 84:** (1) R&RE, p. 626, § 24, effective April 10. **L. 89:** (5)(b)(II) amended, p. 1108, § 12, effective July 1. **L. 92:** (1)(a) amended, p. 586, § 1, effective March 4. **L. 2000:** (1)(a) amended, p. 130, § 1, effective August 2. **L. 2004:** (1), (2), and (3) amended, p. 568, § 17, effective July 1. **L. 2006:** (1)(a) amended, p. 514, § 12, effective July 1. **L. 2008:** (1)(a) amended, p. 206, § 5, effective August 5.

23-3.1-209. Negotiability of bonds. All bonds and any interest coupons applicable to such bonds are hereby declared and shall be construed to be negotiable instruments.

Source: L. 79: Entire article added, p. 818, § 1, effective July 1. **L. 84:** Entire section amended, p. 627, § 25, effective April 10.

23-3.1-210. Security for bonds and notes. (1) (a) The principal and interest on any bonds or notes issued by the authority may be secured by a trust indenture by and between the authority and a corporate trustee. Such trust indenture or the resolution providing for the issuance of such obligations may pledge or assign all or any part of the revenues or assets of the authority, including, without limitation, student obligations, student obligation commitments, institutional loans, moneys deposited or pledged by or on behalf of one or more institutions of higher education, moneys deposited or pledged by the division, temporary loans, contracts, agreements, and other security or investment obligations, the fees or charges made or received by the authority, the moneys received in payment of student obligations and institutional loans and interest on such moneys, including the proceeds of insurance on such obligations and loans and any other moneys received or due to be received by the authority.

(b) Such trust indenture or resolution may contain such provisions for protecting and enforcing the rights and remedies of the holders of any of the bonds or notes as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of

the authority in relation to the purposes to which proceeds of the bonds or notes may be applied, the disposition or pledging of the revenues or assets of the authority, the terms and conditions for the issuance of additional bonds or notes, and the custody, safeguarding and application of all moneys. Any such trust indenture or resolution may set forth the rights and remedies of the holders of any bonds or notes and of the trustee and may restrict the individual right of action by any such holders.

(c) In addition, any such trust indenture or resolution may contain such other provision as the authority may deem reasonable and proper for the security of the holders of any bonds or notes, including but not limited to provisions for insurance, letters of credit, standby credit agreements, take-out commitments, or other forms of credit insuring against default or guaranteeing timely payment with respect to student obligations, institutional loans, or bonds. All expenses incurred in carrying out the provisions of such indenture or resolution may be paid from the revenues or assets pledged or assigned to the payment of the principal of and the interest on bonds or notes or from any other funds available to the authority.

(2) (a) Any pledge made by the authority, by one or more institutions of higher education, by a nonprofit corporation acting on behalf of one or more institutions of higher education, or by the division shall be valid and binding from the time when the pledge is made. The revenues and moneys so pledged and thereafter received by or otherwise credited to such pledging parties shall immediately be subject to lien of such pledge without any physical delivery, filing, or further act, and the lien of such pledge shall have priority over any and all other obligations and liabilities of such pledging parties, subject to any contractual covenants by the pledging parties and any prior pledges and liens, and shall be valid, binding, and enforceable against all parties having claims of any kind in tort, contract, or otherwise against such pledging parties, irrespective of whether such claiming parties have notice of such lien. Neither the resolution nor any other instrument by which a pledge is created need be recorded. Each pledge, agreement, and indenture made for the benefit or security of any of the bonds of the authority shall continue to be effective until the principal of and interest on the bonds for the benefit of which the same are made has been fully paid or provision for such payment duly made.

(b) In the event of default in any such payment or in any agreements of the authority made as part of the contract under which the bonds were issued, whether contained in the resolution authorizing the bonds or in any trust indenture executed as security for such bonds, said payment or agreement may be enforced by suit, mandamus, or either of such remedies.

(3) Any bank or trust company that may act as depository of the proceeds of bonds or of revenues or other moneys may furnish such indemnifying bonds or pledge such securities as required by the authority.

Source: L. 79: Entire article added, p. 818, § 1, effective July 1. **L. 84:** (1)(a), (1)(c), and (2)(a) amended, p. 627, § 26, effective April 10. **L. 2004:** (1)(a), (1)(c), (2), and (3) amended, p. 570, § 18, effective July 1.

23-3.1-211. Personal liability. Neither the members of the board, employees or agents of the authority, nor any person executing the bonds or notes or advance payment contracts shall be liable personally on bonds or notes or advance payment contracts or be subject to any personal liability or accountability by reason of the issuance thereof or as a result of the prepaid expense program.

Source: L. 79: Entire article added, p. 820, § 1, effective July 1. **L. 96:** Entire section amended, p. 427, § 5, effective April 22. **L. 2000:** Entire section amended, p. 1282, § 9, effective May 26. **L. 2004:** Entire section amended, p. 572, § 19, effective July 1.

23-3.1-212. Purchase. The authority may purchase its bonds or notes out of any available funds. The authority may hold, pledge, cancel, or resell such bonds or notes, subject to and in accordance with agreements with bondholders or noteholders.

Source: L. 79: Entire article added, p. 820, § 1, effective July 1.

23-3.1-213. Payment of bonds and advance payment contracts - limited liability of state. (1) Bonds and notes issued by the authority shall be payable solely from the funds provided for in this part 2 and shall not otherwise constitute or become an indebtedness, a debt, or a liability of the state, nor shall the state otherwise be liable on such bonds and notes, nor shall such bonds or notes constitute the giving, pledging, or loaning of the full faith and credit of the state. The issuance of bonds or notes under the provisions of this part 2 shall not obligate the state or empower the authority, directly, indirectly, or contingently, to levy or collect any form of taxes or assessments, to create any indebtedness payable out of taxes or assessments, or to make any appropriation for their payment, and such appropriation, levy, or collection is prohibited.

(2) Nothing in this part 2 shall be construed to authorize the authority to create a debt of the state within the meaning of the constitution or statutes of Colorado; and all bonds issued by the authority pursuant to the provisions of this part 2 are payable and shall state that they are payable solely from the funds pledged for their payment in accordance with the resolution authorizing their issuance or with any trust indenture executed as security for such bonds and are not otherwise a debt or liability of the state of Colorado.

(3) Except as otherwise provided in this part 2, the state shall not be liable in any event for the payment of the principal of or interest on any bonds of the authority or for the performance of any pledge, obligation, or agreement of any kind whatsoever that may be undertaken by the authority. No breach of any such pledge, obligation, or agreement shall impose any pecuniary liability upon the state, except from funds specifically pledged by the state, or any charge upon its general credit or against its taxing power.

(4) Except as otherwise provided in this part 2, advance payment contracts and the benefits due thereunder shall be payable solely from the moneys in the prepaid expense trust fund, and shall not otherwise constitute or become an indebtedness, a debt, or a liability of the state, nor shall the state otherwise be liable on such advance payment contracts, nor shall such advance payment contracts constitute the giving, pledging, or loaning of the full faith and credit of the state. Advance payment contracts and the benefits due thereunder shall be payable by the authority solely from moneys in the prepaid expense trust fund and are not payable from or secured in any way by other moneys or accounts of the authority.

Source: L. 79: Entire article added, p. 820, § 1, effective July 1. **L. 96:** (4) added, p. 428, § 6, effective April 22. **L. 2000:** Entire section amended, p. 1282, § 10, effective May 26.

23-3.1-214. Exemption from taxation - securities law. The income or other revenues of the authority, including income earned on the investment of moneys in the prepaid expense

and the savings trust funds, all properties at any time owned by the authority, any bonds, notes, or other obligations issued pursuant to this part 2, the transfer of and the income, including any profit made on sale, from any such bonds, notes, or other obligations, and all trust indentures and other documents issued in connection with such bonds, notes, or other obligations shall be exempt at all times from all taxation and assessments in the state of Colorado. In the bond resolution authorizing the issuance of any bonds by the authority, the board may waive the exemption from federal income taxation for interest on such bonds. Bonds issued by the authority shall also be exempt from the provisions of article 51 of title 11, C.R.S.

Source: L. 79: Entire article added, p. 820, § 1, effective July 1. **L. 83:** Entire section amended, p. 785, § 3, effective April 29. **L. 96:** Entire section amended, p. 428, § 7, effective April 22.

23-3.1-215. Fees. All expenses of the authority incurred in carrying out the provisions of this part 2 shall be payable solely from funds provided under the authority of this part 2, and no liability shall be incurred by the authority beyond the moneys which are provided pursuant to this part 2. For the purposes of meeting the necessary expenses of initial organization and operation until such date as the authority derives moneys from funds provided pursuant to this part 2, the authority may borrow such moneys as may be required for the necessary expenses of organization and operation. Such borrowed moneys shall be repaid within a reasonable time after the authority receives funds provided pursuant to this part 2.

Source: L. 79: Entire article added, p. 821, § 1, effective July 1.

23-3.1-216. Investment of funds. (1) Moneys of the authority held in the collegeinvest fund created in section 23-3.1-205.4 shall be invested as provided in section 23-3.1-205.4 (3). Other moneys of the authority may be invested in property or securities in which the state treasurer may legally invest moneys subject to his or her control. The authority may sell the securities and may deposit the securities in a trust bank within or without the state. Any moneys deposited in a banking institution or a depository authorized in section 24-75-603, C.R.S., shall be secured in such a manner and subject to the terms and conditions as the board may determine, with or without payment of any interest on the deposit, including, without limitation, time deposits evidenced by certificates of deposit.

(2) The board may direct a corporate trustee that holds moneys of the authority pursuant to a trust indenture or other agreement between the trustee and the authority to invest or reinvest the moneys in any investments, other than those specified in subsection (1) of this section, if the board determines that, as of the date of the determination, the investment meets the standards for investments established in section 15-1-304, C.R.S.

(3) In addition to the investments otherwise permitted in this part 2, the state treasurer may invest moneys in the prepaid expense trust fund in the following:

(a) State and municipal bonds;

(b) Corporate notes, bonds, and debentures, whether or not convertible, to the extent provided for in paragraph (d) of this subsection (3);

(c) Participation agreements with life insurance companies;

(d) Common or preferred stock; except that:

(I) No investment of moneys in the prepaid expense trust fund in common or preferred stock, or both, of any corporation shall be of an amount that exceeds five percent of the market value of investable assets of the trust fund; except that, such amount may exceed five percent, for a period not to exceed sixty consecutive days;

(II) The prepaid expense trust fund shall not acquire more than five percent of the outstanding stock or bonds of any single corporation; and

(III) The aggregate amount of moneys of the prepaid expense trust fund invested in common or preferred stock, or in corporate bonds, notes, or debentures that are convertible into common or preferred stock, or in investment trust shares shall not exceed sixty percent of the market value of investable assets of the prepaid expense trust fund; except that such market value of investable assets may exceed sixty percent, by not more than five percent, for a period not to exceed sixty consecutive days;

(d.5) Investments in the form of mutual funds; and

(e) Any guaranteed investment contract, guaranteed interest contract, annuity contract, or funding agreement if the board determines by resolution that:

(I) Such contract or agreement meets the standard for investments established in section 15-1-304, C.R.S.;

(II) The income on such contract or agreement is at least comparable to the income then available on the other investments permitted in this section; and

(III) Such contract or agreement will assist the authority in maintaining an actuarially sound trust fund.

Source: L. 79: Entire article added, p. 821, § 1, effective July 1. **L. 81:** Entire section amended, p. 1090, § 3, effective May 28. **L. 83:** Entire section amended, p. 786, § 4, effective April 29. **L. 89:** (1) amended, p. 1108, § 13, effective July 1. **L. 96:** (3) added, p. 428, § 8, effective April 22. **L. 2000:** Entire section amended, p. 1283, § 11, effective May 26. **L. 2004:** (1) amended, p. 153, § 65, effective July 1; (1) amended, p. 572, § 20, effective July 1. **L. 2008:** (1) and (2) amended, p. 206, § 6, effective August 5.

Editor's note: Amendments to subsection (1) by House Bill 04-1126 and House Bill 04-1350 were harmonized.

23-3.1-217. Proceeds as trust funds. Except as otherwise provided in this part 2, all moneys received pursuant to this part 2, whether as proceeds from the sale of bonds, notes, or other obligations or as revenues or receipts, including moneys received under advance payment contracts shall be deemed to be trust funds to be held and applied solely as provided in this part 2. Any officer, bank, or trust company with which such moneys are deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes of this part 2, subject to such policies and guidelines as the authority and the resolution authorizing the bonds, notes, or other obligations of any issue or the trust indenture securing such obligations provides.

Source: L. 79: Entire article added, p. 821, § 1, effective July 1. **L. 96:** Entire section amended, p. 429, § 9, effective April 22. **L. 2000:** Entire section amended, p. 1285, § 12, effective May 26.

23-3.1-217.5. Claims of creditors - exemption. Moneys credited to or expended from the prepaid expense trust fund by or on behalf of a purchaser or qualified beneficiary of an advance payment contract made under this part 2, which contract has not been terminated, are exempt from all claims of creditors of the purchaser, the qualified beneficiary, or the authority.

Source: L. 96: Entire section added, p. 429, § 10, effective April 22. **L. 2000:** Entire section amended, p. 1285, § 13, effective May 26.

23-3.1-218. Agreement of the state not to limit or alter rights of obligees. The state hereby pledges to and agrees with the holders of any bonds, notes, or other obligations issued under this part 2 and with those parties who may enter into contracts with the authority, with state-supported institutions of higher education, or with the division pursuant to the provisions of this part 2 that the state will not limit, alter, restrict, or impair the rights vested in the authority to fulfill the terms of any agreements made with the holders of bonds, notes, or other obligations authorized and issued pursuant to this part 2 and with the parties who may enter into contracts with the authority pursuant to this part 2, and that the state will not limit, alter, restrict, or impair the rights vested in any state-supported institution of higher education or in the division to fulfill the terms of any contracts made with the authority and with the parties who may enter into contracts with such institutions of higher education or with the division pursuant to this part 2. The state further agrees that it will not in any way impair the rights or remedies of the holders of such bonds, notes, or other obligations of such parties until such bonds, notes, and other obligations, together with interest thereon, with interest on any unpaid installment of interest and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged and such contracts are fully performed on the part of the authority, the state-supported institutions of higher education, or the division. Nothing in this part 2 precludes such limitation or alteration if and when adequate provision is made by law for the protection of the holders of such bonds, notes, or other obligations of the authority or those entering into such contracts with the authority or the authority under any contract with a state-supported institution of higher education or with the division. The authority may include this pledge and undertaking for the state in such bonds, notes, or other obligations and in such contracts.

Source: L. 79: Entire article added, p. 821, § 1, effective July 1. **L. 84:** Entire section amended, p. 628, § 27, effective April 10.

23-3.1-219. Enforcement of rights of bondholders. Any holder of bonds issued pursuant to this part 2 or a trustee under a trust agreement or trust indenture entered into pursuant to this part 2, except to the extent that his rights are restricted by any bond resolution, may protect and enforce, by any suitable form of legal proceedings, any rights under the laws of this state or granted by the bond resolution. Such rights include the right to compel the performance of all duties of the authority required by this part 2 or the bond resolution and to enjoin unlawful activities.

Source: L. 79: Entire article added, p. 822, § 1, effective July 18.

23-3.1-220. Bonds eligible for investment. All banks, bankers, trust companies, savings and loan associations, investment companies, insurance companies and associations, executors, administrators, guardians, trustees, and other fiduciaries may legally invest any sinking funds, moneys, or other funds belonging to them or within their control in any bonds, notes, or other obligations, issued pursuant to this part 2. Public entities, as defined in section 24-75-601 (1), C.R.S., may invest public funds in such bonds, notes, or other obligations only if said bonds, notes, or other obligations satisfy the investment requirements established in part 6 of article 75 of title 24, C.R.S.

Source: L. 79: Entire article added, p. 822, § 1, effective July 1. **L. 89:** Entire section amended, p. 1127, § 59, effective July 1. **L. 2004:** Entire section amended, p. 572, § 21, effective July 1.

23-3.1-221. Account of activities - receipts for expenditures - report - audit. The authority shall keep an accurate account of all its activities and of all its receipts and expenditures and shall report annually on such activities, receipts, and expenditures in the month of February to its members, to the governor, to the commission, and to the state auditor in a form prescribed by the controller. Also included in the report shall be any recommendations with reference to additional legislation, a financial analysis of the actuarial soundness of the prepaid expense trust fund if one was prepared, an accounting of any loans or transfers approved pursuant to section 23-3.1-205.4 (4), and other action that may be necessary to carry out the purposes of the authority. The state auditor may investigate the affairs of the authority and may examine the properties and records of the authority, and the controller may prescribe methods of accounting and the rendering of periodical reports in relation to undertakings by the authority. The department of higher education shall adopt and prepare a budget for the authority for the next fiscal year. Beginning July 1, 2000, the fiscal year of the authority shall begin on July 1 and shall end on June 30. The authority shall not be required to comply with fiscal rules of the state of Colorado until July 1, 2000.

Source: L. 79: Entire article added, p. 822, § 1, effective July 1. **L. 81:** Entire section amended, p. 341, § 5, effective March 29; entire section amended, p. 1091, § 4, effective May 28. **L. 96:** Entire section amended, p. 430, § 11, effective April 22. **L. 2000:** Entire section amended, p. 1286, § 14, effective May 26. **L. 2003:** Entire section amended, p. 552, § 2, effective August 6. **L. 2004:** Entire section amended, p. 572, § 22, effective July 1.

Editor's note: Amendments to this section in House Bill 81-1215 and House Bill 81-1020 were harmonized.

23-3.1-222. Federal social security act. The authority may take such action as it deems appropriate to enable its employees to come within the provisions and obtain the benefits of the federal "Social Security Act", as from time to time amended.

Source: L. 79: Entire article added, p. 822, § 1, effective July 1.

23-3.1-223. Powers of authority not restricted. This part 2 shall not be construed as a restriction or limitation upon any powers which the authority might otherwise have under any laws of this state but shall be construed as cumulative of any such powers. Nothing in this part 2 shall be construed to deprive the state and its political subdivisions of their respective police powers over properties of the authority or to impair any power over such properties of any official or agency of the state and its governmental subdivisions which may be otherwise provided by law.

Source: L. 79: Entire article added, p. 822, § 1, effective July 1.

23-3.1-224. Contract powers of state-supported institutions of higher education - nonliability of state. (1) For the purpose of funding student obligations, the governing board of any state-supported institution of higher education is authorized to enter into contracts with the authority for the making or securing of student obligations and institutional loans, or the securing of authority bonds including, without limiting the generality of the foregoing, contracts which require such institutions to pledge certain revenues, pay fees, advance or loan funds to the authority, establish and maintain reserves, and make, sell, or purchase student obligations.

(2) For the purpose of making student obligations, the governing board of any state-supported institution of higher education is authorized to enter into contracts with the division for the origination, disbursement, servicing, or guarantee of any student obligation funded by an institutional loan.

(3) Nothing in this section shall be construed to authorize a state-supported institution of higher education to create a debt of the state within the meaning of the constitution or statutes of Colorado.

(4) Any obligation incurred by any state-supported institution of higher education under the provisions of this part 2 shall not constitute or become an indebtedness, a debt, or a liability of the state, nor shall the state be liable on such obligations, nor shall such obligations constitute the giving, pledging, or loaning of the full faith and credit of the state. Such obligations shall not obligate the state or empower such institution, directly, indirectly, or contingently, to levy or collect any form of taxes or assessments, to create any indebtedness payable out of taxes or assessments, or to make any appropriation for their payment, and such appropriation, levy, or collection is prohibited.

(5) The state shall not be liable in any event for the performance of any pledge, obligation, or agreement of any kind whatsoever which may be undertaken by such institutions. No breach of any such pledge, obligation, or agreement shall impose any pecuniary liability upon the state or any charge upon its general credit or against its taxing power.

Source: L. 84: Entire section added, p. 629, § 28, effective April 10. **L. 2004:** (1) and (2) amended, p. 573, § 23, effective July 1.

23-3.1-225. Confidentiality of records. (1) Except as otherwise provided in this section, all data, information, and records relating to the prepaid expense trust fund and the prepaid expense program are public records and are subject to inspection pursuant to the provisions of part 2 of article 72 of title 24, C.R.S.

(2) The following data, information, and records relating to the prepaid expense trust fund and the prepaid expense program shall be kept confidential by the authority, and the authority shall deny the right of access to or inspection of such data, information, and records except as provided in subsection (3) of this section:

(a) Data, information, and records relating to individual purchasers and qualified beneficiaries of advance payment contracts, including any records that reveal personally identifiable information about such individuals; except that the authority may disclose such information to an individual purchaser regarding his or her own contract;

(b) Trade secrets and proprietary information regarding software, including programs and source codes, utilized or owned by the authority; and

(c) Marketing plans and the results of market surveys conducted by the authority.

(3) Notwithstanding the provisions of subsection (2) of this section, the authority may disclose and may provide the right of access to or inspection of any data, information, or records to agents or representatives of professionals with whom the authority has contracted as provided in an advance payment contract or contracts, to the department of revenue, or to the state treasurer, or to other third parties if the purchaser or purchasers of the advance payment contract or contracts have consented in writing to such disclosure.

(4) No cause of action shall arise against a person for disclosing confidential information in violation of subsection (2) of this section unless the act or omission giving rise to the cause of action was intentional or grossly negligent.

Source: L. 98: Entire section added, p. 212, § 2, effective August 5. **L. 2000:** Entire section R&RE, p. 221, § 1, effective March 29. **L. 2004:** (3) amended, p. 573, § 24, effective July 1.

23-3.1-226. Policies for promotion and disclosure of program information. (1) The authority shall design a policy related to the promotion of the prepaid expense program and a policy related to the disclosure of program-related information to purchasers or qualified beneficiaries in a manner consistent with this part 2 and consistent with the requirements of section 529 of the internal revenue code in order to require that:

(a) Appropriate promotional material and program-related information disclose the average tuition increase in state institutions of higher education in Colorado, as defined in section 23-3.3-101 (4), over the previous five years;

(b) Annual statements to purchasers or qualified beneficiaries disclose the number of tuition units paid for, the payments made for such tuition units, and the current value of such tuition units, as well as the average tuition increases in state institutions of higher education in Colorado, as defined in section 23-3.3-101 (4), over the five previous years;

(c) An annual report to each purchaser of an advance payment contract setting forth the value and rate of return on the advance payment contract based on a calculation of average tuition and setting forth the amount of the stabilization reserve and retained earnings in the prepaid expense program. The report shall be provided at least annually and upon request of the purchaser of the advance payment contract.

(d) Promotional material and program-related information disclose that no moneys invested in the prepaid expense program are insured by the state of Colorado and that neither the principal deposited nor the investment returned is guaranteed by the state of Colorado. Such

material and information shall also disclose the existence of a stabilization reserve to better support its liability.

(e) Any fees paid from moneys collected pursuant to this part 2 are disclosed in promotional material and program-related information provided to the public and to purchasers or qualified beneficiaries, including disclosure of amounts assessed for payments over time.

Source: L. 2000: Entire section added, p. 1286, §15, effective May 26.

PART 3

SAVINGS PLANS

23-3.1-301. Legislative declaration. (1) The general assembly hereby finds, determines, and declares that a choice of education opportunities will benefit the residents of the state of Colorado and that the establishment of a college savings program will enhance the availability of postsecondary educational opportunities for residents. It is the intent of the general assembly to achieve this purpose through a public-private partnership using selected financial institutions to serve as account holders and managers of individual college savings accounts.

(2) The general assembly further finds, determines, and declares that the college savings program can enhance the availability of postsecondary educational opportunities for adults who are already in the workforce and therefore encourages adults to take advantage of the college savings program to further their own postsecondary educational opportunities and job retraining goals.

(3) The general assembly further finds, determines, and declares that the establishment of a savings program that qualifies under section 529A of the internal revenue code will:

(a) Assist individuals and families in saving money for the purpose of supporting individuals with disabilities in maintaining health, independence, and quality of life; and

(b) Provide secure funding for disability-related expenses on behalf of designated beneficiaries with disabilities that will supplement, but not supplant, benefits provided through private insurance, the medicaid program under Title XIX of the "Social Security Act", the supplemental security income program under Title XVI of the "Social Security Act", the beneficiary's employment, and other sources.

Source: L. 99: Entire part added, p. 454, § 1, effective July 1. **L. 2000:** Entire part amended, p. 1287, § 16, effective May 26. **L. 2004:** Entire section amended, p. 573, § 25, effective July 1. **L. 2010:** Entire section amended, (SB 10-202), ch. 396, p. 1881, § 1, effective June 9. **L. 2015:** (3) added, (HB 15-1359), ch. 269, p. 1047, § 2, effective June 3.

23-3.1-302. Definitions. As used in this part 3, unless the context otherwise requires:

(1) "ABLE" means achieving a better life experience, as used in the federal "Stephen Beck, Jr., Achieving a Better Life Experience Act of 2014", division B, Pub.L. 113-295, as that act amends the federal "Internal Revenue Code of 1986", as amended, to add section 529A and other federal laws.

(1.5) "ABLE savings program" means the savings program established under this part 3 pursuant to section 529A of the internal revenue code.

(1.6) "Account" means an individual trust account or savings account established pursuant to this part 3.

(2) "Account owner" means the person designated as the account owner pursuant to section 529 or 529A of the internal revenue code, whichever is applicable.

(2.5) "Adult learner" means an account owner under the college savings program who is also the account beneficiary and who opens an account in pursuit of his or her own postsecondary educational opportunities and job retraining goals.

(3) "Authority" means collegeinvest, transferred to the department of higher education and existing as a division of that department pursuant to section 23-3.1-203.

(3.5) "College savings program" means the college savings program established under this part 3 pursuant to section 529 of the internal revenue code.

(4) "Designated beneficiary" or "beneficiary" means, with respect to an account, the person designated at the time the account is opened, or the person who replaces a designated beneficiary, as the person whose qualified higher education expenses or qualified disability expenses are expected to be paid from the account.

(5) "Eligible educational institution" has the same meaning as that term is defined in section 529 of the internal revenue code.

(5.5) "Executive director" means the executive director of the department of higher education.

(5.7) "Federal ABLE act" means the "Stephen Beck, Jr., Achieving a Better Life Experience Act of 2014", division B, Pub.L. 113-295, and any amendments to the act.

(6) "Financial institution" means any state bank, state trust company, savings and loan association, credit union chartered by the state of Colorado, national bank, broker-dealer, mutual fund, insurance company, or other similar financial entity qualified to do business in the state of Colorado.

(7) "Internal revenue code" means the federal "Internal Revenue Code of 1986", as amended, and regulations implementing the code.

(8) "Manager" means a financial institution under contract with the authority to serve as an administrator of the program and recipient of contributions on behalf of the program.

(9) "Member of the family" has the same meaning as that term is defined in section 529 or 529A of the internal revenue code, whichever is applicable.

(10) "Nonqualified withdrawal" means a withdrawal from an account other than a qualified withdrawal.

(11) "Program" means the college savings program or the ABLE savings program established pursuant to this part 3, as applicable.

(11.5) "Qualified disability expenses" has the same meaning as that term is defined in section 529A of the internal revenue code.

(12) "Qualified higher education expenses" has the same meaning as that term is defined in section 529 of the internal revenue code.

(13) "Qualified withdrawal" means a withdrawal from an account, to pay any qualified expenses of the designated beneficiary of the account, a withdrawal made on account of the death or disability of the designated beneficiary, or a withdrawal made on account of a

scholarship, but only if the withdrawal is made in accordance with section 529 or 529A of the internal revenue code, whichever is applicable.

(14) "Savings contract" means an agreement entered into by the authority and an account owner to participate and establish an account in the program.

(15) "Savings trust fund" means the trust for either the college savings program or the trust for the ABLE savings program, consisting of the accounts for that program.

Source: L. 99: Entire part added, p. 454, § 1, effective July 1. **L. 2000:** Entire part amended, p. 1287, § 16, effective May 26. **L. 2004:** (3) amended, p. 574, § 26, effective July 1. **L. 2010:** (2.5) added and (4) amended, (SB 10-202), ch. 396, p. 1881, § 2, effective June 9. **L. 2013:** (6) amended, (SB 13-154), ch. 282, p. 1487, § 66, effective July 1. **L. 2015:** Entire section amended, (HB 15-1359), ch. 269, p. 1047, § 3, effective June 3.

23-3.1-303. Department - purpose - powers - duties.

(1) (Deleted by amendment, L. 2000, p. 1288, § 16, effective May 26, 2000.)

Source: L. 99: Entire part added, p. 456, § 1, effective July 1. **L. 2000:** Entire part amended, p. 1288, § 16, effective May 26.

23-3.1-304. Authority - purpose - powers - duties. (1) In addition to any other powers or duties specifically granted to the authority in part 2 of this article 3.1 and in this part 3 the authority shall, as applicable to the respective program:

(a) Develop and implement the college savings program and the ABLE savings program in a manner consistent with this part 3 and with sections 529 and 529A of the internal revenue code, whichever is applicable, through the adoption of guidelines and procedures;

(b) Select the financial institution or institutions, and enter into a contract with said institution or institutions to serve as managers and to invest the contributions deposited into the accounts;

(c) Establish rules regarding withdrawal of funds, which rules shall include provisions that will enable the authority or the manager to determine if a withdrawal is a nonqualified withdrawal or a qualified withdrawal;

(d) (Deleted by amendment, L. 2000, p. 1288, § 16, effective May 26, 2000.)

(e) Seek rulings and other guidance from the United States department of the treasury, the internal revenue service, and the securities and exchange commission relating to the program as is necessary for proper implementation and development of the program;

(f) Make changes to the program required in order for account owners and beneficiaries and the program to obtain or maintain federal income tax benefits or treatment provided by section 529 or 529A of the internal revenue code, whichever is applicable, and exemptions under federal securities laws;

(g) When establishing policies, guidelines, and procedures, interpret the provisions of this part 3 broadly in light of the purpose and objectives set forth in this part 3;

(h) Charge, impose, and collect administrative fees and service charges in connection with any agreement, contract, or transaction relating to the program in amounts not exceeding the cost of establishing and administering the program, including the funding of scholarships and other grants;

(i) Approve the application and review, for purposes of compliance with applicable laws and regulations, any informational materials utilized by the manager to be furnished to persons who desire to participate in a program established in this part 3;

(j) and (k) Repealed.

(l) Require that every contract, application, deposit slip, or other similar document that may be used in connection with a contribution to an account clearly indicate that the account is not insured by this state and neither the principal deposited nor the investment return is guaranteed by the state;

(m) Make and execute savings contracts with account owners;

(n) Develop and implement a plan to promote the use of accounts in the college savings program by adult learners;

(o) Develop and implement procedures to allow an employer to make a matching contribution to an adult learner's account for any contribution made by the adult learner; except that any employer matching contribution shall be subtracted from federal taxable income pursuant to section 39-22-104 (4)(o), C.R.S., to the extent that the contribution is included in federal taxable income;

(p) Develop procedures to provide college planning and preparation for adult learners through the state-provided, free online career, education, and training resource created pursuant to section 24-46.3-106;

(q) Develop procedures for coordinating with the department of labor and employment to make information regarding accounts for adult learners available to potential participants;

(r) Do all things necessary and convenient to carry out the purposes of this part 3.

(2) Notwithstanding the restrictions in section 23-3.1-216, the authority is hereby authorized to contract with one or more financial institutions pursuant to section 23-3.1-305 to act as managers for the investment of contributions related to this program in stocks, bonds, mutual funds, and other such investments as deemed appropriate by the authority. In so doing, the authority shall be bound by the fiduciary duty described in section 15-1-304, C.R.S., and shall assure that investments by the managers are made with judgment and care that persons of prudence, discretion, and intelligence exercise in the management of the property of another, not in regard to speculation but in regard to the permanent disposition of funds, considering the probable income as well as the probable safety of capital. The funds contributed to the accounts established by account owners pursuant to this section are held in trust by the authority and the manager for the sole benefit of the account owner and beneficiary. These contributions are not subject to any limitations on the investment of public funds and are not subject to section 20 of article X of the state constitution, which limits fiscal year spending of state government and other districts.

Source: L. 99: Entire part added, p. 456, § 1, effective July 1. **L. 2000:** Entire part amended, p. 1288, § 16, effective May 26. **L. 2008:** IP(1) and (1)(h) amended, p. 207, § 7, effective August 5. **L. 2010:** (1)(n) amended and (1)(o), (1)(p), (1)(q), and (1)(r) added, (SB 10-202), ch. 396, p. 1882, § 3, effective June 9. **L. 2015:** IP(1), (1)(a), (1)(f), (1)(i), (1)(m), and (1)(n) amended and (1)(j) and (1)(k) repealed, (HB 15-1359), ch. 269, p. 1049, § 4, effective June 3. **L. 2020:** IP(1) and (1)(p) amended, (HB 20-1396), ch. 138, p. 601, § 7, effective September 14.

23-3.1-305. Financial institutions - managers - purpose - selection - requirements - contracts. (1) The authority shall implement the program through the use of one or more financial institutions to act as managers. Under the program, potential account owners may establish accounts through the program at the financial institution.

(2) The authority shall solicit proposals from financial institutions to act as the recipients of contributions and managers.

(3) The authority shall select from among bidding financial institutions one or more financial institutions that demonstrate the most advantageous combination to account owners and beneficiaries, based on the following factors:

(a) Financial stability and integrity;

(b) The ability of the financial institution, directly or through a subcontract, to satisfy record-keeping and reporting requirements;

(c) The financial institution's plan for promoting the program and the investment that the financial institution is willing to make in order to promote the program;

(d) Repealed.

(e) The fees, if any, proposed to be charged to account owners for maintaining accounts;

(f) The minimum initial cash contribution and minimum contributions that the financial institution will require, and the willingness of the financial institution to accept contributions through payroll deduction plans or systematic deposit plans; and

(g) Any other benefits to the state or to its residents, included in the proposal, including an account opening fee payable to the authority by the account owner.

(4) The authority shall contract with one or more financial institutions, in accordance with subsection (5) of this section, to serve as managers and to invest the contributions to accounts. On May 26, 2000, the effective date of Senate Bill 00-164, as enacted at the second regular session of the sixty-second general assembly, pursuant to section 23-3.1-205.3, the authority shall succeed to all rights and obligations under any such existing contracts.

(5) The authority may select more than one financial institution for the program unless the United States internal revenue service provides guidance that giving a contributor a choice of two or more financial institutions will cause the program to fail to qualify for favorable tax treatment under section 529 or 529A of the internal revenue code, whichever is applicable, and the authority concludes that the choice of two or more financial institutions is in the best interest of account owners and beneficiaries and will not interfere with the promotion of the program.

(5.5) The authority may select a financial institution pursuant to subsection (3) of this section without regard to the provisions of the "Procurement Code", articles 101 to 112 of title 24, C.R.S.

(6) A manager shall:

(a) Take all actions required to keep the program in compliance with the requirements of this part 3 and to ensure that the program is treated as a qualified state tuition plan under section 529 of the internal revenue code or a qualified ABLE savings program under section 529A of the internal revenue code, whichever is applicable, and to ensure that the program is exempt from registration under the federal securities law;

(b) Keep adequate and separate records of each account and provide the authority with the information necessary to prepare the reports required by section 529 or 529A of the internal revenue code, whichever is applicable, or file these reports on behalf of the authority;

(c) Compile and total information contained in statements required to be prepared pursuant to section 23-3.1-306 (16) and (17) and provide these compilations to the authority;

(d) Provide representatives of the authority access to the books and records of the manager to the extent needed to determine compliance with the contract;

(e) Hold all accounts in trust for the sole benefit of the account owner and beneficiary on behalf of the program, acting in a fiduciary capacity and making investments with judgment, care, and prudence as described in section 15-1-304, C.R.S.; and

(f) Develop a plan to promote the program and, after approval of such plan by the authority, promote the program in accordance with the plan.

(7) Any contract executed between the authority and a financial institution pursuant to this section shall be for a term of at least five years and may be renewable.

(8) If a contract executed between the authority and a financial institution pursuant to this section is not renewed, all of the following conditions shall apply at the end of the term of the nonrenewed contract, so long as applying these conditions does not disqualify the program as a qualified state tuition plan under section 529 of the internal revenue code or a qualified ABLE savings program under section 529A of the internal revenue code, whichever is applicable:

(a) The authority shall continue to maintain the program at the financial institution;

(b) Accounts previously established at the financial institution shall not be terminated, except as provided in paragraph (e) of this subsection (8) or as provided in subsection (9) of this section;

(c) Additional contributions may be made to the accounts;

(d) No new accounts may be placed with that financial institution; and

(e) If the authority determines that continuing the accounts at the financial institution is not in the best interest of the account owners, or if the financial institution has elected not to renew the contract, the accounts may be transferred to another financial institution under contract with the authority.

(9) The authority may terminate a contract with a financial institution at any time. If a contract is terminated pursuant to this subsection (9), the authority shall take custody of accounts held at that financial institution and shall seek to promptly transfer the accounts to another financial institution that is selected as a manager and into investment instruments as similar to the original investments as possible pursuant to the guidelines established in section 23-3.1-306 (13). The authority may select the successor financial institution without regard to the provisions of the "Procurement Code", articles 101 to 112 of title 24, C.R.S.

(10) With respect to the college savings program, the authority shall work with the managers of the program in place on June 9, 2010, and any future managers to determine the most effective savings options offered by the managers for account owners who are adult learners. Each manager of the program that promotes the program pursuant to paragraph (f) of subsection (6) of this section shall develop and implement a plan to expand the promotion of the program to encourage adult learners to participate in the program in pursuit of their own postsecondary educational opportunities and job retraining goals.

Source: L. 99: Entire part added, p. 457, § 1, effective July 1. **L. 2000:** Entire part amended, p. 1290, § 16, effective May 26. **L. 2008:** (8)(e) amended, p. 207, § 8, effective August 5. **L. 2010:** (10) added, (SB 10-202), ch. 396, p. 1882, § 4, effective June 9. **L. 2015:**

(3)(d) repealed and (5), (6)(a), (6)(b), IP(8), and (10) amended; (HB 15-1359), ch. 269, p. 1050, § 5, effective June 3.

23-3.1-306. Accounts - contributions - withdrawals - penalties - statements. (1) The program shall be operated through the use of accounts. A person may open an account by satisfying each of the following requirements:

(a) Completing an application in the form prescribed by the financial institution and approved by the authority, and in accordance with the provisions of section 529 or 529A of the internal revenue code, whichever is applicable. At a minimum, said application shall include the following information:

(I) The name, address, and social security number or employer identification number of any person that contributes to the account;

(II) The name, address, and social security number or employer identification number of the account owner;

(III) The name, address, social security number or employer identification number, and date of birth of the designated beneficiary;

(III.5) For the ABLE savings program, a disability certificate and other documentation as required pursuant to section 529A of the internal revenue code; and

(IV) Repealed.

(V) Any other information that the authority may deem necessary.

(b) Making the minimum contribution required by the financial institution to open an account.

(2) Any person may make contributions to an account, consistent with the terms established by the authority, after the account is opened.

(3) Contributions to accounts shall be made in cash only, unless otherwise permitted pursuant to section 529 or 529A of the internal revenue code.

(4) Account owners may withdraw all or part of the balance from an account upon giving sixty days' notice, or upon such shorter period as may be authorized by the authority pursuant to rules established by the authority, including any applicable fees and penalties.

(5) An account owner may change the designated beneficiary of an account in accordance with the provisions of section 529 or 529A of the internal revenue code, whichever is applicable, and the procedures established by the authority.

(6) At the direction of the account owner, all or a portion of an account may be transferred to another account or rolled over in accordance with the provisions of section 529 or 529A of the internal revenue code, whichever is applicable, and the procedures established by the authority.

(7) to (9) Repealed.

(10) Each account shall be accounted for separately from all other accounts under the program.

(11) Separate records and accounting shall be maintained for each account for each designated beneficiary.

(12) To the extent permitted by federal law, a contributor to, an account owner of, or a designated beneficiary of any account may direct the investment of any contribution to an account or the earnings from the account.

(13) If the authority terminates the contract of a financial institution to hold accounts and accounts must be moved from that financial institution to another financial institution, the authority shall select the financial institution to which the balances of the accounts are moved.

(14) Neither an account owner nor a designated beneficiary may use an interest in an account as a security for a loan. Any pledge of an interest in an account is of no force and effect.

(15) If there is any distribution from an account to any person or for the benefit of any person during the calendar year, the distribution shall be reported to the internal revenue service and to the account owner or the designated beneficiary to the extent required by federal law.

(16) The financial institution shall provide statements to each account owner at least once each year.

(17) Statements and information returns relating to accounts shall be prepared and filed to the extent required by federal or state tax law.

Source: L. 99: Entire part added, p. 460, § 1, effective July 1. **L. 2000:** Entire part amended, p. 1292, § 16, effective May 26. **L. 2010:** IP(1) amended, (SB 10-202), ch. 396, p. 1883, § 5, effective June 9. **L. 2015:** IP(1), IP(1)(a), (3), (5), (6), (12), and (16) amended, (1)(a)(III.5) added, and (1)(a)(IV), (7), (8), and (9) repealed, (HB 15-1359), ch. 269, p. 1051, § 6, effective June 3.

23-3.1-306.5. College kickstarter account program - funding - administration - financial literacy course - rules - legislative declaration - definitions. (1) (a) The general assembly hereby finds and declares that:

(I) Empirical evidence gathered over the last several years documents the potential of college savings accounts to expand educational and economic opportunity, especially for low- and moderate-income families;

(II) College savings accounts improve early child development and future financial capability because:

(A) Children who receive a college savings account at birth score better on socio-emotional development indicators than children who do not receive a college savings account;

(B) Families with children who receive a seeded college savings account at birth save significantly more for college than families of children who do not receive such an account; and

(C) Compared to children without savings, children with savings accumulate significantly more savings as adults;

(III) Having a college savings account increases a child's expectation of going to college, and, among children aged twelve to eighteen, those who have a college savings account are twice as likely to expect to go to college as those who do not have a college savings account because college savings accounts promote the importance of higher education and make the future feel more proximate for children;

(IV) Children who have college savings do better academically, and even a small amount of college savings can substantially increase college enrollment and graduation, especially for low- and moderate-income children, as such children with five hundred dollars or less in savings were three times more likely to enroll in college and four times more likely to graduate than children with no savings; and

(V) Providing seed money for each child born in Colorado as an incentive to enroll in a college savings account helps make saving for college part of the collective culture of Colorado

by opening the door for economic opportunity for all children and their families, better positions the state as a pioneer in building family financial capability, and promotes the development of a stronger, more qualified Colorado workforce.

(b) The general assembly further finds and declares that establishing the college kickstarter account program, which provides both an initial contribution of money for every child born in Colorado that may be claimed and transferred to a college savings account and subsequently supplemented by parental and family contributions and a potential opportunity for financial literacy education free of charge:

(I) Creates a public-private partnership and state-level plan aimed at transforming the college aspirations and attendance of thousands of Colorado children; and

(II) Provides a promising means of increasing academic performance and self-esteem in a child's early years and college enrollment and degree attainment in the long term.

(2) As used in this section, unless the context otherwise requires:

(a) "Eligible child" means a child born or adopted in Colorado on or after January 1, 2020, but before January 1, 2040.

(b) "Fund" means the college kickstarter account program fund created in subsection (8)(a) of this section.

(c) "Inflation" means the annual percentage change in the United States department of labor, bureau of labor statistics, consumer price index for Denver-Aurora-Lakewood for all items and all urban consumers, or its successor index.

(d) "Kickstarter funding" means an amount in the master account designated for each eligible child by the authority, which the parent or parents of the eligible child can claim on behalf of the eligible child by opening an account for the eligible child, as follows:

(I) One hundred dollars for each eligible child born before January 1, 2021; or

(II) One hundred dollars, annually adjusted for inflation for each year beginning on or after January 1, 2021, for each eligible child born on or after January 1, 2021.

(e) "Kickstarter program" means the college kickstarter account program created in subsection (3) of this section.

(f) "Master account" means the account established by the authority as required by subsection (4) of this section.

(g) "Parent or parents" means each individual identified on the birth certificate as the mother or father of a child or, if the child is adopted, identified on the report of adoption forwarded to the state registrar as required by section 25-2-107 (1), or, if no such person is the legal guardian of a child, the legal guardian of the child.

(3) Except as otherwise provided in subsection (5) of this section, the authority shall oversee and administer the college kickstarter account program, which is created within the authority. The department shall create an advisory board, which shall include, at a minimum, the state treasurer or the state treasurer's designee and both an employee of the department who is not an employee of the authority and an employee of the authority, to advise the authority regarding the oversight and administration of the kickstarter program. The advisory board is subject to the open meetings provisions of the Colorado sunshine law contained in part 4 of article 6 of title 24 and the "Colorado Open Records Act", article 72 of title 24.

(4) (a) The authority shall create a kickstarter program master account. By increasing available revenue, without reducing existing levels of scholarship or matching grant funding, the authority shall annually deposit to the master account for state fiscal year 2019-20 and for each

succeeding state fiscal year thereafter through state fiscal year 2044-45 the amount needed to ensure that there is sufficient money in the master account to make all transfers of kickstarter funding from the master account to accounts that name an eligible child as the beneficiary required by subsection (4)(b) of this section during the state fiscal year for which the transfer is made. Notwithstanding any other law, the amounts to be transferred shall be taken from money of the authority that is available for use by the authority for the Colorado collegeinvest scholarship program created in section 23-3.1-206.9 (1) or for the authority's matching grant program.

(b) The authority shall designate kickstarter funding in the master account for each eligible child upon receiving notice of the birth or adoption of the eligible child from the office of the state registrar of vital statistics in the department of public health and environment, created in section 25-2-103 (1), as required by section 25-2-112 (8). The authority shall initially invest the kickstarter funding in its stable value plus plan or any successor plan that has a similar investment strategy. If the parent or parents of an eligible child open an account, which they may do without making any additional contribution, that names the child as the beneficiary within five years of the date of the eligible child's birth or adoption, the authority shall transfer the kickstarter funding designated for the eligible child and any associated interest from the master account to the eligible child's account. If the parent or parents of an eligible child do not open an account that names the eligible child as a beneficiary within five years of the eligible child's birth or adoption, any money in the master account that was designated for the eligible child remains in the master account and may be designated for another eligible child. Kickstarter funding and any associated interest, whether it is designated for an eligible child in the master account or in an account that names an eligible child as the beneficiary, is excluded from the income of the eligible child and the parent or parents of the eligible child for purposes of determining eligibility or benefits amounts for any state-funded program.

(c) The authority, in consultation with the advisory board created in subsection (3) of this section, shall develop and, no later than November 1, 2019, obtain the approval of the department to implement, directly or through a contractor, a comprehensive and robust marketing and outreach plan to make the parent or parents of each eligible child aware of the kickstarter program and encourage them to claim the kickstarter funding designated for their eligible child by enrolling in an account. The marketing and outreach plan shall include multiple strategies, including grants to appropriate community-based nonprofit organizations, to specifically target low- and middle-income families who may be less likely than wealthier families to already be aware of the authority and the availability of accounts. Upon making initial contact with the parent or parents of an eligible child, the authority or its contractor shall:

(I) Educate the parent or parents as to how to claim the designated kickstarter funding for their eligible child by enrolling in an account, make future contributions to the account, choose from available fund options for the investment of the account, and contact the authority regarding questions concerning the account;

(II) Advise the parent or parents of the opportunity to take any financial literacy education program provided by the state treasurer as authorized in subsection (5) of this section; and

(III) Provide a simple enrollment process and call center support.

(d) Subject to annual appropriation by the general assembly with respect to any money in the master account that is not custodial money obtained through gifts, grants, or donations

only, the authority may expend any money in the master account that is not kickstarter funding or associated interest and is not anticipated to be needed for future designation as kickstarter funding to defray the costs of developing, implementing, marketing, and administering the kickstarter program in compliance with all applicable federal and state laws, rules, and regulations.

(5) If, in the sole discretion of the state treasurer, adequate gifts, grants, and donations are received, the kickstarter program may include a free program for financial literacy education for eligible children and their parent or parents and other family members. The state treasurer shall develop and administer any program for financial literacy education included in the kickstarter program.

(6) The authority shall conduct an ongoing summative evaluation to collect summative data to evaluate the kickstarter program's effectiveness over time. The authority shall prepare, present to the committees of reference of the general assembly to which the department is assigned pursuant to section 2-7-203 (1), and conspicuously post on its website an annual written report on the results of the ongoing summative evaluation, which report shall include, at a minimum:

(a) A descriptive and evaluative summary of the marketing and outreach plan for the kickstarter program developed and implemented as required by subsection (4)(c) of this section, including a description of the strategies used and an assessment of the successes and failures of the plan generally and of the individual strategies used; and

(b) Statistical summaries of the usage of the kickstarter program both for the past calendar year and for the life of the program that include:

(I) The number of eligible children born or adopted;

(II) The number of eligible children, and the percentage of all eligible children, for whom the parent or parents claimed kickstarter funding by opening accounts;

(III) The number of families who had not opened an account for any of their children before January 1, 2020, who opened an account for an eligible child or for any of their other children on or after January 1, 2020, and the total number of accounts opened by such families;

(IV) To the extent that such information is available, the number of accounts opened for both eligible children and other children by low-income, middle-income, and high-income families;

(V) The number of accounts opened for both eligible children and other children, and the percentage of all accounts opened for both eligible children and for other children, in each county; and

(VI) The number and percentage of all families claiming kickstarter funding for an eligible child by opening an account:

(A) Who did not make additional contributions to the account; and

(B) Who did, or for whom others did, make additional contributions to the account.

(7) The kickstarter program is intended to be a public-private partnership, with the authority designating kickstarter funding for each eligible child within the master account and transferring the kickstarter funding into an individual college savings account for each eligible child when the parent or parents of the eligible child claim the kickstarter funding by opening the account and the state treasurer working with a private partner to develop a free program of financial literacy education for eligible children and their parent or parents and other family members. The state treasurer may seek to enter into agreements with private foundations or other

entities to fund, develop, and implement the financial literacy education program component of the kickstarter program, and the authority may seek to enter into agreements with such private foundations or other entities to provide additional funding for the kickstarter program.

(8) (a) The college kickstarter account program fund is created in the state treasury. The fund consists of gifts, grants, and donations credited to the fund pursuant to this section.

(b) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund.

(c) The authority may expend money from the fund for any kickstarter program purpose, and the state treasurer may expend money from the fund for the purpose of developing and implementing a free program of financial literacy education for eligible children and their parent or parents and other family members as authorized in subsection (5) of this section.

(d) The state treasurer, the department, and the authority may seek and accept gifts, grants, or donations from private or public sources for the purposes of this section. The receiving entity shall transmit all money received through gifts, grants, or donations to the state treasurer, who shall credit the money to the fund.

(9) The authority may adopt rules that it deems necessary for the implementation and administration of the kickstarter program.

Source: L. 2019: Entire section added, (HB 19-1280), ch. 158, p. 1874, § 1, effective August 2.

23-3.1-307. Limitations. (1) Nothing in this part 3 shall be construed to:

(a) Give any designated beneficiary any rights or legal interest with respect to an account unless the designated beneficiary is the account owner;

(b) Guarantee that a designated beneficiary will be admitted to an education institution or be allowed to continue enrollment at or graduate from an education institution;

(c) Establish state residency for a beneficiary merely because of the designation as a beneficiary; or

(d) Guarantee that amounts saved pursuant to the program will be sufficient to cover the qualified higher education expenses or qualified disability expenses of a designated beneficiary, as applicable.

(2) Nothing in this part 3 shall establish any obligation of the state of Colorado or any agency or instrumentality of the state of Colorado to guarantee for the benefit of any account owner, contributor to an account, or designated beneficiary any of the following:

(a) The return of any amounts contributed to an account;

(b) The rate of interest or other return on any account;

(c) The payment of interest or other return on any account; or

(d) Tuition rates or the cost of any qualified expenditures.

(3) Nothing in this part 3 shall be construed to indicate that the account is insured by the state of Colorado or that the principal deposited or investment return is guaranteed by the state of Colorado.

(3.5) Nothing in this part 3 shall be construed to create an indebtedness, a debt, or a liability of the state, nor shall the state be liable on the savings contracts, except to the extent of the amounts on deposit in the accounts, nor shall a savings contract constitute the giving, pledging, or loaning of the full faith and credit of the state.

(4) (Deleted by amendment, L. 2000, p.1294, § 16, effective May 26, 2000.)

Source: L. 99: Entire part added, p. 462, § 1, effective July 1; (4) amended, p. 223, § 3, effective March 29. **L. 2000:** (4) amended, p. 223, § 3, effective March 28; entire part amended, p. 1294, § 16, effective May 26. **L. 2015:** (1)(d), IP(2), and (2)(d) amended, (HB 15-1359), ch. 269, p. 1053, § 7, effective June 3.

Editor's note: Amendments to this section in Senate Bill 00-164 and House Bill 00-1276 were harmonized.

23-3.1-307.1. Personal liability. Neither the members of the board, employees or agents of the authority, nor any person executing savings contracts shall be liable personally on savings contracts or be subject to any personal liability or accountability as a result of the program.

Source: L. 2000: Entire part amended, p. 1295, § 16, effective May 26. **L. 2004:** Entire section amended, p. 574, § 27, effective July 1. **L. 2015:** Entire section amended, (HB 15-1359), ch. 269, p. 1053, § 8, effective June 3.

23-3.1-307.3. Proceeds as trust funds. Except as otherwise provided in this part 3, all moneys received pursuant to this part 3, including moneys received under savings contracts, shall be deemed to be trust funds to be held and applied solely as provided in this part 3. Any officer, bank, or trust company with which such moneys are deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes of this part 3, subject to such policies and guidelines as the authority and the resolution authorizing the bonds, notes, or other obligations of any issue or the trust agreement securing such obligations provides.

Source: L. 2000: Entire part amended, p. 1295, § 16, effective May 26.

23-3.1-307.4. Claims of creditors - exemption. Except as provided pursuant to section 529A of the internal revenue code, moneys credited to or expended from the savings trust fund by or on behalf of an account owner, depositor, or designated beneficiary of a savings contract made under this part 3, which contract has not been terminated, are exempt from all claims of creditors of the account owner, depositor, designated beneficiary, or the authority.

Source: L. 2000: Entire part amended, p. 1295, § 16, effective May 26. **L. 2015:** Entire section amended, (HB 15-1359), ch. 269, p. 1053, § 9, effective June 3.

23-3.1-307.5. Confidentiality of records. (1) Except as otherwise provided in this section or pursuant to federal law, all data, information, and records relating to the college savings program and the ABLE savings program are public records and are subject to inspection pursuant to the provisions of part 2 of article 72 of title 24, C.R.S.

(2) The following data, information, and records relating to the college savings program and the ABLE savings program shall be kept confidential by the authority, and the authority shall deny the right of access to or inspection of such data, information, and records except as provided in subsection (3) of this section:

(a) Data, information and records relating to designated beneficiaries and contributors to an individual trust account or savings account including any records that reveal personally identifiable information about such individuals; except that the authority may disclose such information to an account owner regarding his or her own account;

(b) Trade secrets and proprietary information regarding software, including programs and source codes, utilized or owned by the authority; and

(c) Marketing plans and the results of market surveys conducted by the authority.

(3) Notwithstanding the provisions of subsection (2) of this section, the authority may disclose and may provide the right of access to or inspection of any data, information, or records to agents or representatives of professionals with whom the authority has contracted, to the department of revenue, or to the state treasurer, or to other third parties if the account owner and designated beneficiary have consented in writing to such disclosure.

(4) No cause of action shall arise against a person for disclosing confidential information in violation of subsection (2) of this section unless the act or omission giving rise to the cause of action was intentional or grossly negligent.

Source: L. 2000: Entire section added, p. 222, § 2, effective March 29; entire part amended, p. 1295, § 16, effective May 26. **L. 2004:** (3) amended, p. 574, § 28, effective July 1. **L. 2015:** (1) and IP(2) amended, (HB 15-1359), ch. 269, p. 1053, § 10, effective June 3.

Editor's note: This section was added by House Bill 00-1276 and harmonized with Senate Bill 00-164.

23-3.1-307.9. Policies for promotion and disclosure of program information. (1) The authority shall design a policy related to the promotion of the program and a policy related to the disclosure of program-related information to account owners, depositors, and designated beneficiaries in a manner consistent with this part 3 and consistent with the requirements of section 529 or 529A of the internal revenue code, whichever is applicable, in order to require that:

(a) Promotional material and program-related information disclose that no moneys invested in the program are insured by the state of Colorado and that neither the principal deposited nor the investment returned is guaranteed by the state of Colorado; and

(b) Any fees paid from moneys collected pursuant to this part 3 are disclosed in promotional material and program-related information provided to the public and to account owners, depositors, and designated beneficiaries.

Source: L. 2000: Entire part amended, p. 1295, § 16, effective May 26. **L. 2015:** IP(1) and (1)(a) amended, (HB 15-1359), ch. 269, p. 1053, § 11, effective June 3.

23-3.1-308. Residency. Both Colorado resident and nonresident account owners and designated beneficiaries are eligible to participate in and benefit from the college savings program. Only Colorado resident account owners and beneficiaries, and account owners and beneficiaries who are residents in any state which contracts with the authority under section 23-3.1-311, are eligible to participate in and benefit from the ABLE savings program, unless otherwise provided under section 529A of the internal revenue code.

Source: L. 99: Entire part added, p. 463, § 1, effective July 1. **L. 2000:** Entire part amended, p. 1296, § 16, effective May 26. **L. 2015:** Entire section amended, (HB 15-1359), ch. 269, p. 1054, § 12, effective June 3.

23-3.1-309. Tax exemption. (1) Notwithstanding any other law to the contrary, the amount of any distribution to a designated beneficiary, as defined in section 529 (e)(1) of the internal revenue code, from a college savings program account established under this part 3 shall be exempt from state income taxation to the extent that this income is used to pay qualified higher education expenses of the designated beneficiary.

(2) To the extent that distributions from an ABLE savings program account established pursuant to this part 3 to a designated beneficiary for qualified disability expenses are excluded from taxable income pursuant to section 529A of the internal revenue code, or any successor provision, such distributions are also excluded from state taxable income.

Source: L. 99: Entire part added, p. 463, § 1, effective July 1. **L. 2000:** Entire part amended, p. 1296, § 16, effective May 26. **L. 2015:** Entire section amended, (HB 15-1359), ch. 269, p. 1054, § 13, effective June 3.

23-3.1-310. Job retraining cash fund - repeal. (Repealed)

Source: L. 2010: Entire section added, (SB 10-202), ch. 396, p. 1883, § 6, effective June 9.

Editor's note: Subsection (4) provided for the repeal of this section, effective July 1, 2013. (See L. 2010, p. 1883.)

23-3.1-311. Achieving a better life experience (ABLE) savings program - establishment - authority - powers - duties. (1) The authority shall establish and implement the achieving a better life experience (ABLE) savings program in Colorado that complies with the federal ABLE act and section 529A of the internal revenue code, or any successor section, and regulations implementing that section to allow for an account owner to save for qualified disability expenses without disqualifying the account owner from certain federal benefits. The ABLE savings program shall be administered pursuant to the provisions of this part 3 that are consistent with section 529A of the internal revenue code. In addition to any other powers and duties specifically granted to the authority in this part 3 and in part 2 of this article, as applicable to the ABLE savings program, the authority shall:

(a) Adopt any guidelines and procedures that are necessary to administer the ABLE savings program;

(b) Make any necessary changes to the ABLE savings program to obtain or maintain federal income tax benefits or treatment provided by section 529A of the internal revenue code and exemptions under federal securities laws;

(c) Operate the ABLE savings program through the use of accounts pursuant to the provisions of section 23-3.1-306 as they apply to the ABLE savings program; and

(d) Implement the ABLE savings program through the use of one or more financial institutions to act as managers pursuant to the provisions of section 23-3.1-305 as they apply to the ABLE savings program.

(2) For purposes of implementing the ABLE savings program, the authority may invest amounts on deposit in accounts established pursuant to this section with other accounts established in this part 3 that are qualified accounts pursuant to section 529 of the internal revenue code.

(3) If permitted under federal law, the authority may:

(a) Contract with a state that does not have a qualified ABLE savings program pursuant to section 529A of the internal revenue code to provide residents of that state access to Colorado's ABLE savings program; and

(b) Contract with a state that has a qualified ABLE savings program to provide residents of Colorado access to that state's program.

(4) Nothing in this article prevents the authority from complying with its duty to conform the program to federal requirements for a qualified ABLE savings program under section 529A of the internal revenue code.

Source: L. 2015: Entire section added, (HB 15-1359), ch. 269, p. 1046, § 1, effective June 3.

ARTICLE 3.3

Student Financial Assistance

PART 1

GENERAL PROVISIONS

23-3.3-101. Definitions. As used in this article 3.3, unless the context otherwise requires:

(1) "Commission" means the Colorado commission on higher education.

(1.5) "Cost of attendance at a nonpublic institution of higher education" means:

(a) Allowances specified by the commission for room and board and miscellaneous expenses, which shall be the same for nonpublic institutions of higher education as for a representative group of comparable state institutions, as determined by the commission; and

(b) An allowance for tuition and fees equal to the lesser of:

(I) The actual tuition and fees charged by the nonpublic institution of higher education; or

(II) One hundred percent of the combination of actual in-state tuition and fees charged by a representative group of comparable state institutions plus the general fund moneys allocated to support such comparable state institutions.

(2) "In-state student" means a student at an institution of higher education who meets the criteria established by article 7 of this title for classification as an in-state student at a state institution of higher education, but "in-state student" does not include a member of the armed forces of the United States or his dependents who are eligible to obtain in-state tuition status

upon moving to Colorado on a permanent change-of-station basis until such individual meets the one-year domicile requirement of section 23-7-102 (5).

(3) "Institution" means an educational institution operating in this state that meets all of the following:

(a) Admits as regular students persons having a certification of graduation from a school providing secondary education or comparable qualifications and persons for enrollment in courses which they reasonably may be expected to complete successfully;

(b) Is accredited by a nationally recognized accrediting agency or association and, in the case of private occupational schools, holds a regular certificate in accordance with the provisions of article 64 of this title 23;

(c) (I) Provides an educational program for which it awards a bachelor's degree;

(II) Provides not less than a two-year program which is acceptable for full credit towards such a degree; or

(III) Provides not less than a six-month program of training to prepare students for gainful employment in a recognized occupation;

(d) Is not a branch program of an institution of higher education whose principal campus and facilities are located outside this state.

(3.5) "Nonpublic institution of higher education" shall have the same meaning as provided in section 23-3.7-102 (3).

(3.7) "Professional degree in theology" means a certificate signifying a person's graduation from a degree program that is:

(a) Devotional in nature or designed to induce religious faith; and

(b) Offered by an institution as preparation for a career in the clergy.

(4) "State institution" means an institution supported in whole or in part by general fund moneys.

(5) "Undergraduate" refers to any program leading toward a bachelor's degree or associate degree or any nondegree program providing training for employment in a recognized occupation.

Source: L. 79: Entire article added, p. 824, § 1, effective June 19. **L. 81:** (3)(b) amended, p. 852, § 27, effective July 1. **L. 83:** (2) and (3)(d) amended, p. 788, § 1, effective July 1. **L. 86, 2nd Ex. Sess.:** (2) amended, p. 60, § 3, effective August 15. **L. 90:** (1.5) and (3.5) added, p. 1145, § 2, effective May 17. **L. 2009:** (3)(d) amended and (3.7) added, (HB 09-1267), ch. 348, p. 1823, § 2, effective June 1. **L. 2017:** IP, IP(3), and (3)(b) amended, (HB 17-1239), ch. 261, p. 1205, § 12, effective August 9.

Cross references: For the legislative declaration contained in the 1990 act amending this section, see section 1 of chapter 154, Session Laws of Colorado 1990. For the legislative declaration contained in the 2009 act amending subsection (3)(d) and adding subsection (3.7), see section 1 of chapter 348, Session Laws of Colorado 2009.

23-3.3-102. Assistance program authorized - procedure - audits. (1) The general assembly hereby authorizes the commission to establish a program of financial assistance, to be operated during any school sessions, including summer sessions for students attending institutions.

(2) The commission shall determine, by guideline, the institutions eligible for participation in the program and shall annually determine the amount allocated to each institution.

(3) Each state institution shall administer a financial assistance program according to policies and procedures established by the governing board of the institution. Each private institution of higher education, as defined in section 23-18-102 (9), that participates in the program of financial assistance established pursuant to this section shall administer a financial assistance program according to policies and procedures established by the governing board of the institution. Each participating nonpublic institution that is not a private institution of higher education shall administer a financial assistance program according to policies and procedures established by the commission. Each institution shall fund its assistance program using state moneys allocated to the institution and institutional moneys.

(3.5) Notwithstanding any provision of this article to the contrary, each participating institution shall adopt policies and procedures to allow a person who meets the following criteria to qualify for financial assistance through the financial assistance programs established pursuant to this article:

(a) The person qualifies as an in-state student; and

(b) The person is enrolled at an institution that participates in the programs of financial assistance established pursuant to this article; and

(c) The person is enrolled in an approved program of preparation, as defined in section 22-60.5-102 (8), C.R.S., for principals.

(4) Program disbursements shall be handled by the institution subject to audit and review.

(5) Upon commencement of participation in the program, no participating institution shall decrease the amount of its own funds spent for student aid below the amount so spent prior to participation in the program.

(6) In determining the amount allocated to each institution that is not a state institution or a nonpublic institution of higher education, the commission shall consider only that portion of financial need which would have existed were the institution's tuition no greater than the highest in-state tuition rate charged by a comparable state institution. In determining the amount allocated to each nonpublic institution of higher education, the commission shall base its determination upon the cost of attendance at a nonpublic institution of higher education.

(7) Each annual budget request submitted by the commission shall provide information on the proposed distribution of moneys among the programs developed under this article. Subsequent to final appropriation, the commission shall provide to the joint budget committee an allocation proposal specifically identifying the distributions among programs for the coming year. Expenditures in any program shall not exceed the allocation for that program by more than ten percent of such allocation, and the total appropriation for all student aid programs shall not be exceeded. The commission may require such reports from institutions as are necessary to fulfill the reporting requirements of this subsection (7) and to perform other administrative tasks.

(8) The state auditor or his or her designee shall audit, in accordance with state statute and federal guidelines, the program at any participating institution every other year to review residency determinations, needs analyses, awards, payment procedures, and such other practices as may be necessary to ensure that the program is being properly administered, but the audit shall be limited to the administration of the program at the participating institution. The state

auditor may accept an audit of the program from an institution that is not a state institution from such institution's independent auditor. The cost of conducting audits of the program at an institution that is not a state institution shall be borne by such institution.

(9) Repealed.

Source: L. 79: Entire article added, p. 825, § 1, effective June 19. **L. 81:** (4) amended, p. 341, § 6, effective March 27. **L. 83:** Entire section R&RE, p. 788, § 2, effective July 1. **L. 90:** (4), (6), and (8) amended and (9) added, p. 1146, § 3, effective May 17. **L. 96:** (9) repealed, p. 1238, § 84, effective August 7. **L. 99:** (7) amended, p. 850, § 4, effective May 24. **L. 2003:** (6) amended, p. 913, § 17, effective August 6. **L. 2006:** (3.5) added, p. 1245, § 9, effective May 26; (8) amended, p. 1495, § 29, effective June 1. **L. 2010:** (2), (3), IP(3.5), (4), and (8) amended, (SB 10-003), ch. 391, p. 1845, § 19, effective June 9.

Cross references: For the legislative declaration contained in the 1990 act amending this section, see section 1 of chapter 154, Session Laws of Colorado 1990. For the legislative declaration contained in the 1996 act amending this section, see section 1 of chapter 237, Session Laws of Colorado 1996. For the legislative declaration in the 2010 act amending subsections (2), (3), IP(3.5), (4), and (8), see section 1 of chapter 391, Session Laws of Colorado 2010.

23-3.3-103. Annual appropriations. (1) The annual appropriations for student financial assistance under this article shall increase by at least the same percentage as the aggregate percentage increase of all general fund appropriations to institutions of higher education. Nothing in this section shall be construed to limit or impair the authority of the Colorado commission on higher education under section 23-1-105.

(2) The provisions of subsection (1) of this section concerning appropriations for student financial assistance under this article shall not apply to said appropriations for the 2010-11 fiscal year.

(3) The provisions of subsection (1) of this section concerning appropriations for student financial assistance under this article shall not apply to appropriations made pursuant to the "Inclusive Higher Education Act", article 75 of this title.

(4) Repealed.

(5) The provisions of subsection (1) of this section concerning appropriations for student financial assistance under this article 3.3 shall not apply to appropriations made to the forest restoration and wildfire risk mitigation grant program cash fund created in section 23-31-301 (8.5)(a).

(6) Repealed.

(7) The provisions of subsection (1) of this section concerning appropriations for student financial assistance under this article do not apply to appropriations made pursuant to sections 23-18-308 (1)(f) and 23-60-202.7 to the state board for community colleges and occupational education to provide services to maximize concurrent enrollment across the community college system.

(8) Repealed.

Source: L. 89: Entire section added, p. 976, § 2, effective July 1, 1990. **L. 2010:** Entire section amended, (HB 10-1383), ch. 361, p. 1714, § 2, effective June 7. **L. 2016:** (3) added, (SB

16-196), ch. 226, p. 865, § 2, effective June 6. **L. 2019:** (4) added, (HB 19-1294), ch. 318, p. 2962, § 2, effective May 28; (5) added, (HB 19-1006), ch. 398, p. 3538, § 2, effective May 31; (6) added, (HB 19-1202), ch. 403, p. 3573, § 3, effective May 31; (8) added, (HB 19-1264), ch. 420, p. 3680, § 9, effective June 30; (7) added, (SB 19-176), ch. 244, p. 2390, § 11, effective August 2.

Editor's note: Subsections (4)(b), (6)(b), and (8) provided for the repeal of subsections (4), (6), and (8), respectively, effective July 1, 2020. (See L. 2019, pp. 2962, 3573, 3680.)

23-3.3-104. Assistance to professional theology students prohibited. (1) The policies and procedures established by the commission pursuant to section 23-3.3-102 (3) shall include:

(a) A prohibition against the awarding of any financial assistance pursuant to this article to a student who is pursuing a professional degree in theology; except that the prohibition described in this section shall not apply to financial assistance that is awarded to a student from a federal program, including but not limited to Title IV of the federal "Higher Education Act of 1965", 20 U.S.C. sec. 1070, as amended; and

(b) A requirement that an institution or nonpublic institution of higher education that seeks to award financial assistance to a student pursuant to this article certify that the student is not pursuing a professional degree in theology.

Source: L. 2009: Entire section added, (HB 09-1267), ch. 348, p. 1823, § 3, effective June 1.

Cross references: For the legislative declaration contained in the 2009 act adding this section, see section 1 of chapter 348, Session Laws of Colorado 2009.

PART 2

TUITION ASSISTANCE

23-3.3-201. Definitions. As used in this part 2, unless the context otherwise requires:

(1) "Dependent" means:

(a) Any natural child born or conceived before the period of time either of said child's parents served as a prisoner of war, was declared a person missing in action, served on state active duty or authorized training duty as a Colorado national guardsman, or was permanently disabled or killed while acting to preserve the public peace, health, and safety in the capacity of police officer, sheriff, or other law enforcement officer or firefighter;

(b) Any child lawfully adopted, or for which formal adoption procedures were commenced, prior to the time either of said child's adoptive parents served as a prisoner of war, was declared a person missing in action, served on state active duty or authorized training duty as a Colorado national guardsman, or was permanently disabled or killed while acting to preserve the public peace, health, and safety in the capacity of police officer, sheriff, or other law enforcement officer or firefighter; or

(c) Any child in the legal custody of or whose parent has parental responsibilities with respect to such child or for which proceedings for custody or the allocation of parental

responsibilities were initiated by either of said child's parents prior to the time such parent served as a prisoner of war, was declared missing in action, served on state active duty or authorized training duty as a Colorado national guardsman, or was permanently disabled or killed while acting to preserve the public peace, health, and safety in the capacity of police officer, sheriff, or other law enforcement officer or firefighter.

Source: L. 79: Entire article added, p. 825, § 1, effective June 19. **L. 97:** Entire section amended, p. 1014, § 21, effective August 6. **L. 98:** (1)(c) amended, p. 1410, § 75, effective February 1, 1999.

Editor's note: This section is similar to former §§ 23-5-111 (1) and 23-5-111.5 (1) as they existed prior to 1979.

23-3.3-202. Program funding. Out of any money provided for the financial assistance program authorized by section 23-3.3-102, the commission shall first provide tuition assistance to individuals who qualify under the provisions of this part 2.

Source: L. 79: Entire article added, p. 826, § 1, effective June 19. **L. 2004:** Entire section amended, p. 1155, § 1, effective July 1. **L. 2009:** (2) amended, (HB 09-1290), ch. 242, p. 1095, § 1, effective August 5. **L. 2017:** Entire section amended, (SB 17-174), ch. 10, p. 32, § 1, effective March 1.

23-3.3-203. Veterans with service after August 5, 1964. (Repealed)

Source: L. 79: Entire article added, p. 826, § 1, effective June 19. **L. 83:** (2) amended, p. 789, § 3, effective July 1. **L. 94:** Entire section repealed, p. 1797, §11, effective May 31.

Editor's note: This section was similar to former § 23-1-113 as it existed prior to its repeal in 1979 and prior to the repeal and reenactment of article 1 of this title in 1985.

23-3.3-204. Dependents of prisoners of war and military personnel missing in action. (1) As used in this section, unless the context otherwise requires, "prisoner of war" or "person missing in action" means any person who was a resident of the state of Colorado at the time such person entered the United States armed forces and who, while serving in said United States armed forces, has been declared to be a prisoner of war or a person missing in action, as established by the secretary of defense of the United States.

(2) Any dependent of a prisoner of war or a person missing in action, upon being accepted for enrollment into any institution, shall be permitted to pursue studies leading toward a bachelor's degree or a certificate of completion, free of tuition, for so long as said dependent achieves and maintains standards as set by the institution for its students generally, but said benefits shall not be extended beyond twelve academic quarters or eight academic semesters, as the case may be. Such dependents pursuing studies at an institution that is not a state institution shall be eligible for assistance not to exceed the average cost of undergraduate instruction calculated for a full-time equivalent student at a comparable state institution for the previous

year. The institution or the commission shall provide tuition assistance to such qualified students from appropriated student financial assistance funds.

(3) Any person qualifying as a dependent under this section shall not be deprived of the benefits provided by this section because of the return of a parent or the reported death of a parent.

(4) (a) A qualified dependent may receive benefits pursuant to this section prior to receiving federal educational benefits available to dependents pursuant to the federal "Public Safety Officers' Benefits Act", 34 U.S.C. sec. 10281 et seq.

(b) The benefit provided pursuant to this section must be reduced by an amount equal to the amount of any federal educational benefits provided to the dependent.

Source: L. 79: Entire article added, p. 827, § 1, effective June 19. **L. 83:** (2) amended, p. 790, § 4, effective July 1. **L. 2019:** (4) R&RE, (SB 19-174), ch. 170, p. 1980, § 1, effective August 2.

Editor's note: This section is similar to former § 23-5-111 as it existed prior to 1979.

23-3.3-205. Dependents of deceased or permanently disabled National Guardsman, law enforcement officer, or firefighter. (1) (a) Any dependent of a person who died or was permanently disabled while on state active duty, federalized active duty, or authorized training duty as a Colorado National Guardsman or any dependent of any person who has been permanently disabled or killed while acting to preserve the public peace, health, and safety in the capacity of police officer, sheriff, or other law enforcement officer or firefighter, upon being accepted for enrollment into any state institution, shall be permitted to pursue studies leading toward his or her first bachelor's degree or certificate of completion, free of tuition and free of room and board charges of the institution, for so long as said dependent achieves and maintains a cumulative grade point average of 2.5 or above based upon a 4.0 scale, but said benefits shall not be extended beyond six years from the date of enrollment. Such dependents pursuing studies at a nonpublic institution of higher education within the state of Colorado shall be eligible for assistance not to exceed the average cost of undergraduate instruction calculated for a full-time equivalent student at a comparable state institution for the previous year, and the average cost of room and board calculated for a full-time equivalent student at all state institutions for the previous year. Such dependents pursuing studies at an out-of-state institution of higher education shall be eligible for assistance not to exceed the average cost of undergraduate instruction calculated for a full-time equivalent student at a comparable state institution for the previous year. The commission shall provide tuition and, if appropriate, room and board assistance to such qualified students from appropriated student financial assistance funds.

(b) (Deleted by amendment, L. 2000, p. 1719, § 1, effective June 1, 2000.)

(1.5) Repealed.

(2) (a) A qualified dependent may receive benefits pursuant to this section prior to receiving federal educational benefits available to dependents pursuant to the federal "Public Safety Officers' Benefits Act", 34 U.S.C. sec. 10281 et seq.

(b) The benefit provided pursuant to this section must be reduced by an amount equal to the amount of any federal educational benefits provided to the dependent.

(3) (a) An individual who was permanently disabled while on state active duty, federalized active duty, or authorized training duty as a Colorado National Guardsman is permanently disabled for the purpose of determining eligibility of dependents to qualify for educational benefits if such individual is ineligible for retention as a member of the National Guard and is unable to engage in any substantial full-time gainful activity by reason of medically determinable physical or mental impairment which can be expected to result in death or which has lasted for a continuous period of not less than twelve months and exists at the time the dependent seeks entry into an institution.

(b) An individual who has been permanently disabled while acting to preserve the public peace, health, and safety in the capacity of police officer, sheriff, or other law enforcement officer or firefighter is permanently disabled for the purpose of determining eligibility of dependents to qualify for educational benefits if such individual is, as a result of the disability, unable to perform in the position to which he or she was regularly assigned at the time he or she became disabled.

Source: L. 79: Entire article added, p. 828, § 1, effective June 19. **L. 81:** (2) and (3) amended, p. 1093, § 1, effective May 28. **L. 83:** (1) and (3)(a) amended, p. 790, § 5, effective July 1. **L. 91:** (1) and (3)(a) amended, p. 548, § 2, effective May 18. **L. 97:** (1) and (3)(b) amended, p. 1014, § 22, effective August 6. **L. 98:** Entire section amended, p. 210, § 1, effective August 5. **L. 2000:** (1) amended and (1.5) repealed, p. 1719, §§ 1, 2, effective June 1. **L. 2019:** (2) R&RE, (SB 19-174), ch. 170, p. 1980, § 2, effective August 2.

Editor's note: This section is similar to former § 23-5-111.5 as it existed prior to 1979.

PART 3

STUDENT LOAN MATCHING

23-3.3-301. Student loan matching program - funding. Out of any moneys provided for the financial assistance program authorized by section 23-3.3-102 and remaining after meeting the requirements of part 2 of this article, the commission shall provide the matching funds required for federal allocations to institutions for student loan programs.

Source: L. 79: Entire article added, p. 828, § 1, effective June 19. **L. 83:** Entire section amended, p. 791, § 6, effective July 1.

PART 4

WORK-STUDY PROGRAM

Editor's note: This part 4 is similar to part 2 of article 1 of this title as it existed prior to 1979.

23-3.3-401. Work-study program established - requirements. (1) The commission shall use a portion of any moneys remaining after meeting the requirements of parts 2 and 3 of

this article to provide a work-study program of employment of qualifying students in good standing with the institution in which they are enrolled in positions that are directly under the control of the institution in which the student is enrolled or in positions with nonprofit organizations, governmental agencies, or for-profit organizations with which the institution may execute student employment contracts.

(2) Any in-state student who is enrolled or accepted for enrollment at an institution as an undergraduate may qualify for participation in the work-study program established pursuant to this section.

(3) Funds appropriated to the commission may also be used by the commission in conjunction with and to supplement funds for current job opportunities or to supplement or match funds made available through any other public or private program for financial assistance. A sum not to exceed thirty percent of the funds allocated by the commission for the work-study program may be used to provide funding on a basis other than financial need. A sum of not less than seventy percent of such money shall be used for students demonstrating financial need.

Source: L. 79: Entire article added, p. 829, § 1, effective June 19. **L. 83:** (2) amended, p. 791, § 7, effective July 1. **L. 98:** (1) amended, p. 11, § 1, effective March 6.

PART 5

SCHOLARSHIP AND GRANT PROGRAM

23-3.3-501. Scholarship and grant program - funding. The commission shall use a portion of any moneys remaining after meeting the requirements of parts 2 and 3 of this article to provide other programs of financial assistance based upon financial need, merit, talent, or other criteria established by the commission for students enrolled at institutions.

Source: L. 79: Entire article added, p. 829, § 1, effective June 19. **L. 83:** Entire section amended, p. 791, § 8, effective July 1.

PART 6

COLORADO EDUCATIONAL EXCHANGE PROGRAM

23-3.3-600.1. Short title. This part 6 shall be known and may be cited as the "Colorado Educational Exchange Program".

Source: L. 89: Entire section added, p. 978, § 1, effective April 12.

23-3.3-601. Educational exchange program. (1) The commission is directed to establish an educational exchange program consistent with the national student exchange program. The commission shall identify those circumstances under which the waiving of the nonresident differential in tuition rates, on a reciprocal basis with other states or foreign countries, would enhance the educational experience for Colorado residents enrolled in state institutions. In relation thereto, the commission shall:

(a) Consult with the governing bodies and departments of state institutions in order to identify those classes and numbers of Colorado residents enrolled in said institutions whose educational experience would be enhanced by participation in said program; and

(b) Negotiate with the appropriate representatives of other states or foreign countries with the objective of establishing reciprocal agreements for waiving the nonresidential tuition differential for Colorado residents enrolled in state institutions who wish to enroll in the institutions of higher education in other states or foreign countries in exchange for the waiver of the nonresidential tuition differential for residents of said other states or foreign countries wishing to enroll in state institutions. The number of resident students participating in the educational exchange program shall be matched by an equal number of nonresident students enrolling at Colorado institutions of higher education.

(2) Repealed.

(3) No student may be a recipient or participant in the educational exchange program for more than one year.

(4) Residents of other states or foreign countries attending state institutions pursuant to said educational exchange program shall not be counted as nonresident students. Notwithstanding their presence in the state, such students shall not be permitted to apply the time spent in the educational exchange program toward satisfaction of residency requirements for tuition purposes.

(5) As used in this part 6, "Colorado resident" means a person who is classified, for tuition purposes, as an in-state student.

Source: L. 79: Entire article added, p. 829, § 1, effective June 19. **L. 87:** IP(1), (2), (3), and (4) amended, p. 847, § 1, effective March 12. **L. 89:** IP(1), (1)(b), and (4) amended and (2) repealed, pp. 978, 979, §§ 2, 3, effective April 12.

Editor's note: This section is similar to former § 23-1-301 as it existed prior to 1979.

PART 7

COLORADO NURSING SCHOLARSHIP PROGRAM

23-3.3-701. Colorado nursing scholarship program. (1) The general assembly hereby authorizes the commission to establish a nursing scholarship program. Such program shall be administered in accordance with policies and procedures established by the commission. The general assembly may appropriate annually an amount for the support of such program.

(2) The commission shall determine, by guideline, the institutions of higher education eligible for participation in the scholarship program.

(3) It is the intent of the general assembly that, under the policies and procedures established by the commission under subsection (1) of this section for awarding nursing scholarships, preference be given to individuals who shall work in federal qualifying health clinics and underserved areas with nursing shortages throughout the state.

(4) and (5) Repealed.

Source: L. 92: Entire part added, p. 588, § 1, effective July 1. **L. 95:** (5) amended, p. 123, § 1, effective March 31. **L. 96:** (4) amended, p. 1238, § 85, effective August 7. **L. 99:** (4) repealed, p. 850, § 5, effective May 24. **L. 2000:** (5) repealed, p. 1113, § 1, effective May 26.

Cross references: For the legislative declaration contained in the 1996 act amending this section, see section 1 of chapter 237, Session Laws of Colorado 1996.

PART 8

EARLY CHILDHOOD PROFESSIONAL LOAN REPAYMENT PROGRAM

23-3.3-801 to 23-3.3-803. (Repealed)

Editor's note: (1) This part 8 was added in 2001. For amendments to this part 8 prior to its repeal in 2007, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

(2) Section 23-3.3-803 provided for the repeal of this part 8, effective July 1, 2007. (See L. 2001, p. 875.)

PART 9

TEACH COLORADO GRANT INITIATIVE

23-3.3-901. Teach Colorado grant initiative created - award of grants - legislative declaration. (1) (a) The general assembly hereby finds and declares that one of the most important components of a high-quality education is a good teacher. In Colorado, there is a shortage of public school teachers employed in high-need areas such as mathematics, science, special education, English language acquisition, and world languages. Strengthening Colorado's pipeline of licensed teachers in high-need areas will help to provide every student in every public school with the teacher he or she needs to thrive and will contribute to raising the standard of living in Colorado.

(b) Therefore, the general assembly determines that it is in the best interest of Colorado's students to encourage institutions of higher education to create scholarships for students in approved teacher preparation programs who excel in high-need content areas and who demonstrate an interest in or commitment to teaching as a career.

(2) As used in this part 9, unless the context otherwise requires:

(a) "Approved educator preparation program" means an approved educator preparation program as defined in section 23-1-121 (1)(a).

(b) "BOCES" means a board of cooperative services as defined in section 22-5-103 (2), C.R.S.

(c) "Department" means the department of higher education created and existing pursuant to section 24-1-114, C.R.S.

(d) "Institution of higher education" means a public institution of higher education operating in this state that is supported in whole or in part by general fund moneys.

(e) "School district" means a school district in Colorado organized and existing pursuant to law. "School district" does not include a local college district.

(3) (a) There is hereby created in the department the teach Colorado grant initiative to provide moneys for use in reducing the financial barriers to entering the teaching profession, supporting high-ability students who have demonstrated a commitment to the teaching profession, and attracting high-ability students in high-need content areas into the teaching profession. The commission shall adopt guidelines pursuant to which an institution of higher education may submit an application for a grant from the teach Colorado grant initiative to use in funding scholarships to assist persons in entering the teaching profession. At a minimum, an institution's application shall include a description of the scholarships, including student eligibility, identification of the high-need content areas or other high-need areas that will be addressed through the award of scholarships, expectations that will be imposed on the recipients, and the amount of scholarship money to be awarded to each recipient.

(b) In administering the teach Colorado grant initiative, the department shall annually collaborate with the department of education to determine the high-need content areas, which may include, but need not be limited to, mathematics, science, special education, English language acquisition, and world languages. The department shall annually publicize to the institutions of higher education the content areas that are considered to be high-need areas.

(c) In designing a scholarship, an institution of higher education that is seeking funding from the teach Colorado grant initiative may include students who are seeking a baccalaureate degree and have enrolled in an approved teacher preparation program, students who demonstrate excellence in a high-need content area and are considering enrolling in an approved teacher preparation program, and students who have completed a baccalaureate degree or higher and have enrolled or are considering enrolling in an approved teacher preparation program. Scholarship moneys shall not be paid on behalf of a student until the student has enrolled in an approved teacher preparation program.

(d) The commission shall adopt such additional guidelines as may be necessary for administration of the teach Colorado grant initiative, including but not limited to the application process, criteria for awarding grants in addition to those specified in subsection (4) of this section, and the amount of grants to be awarded.

(4) In awarding grants through the teach Colorado grant initiative, the department shall give special consideration to scholarships that:

(a) Are designed to create a partnership between two institutions of higher education, one of which does not have an approved educator preparation program but has students who have demonstrated academic excellence in one or more high-need content areas and have expressed an interest in entering the teaching profession;

(b) Are designed to create a partnership between the institution of higher education and one or more school districts or BOCES that have a shortage of teachers in high-need content areas;

(c) Are designed to meet the needs of rural or high-poverty schools, school districts, or BOCES, as identified by the department of education;

(d) Are designed to assist honorably discharged veterans of the armed forces in entering the teaching profession; or

(e) Require each scholarship recipient to commit to completing his or her student teaching in a rural or high-poverty school, school district, or BOCES, as identified by the department of education.

(5) The amount of a scholarship awarded to an individual student by an institution of higher education pursuant to a teach Colorado grant shall not exceed the amount of in-state tuition charged by the institution for thirty semester hours of credit.

(6) On or before February 1, 2009, and on or before February 1 each year thereafter, the commission shall report to the education committees of the senate and the house of representatives, or any successor committees, concerning the number of institutions of higher education receiving teach Colorado grants pursuant to this section, the amount of the grants awarded, the number of students receiving scholarships through grants awarded pursuant to this section, and a general summary of the scholarships funded through grants awarded pursuant to this section.

(7) In addition to any general funds appropriated by the general assembly to the department for the implementation of the teach Colorado grant initiative, the department is authorized to seek and accept gifts, grants, and donations from private and public sources for the implementation of the teach Colorado grant initiative.

Source: L. 2008: Entire part added, p. 723, § 1, effective May 12. **L. 2009:** (4) amended, (SB 09-062), ch. 193, p. 838, § 1, effective April 30. **L. 2011:** (2)(a) and (4)(a) amended, (SB 11-245), ch. 201, p. 850, § 16, effective August 10.

Cross references: For the legislative declaration in the 2011 act amending subsections (2)(a) and (4)(a), see section 1 of chapter 201, Session Laws of Colorado 2011.

PART 10

COLORADO OPPORTUNITY SCHOLARSHIP INITIATIVE

23-3.3-1001. Legislative declaration. (1) The general assembly hereby declares that the Colorado opportunity scholarship initiative created in this part 10 is intended to:

(a) Award scholarships or grants based upon a rigor-based method that emphasizes student commitment to academic achievement and successful placement in the workforce and ensuring that participating students and institutions be held accountable through measurable outcomes; and

(b) Develop the connections and community partnerships necessary to ensure that every Colorado student has the support needed to enter a postsecondary opportunity, persist and succeed, and enter his or her desired position in the workforce.

(2) It is the intent of the general assembly to match nonprofit and private financial contributions to the Colorado opportunity scholarship initiative with annual contributions from the general fund so that a sustainable corpus is created to fund scholarship awards in future years. Whenever practicable, the annual match should be in an amount that is significant enough to attract continued investment by community partners.

Source: L. 2014: Entire part added, (HB 14-1384), ch. 347, p. 1554, § 1, effective August 6.

23-3.3-1002. Definitions. As used in this part 10, unless the context otherwise requires:

(1) "Board" means the Colorado opportunity scholarship initiative advisory board created in section 23-3.3-1004.

(1.5) "Cost of attendance" means the student's cost of attending an institution of higher education that is determined by the institution of higher education based on federal and commission policy, and includes tuition, fees, room, board, books, supplies, transportation, and other allowable expenses.

(2) "Department" means the department of higher education created pursuant to section 24-1-114, C.R.S.

(3) "Director" means the director of the initiative.

(4) "Executive director" means the executive director of the Colorado commission on higher education.

(4.3) "Expected family contribution" means the amount of money that a student's family is expected to contribute to the student's cost of attendance at an institution of higher education.

(4.7) "Financial assistance" means money awarded to a student based on the student's cost of attendance at the institution of higher education.

(5) "Fund" means the Colorado opportunity scholarship initiative fund created in section 23-3.3-1005.

(6) "Initiative" means the Colorado opportunity scholarship initiative created in section 23-3.3-1003.

(7) "Nonprofit organization" means a tax-exempt charitable or social welfare organization operating under section 501 (c)(3) or 501 (c)(4) of title 26 of the United States Code, the federal "Internal Revenue Code of 1986", as amended.

(8) "Precollegiate organization" means a state- or federally funded program offering postsecondary workforce-ready options to Colorado students.

(9) Repealed.

Source: L. 2014: Entire part added, (HB 14-1384), ch. 347, p. 1555, § 1, effective August 6. **L. 2020:** (1.5), (4.3), and (4.7) added and (9) repealed, (SB 20-006), ch. 26, p. 93, § 1, effective September 14.

23-3.3-1003. Colorado opportunity scholarship initiative - created. There is created the Colorado opportunity scholarship initiative within the department. The executive director or the executive director's designee shall appoint the director of the initiative who shall administer the initiative in accordance with rules promulgated by the board pursuant to section 23-3.3-1004 (4).

Source: L. 2014: Entire part added, (HB 14-1384), ch. 347, p. 1555, § 1, effective August 6. **L. 2020:** Entire section amended, (SB 20-006), ch. 26, p. 94, § 2, effective September 14.

23-3.3-1004. Colorado opportunity scholarship initiative advisory board - created - duties - rules. (1) There is created the Colorado opportunity scholarship initiative advisory board, which shall consist of the executive committee of the state work force development council created in section 24-46.3-101, C.R.S., as described in the bylaws of the council, as well as the following three persons, to be appointed by the governor or his or her designee:

(a) One person representing the four-year research institutions of higher education in the state;

(b) One person representing the system of four-year postsecondary institutions in the state; and

(c) One person representing the community colleges and area vocational districts of the state.

(2) The governor or his or her designee shall make his or her appointments to the board on or before August 1, 2014. The members of the board shall elect presiding officers for the board, including a chair and vice-chair, from among the board members appointed pursuant to subsection (1) of this section, which presiding officers shall serve terms of two years. Board members may reelect a presiding officer.

(3) Each member of the board appointed by the governor or his or her designee shall serve at the pleasure of the governor or his or her designee for a term of four years. The governor or his or her designee may reappoint the member for an additional term or terms. Members of the board shall serve without compensation.

(4) The board shall hold its first meeting on or before November 1, 2014, at a time and place to be designated by the executive director or by the executive director's designee. The board shall meet at least four times each year and shall carry out the following duties:

(a) Promulgate rules for administration of the initiative, including but not limited to the following:

(I) Criteria for eligibility of state agencies, nonprofit organizations, and public institutions of higher education to participate in the initiative;

(II) Criteria for eligibility of students to apply for and receive grants from the initiative, which criteria shall include consideration of an applicant student's:

(A) Courses of study;

(B) Commitment to academic achievement;

(C) Work experience;

(D) Community involvement; and

(E) Extracurricular activities;

(III) Rules establishing permissible uses of grant and scholarship money from the initiative, which rules must stipulate that:

(A) A portion of the money in the fund in any fiscal year may be awarded to state agencies and nonprofit organizations to assist such agencies and organizations with ensuring that student-success, precollegiate, postsecondary student support services are available to students who are classified as Colorado residents for tuition purposes; increasing the capacity for student support services at postsecondary institutions; and developing connections between local employers, public schools, precollegiate organizations, and postsecondary institutions;

(B) (Deleted by amendment, L. 2020.)

(C) Any money appropriated to the fund that is not used for the purposes described in subsection (4)(a)(III)(A) of this section, or to pay the direct and indirect costs of administering

the initiative as described in section 23-3.3-1005 (4), must be used to build a financial corpus capable of providing financial assistance to eligible Colorado students in Colorado who will attend eligible institutions of higher education within the state. Financial assistance provided pursuant to this subsection (4)(a)(III)(C) may take the form of direct awards, matching incentives to create or increase the number of other scholarships, loans, or any combination thereof.

(D) To the extent practicable, grants of financial assistance must be awarded to students representing rural and urban areas of the state and to students attending area technical colleges, community colleges, four-year institutions of higher education, and research institutions; and

(E) To the extent practicable, financial assistance must be evenly distributed between students with an expected family contribution of less than one hundred percent of the annual federal PELL grant award and students with an expected family contribution between one hundred percent and two hundred fifty percent of the annual federal PELL grant award;

(IV) Criteria for evaluating the effectiveness of the initiative in improving higher education outcomes in the state, which criteria must include, but need not be limited to:

(A) Reductions in remediation rates and associated costs;

(B) Increases in graduation rates;

(C) Reductions in average time required to earn a degree;

(D) Increases in student retention rates;

(E) Reductions in disparities between the academic achievements of certain student populations based on demographic, geographic, and economic indicators;

(F) Adoption of best practices for student support services;

(G) Fulfillment of local workforce needs;

(H) Reductions in student loan debt;

(I) Improvements in tuition affordability; and

(J) Improvements in students' access to federal grant programs and other federal sources of support for postsecondary students;

(b) Identify and consider the feasibility of potential funding sources for the initiative, including but not limited to:

(I) The implementation of an income tax credit for taxpayers of the state who elect to make a contribution to the fund; and

(II) Any fundraising for the initiative that may result from a memorandum of understanding executed between the board and a nonprofit organization, as described in subsection (5) of this section; and

(c) Prepare and submit an annual report concerning the initiative to the director. The director shall post the annual report on the department's website or appropriate online location, and, notwithstanding the provisions of section 24-1-136 (11)(a)(I) to the contrary, shall send the annual report to the members of the education committees of the house of representatives and of the senate, or any successor committees.

(5) The board may enter into a memorandum of understanding with a nonprofit organization for the purpose of raising moneys for the initiative.

Source: L. 2014: Entire part added, (HB 14-1384), ch. 347, p. 1556, § 1, effective August 6. **L. 2016:** (4)(a)(III)(C) amended, (SB 16-189), ch. 210, p. 765, § 43, effective June 6;

(4)(a)(III)(D) amended, (HB 16-1082), ch. 58, p. 153, § 46, effective August 10. **L. 2020:** IP(4), (4)(a)(III), and (4)(c) amended, (SB 20-006), ch. 26, p. 94, § 3, effective September 14.

23-3.3-1005. Colorado opportunity scholarship initiative fund - created - rules. (1) There is created in the state treasury the Colorado opportunity scholarship initiative fund, which consists of:

(a) Any moneys appropriated to the fund by the general assembly;

(b) Any moneys transferred to the fund from any other fund; and

(c) Any moneys received by the department as gifts, grants, or donations pursuant to subsection (3) of this section.

(2) The moneys in the fund are continuously appropriated to the department for the purposes described in this part 10. All interest derived from the deposit and investment of moneys in the fund must remain in the fund. Any unexpended or unencumbered moneys remaining in the fund at the end of a fiscal year must remain in the fund and not be transferred or credited to the general fund or another fund.

(3) The department is authorized to accept any gifts, grants, or donations from any private or public source on behalf of the state for the purposes described in this part 10. The department shall transmit all such gifts, grants, and donations to the state treasurer, who shall credit the same to the fund.

(4) The department is authorized to spend from the fund an amount of money equal to not more than seven and one-half percent of the total expenditures from the fund for the prior fiscal year to pay the direct and indirect costs of administering the initiative in any fiscal year; except that the general assembly may authorize additional spending for administrative costs in any fiscal year through a footnote in the annual general appropriation act.

(5) The board may promulgate rules for the administration of the fund.

Source: L. 2014: Entire part added, (HB 14-1384), ch. 347, p. 1558, § 1, effective August 6. **L. 2020:** (4) amended, (SB 20-006), ch. 26, p. 95, § 4, effective September 14.

PART 11

TUITION ASSISTANCE FOR CAREER AND TECHNICAL EDUCATION CERTIFICATE PROGRAMS

23-3.3-1101. Career and technical education certificate programs - tuition assistance - funding - definitions. (1) (a) The commission shall establish a tuition assistance program for students enrolled in qualifying career and technical education certificate programs. Subject to available appropriations, the commission shall allocate money to community colleges, Colorado Mesa university, area technical colleges, and local district colleges to provide tuition assistance for students who are enrolled in qualifying career and technical education certificate programs and meet the income eligibility requirements established in guidelines adopted by the commission. The department of higher education and the institutions that receive tuition assistance money pursuant to this section shall administer the program in accordance with policies and procedures that the commission establishes.

(b) As used in this section, unless the context otherwise requires:

(I) "Qualifying career and technical education certificate program" means a career and technical education certificate program that does not meet the minimum credit hour requirements for the federal Pell grant program.

(II) "Tuition assistance" means money that a student may use to pay for tuition, fees, and course materials.

(2) The general assembly may appropriate annually an amount for support of the program established pursuant to this section.

Source: L. 2015: Entire part added, (HB 15-1275), ch. 223, p. 817, § 5, effective May 22. **L. 2016:** (1) amended, (HB 16-1082), ch. 58, p. 144, § 16, effective August 10. **L. 2017:** (1) amended, (HB 17-1180), ch. 80, p. 252, § 1, effective March 30.

PART 12

COLORADO SECOND CHANCE SCHOLARSHIP

Cross references: For the legislative declaration in SB 19-231, see section 1 of chapter 290, Session Laws of Colorado 2019.

23-3.3-1201. Colorado second chance scholarship - creation - eligibility. There is created in the department of higher education the Colorado second chance scholarship program, referred to in this part 12 as the "scholarship program". Subject to available appropriations, the scholarship program shall award scholarships to assist persons previously committed to the division of youth services in the department of human services in the persons' pursuit of a postsecondary credential. The advisory board created in section 23-3.3-1203 shall award scholarships on a need basis, based on the criteria specified in section 23-3.3-1203 (3).

Source: L. 2019: Entire part added, (SB 19-231), ch. 290, p. 2672, § 2, effective August 2.

23-3.3-1202. Program coordinator - duties. The executive director of the Colorado commission on higher education or the executive director's designee shall appoint a program coordinator who shall counsel and support scholarship recipients by regularly meeting with recipients to set education and employment goals and connect students with wraparound services.

Source: L. 2019: Entire part added, (SB 19-231), ch. 290, p. 2673, § 2, effective August 2.

23-3.3-1203. Colorado second chance scholarship advisory board - creation - duties - report - rules - repeal. (1) There is created the Colorado second chance scholarship advisory board, referred to in this section as the "advisory board", which consists of the following five members:

(a) The director of the division of youth services in the department of human services or the director's designee;

(b) The executive director of the Colorado commission on higher education or the executive director's designee;

(c) The executive director of the department of human services or the executive director's designee;

(d) The program coordinator of the Colorado second chance scholarship; and

(e) An individual previously committed to the division of youth services in the department of human services through lived experiences appointed by the director of the division of youth services in the department of human services.

(2) The advisory board shall hold its first meeting on or before November 1, 2019, at a time and place to be designated by the executive director of the Colorado commission on higher education or the executive director's designee. The board shall meet at least four times each year and shall establish by rule the procedures by which a person may apply for a scholarship. At a minimum, the rules must specify the information a person shall submit and the deadlines for submitting the application.

(3) The advisory board shall award scholarships up to ten thousand dollars to applicants based on the following criteria:

(a) An applicant's prior commitment to the division of youth services in the department of human services;

(b) An applicant's demonstrated degree of financial need, based on the resources available to the applicant;

(c) An applicant's acceptance to an institution that offers postsecondary credentials, including but not limited to an accredited trade school, community college, certificate program, or other institution of higher education; and

(d) Any other criteria adopted by rule of the advisory board to identify persons in the greatest need of assistance in the pursuit of any postsecondary credential.

(4) The advisory board shall set the amount of each scholarship based on the person's degree of financial need, the cost of attendance, the amount available for the applicable budget year, and the anticipated number of persons who will apply to the scholarship program in the course of the applicable budget year.

(5) The department of higher education shall report on the scholarship program to the public through the annual hearing pursuant to the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act", part 2 of article 7 of title 2.

(6) This section is repealed, effective September 1, 2022. Prior to such repeal, the Colorado second chance scholarship program is scheduled for review as provided in section 24-34-104.

Source: L. 2019: Entire part added, (SB 19-231), ch. 290, p. 2673, § 2, effective August 2.

ARTICLE 3.5

Colorado Student Incentive
Grant Program

23-3.5-101. Legislative declaration. The general assembly hereby declares that it is the policy of this state, within appropriations available for such purpose, to provide assistance to Colorado in-state students attending institutions of higher education, by utilizing federal and other moneys available for such purpose.

Source: L. 77: Entire article added, p. 1104, § 1, effective July 1.

23-3.5-102. Definitions. As used in this article 3.5, unless the context otherwise requires:

(1) "Commission" means the Colorado commission on higher education.

(2) "In-state student" means an undergraduate student at an institution of higher education who meets the criteria established by article 7 of this title for classification as an in-state student at a state institution of higher education, but "in-state student" does not include a member of the armed forces of the United States or his dependents who are eligible to obtain in-state tuition status upon moving to Colorado on a permanent change-of-station basis until such individual meets the one-year domicile requirement of section 23-7-102 (5).

(3) (a) "Institution of higher education" means an educational institution operating in this state that:

(I) Admits as regular students only persons having a certification of graduation from a school providing secondary education or the recognized equivalent of such a certificate;

(II) Is accredited by a nationally recognized accrediting agency or association and, in the case of private occupational schools, holds a regular certificate from the private occupational school division in accordance with the provisions of article 64 of this title 23, or is regulated or approved pursuant to any other statute;

(III) (A) Provides an educational program for which it awards a bachelor's degree; or

(B) Provides not less than a two-year program which is acceptable for full credit towards such a degree; or

(C) Provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation; or

(D) Is a private occupational school providing not less than a six-month program of training to prepare students for gainful employment in a recognized occupation;

(IV) Was in operation in this state as of January 1, 1999, or has been in operation in this state for a minimum of ten academic years.

(b) The term "institution of higher education" does not include a branch program of an institution of higher education whose principal campus and facilities are located outside this state, unless the institution operating the branch program has received a certificate of approval from the private occupational school division in accordance with the provisions of article 64 of this title 23.

(4) "Nonpublic institution" means an educational institution which receives no support from general fund moneys in support of its operating costs.

(5) "Professional degree in theology" means a certificate signifying a person's graduation from a degree program that is:

(a) Devotional in nature or designed to induce religious faith; and

(b) Offered by an institution as preparation for a career in the clergy.

Source: L. 77: Entire article added, p. 1104, § 1, effective July 1. **L. 81:** (3)(a)(II) and (3)(a)(III)(D) amended, p. 852, § 28, effective July 1. **L. 86, 2nd Ex. Sess.:** (2) amended, p. 60, § 4, effective August 15. **L. 90:** (3)(a)(II) amended, p. 1172, § 32, effective July 1. **L. 99:** IP(3)(a) and (3)(b) amended and (3)(a)(IV) added, p. 74, §§ 1, 2, effective July 1, 2000. **L. 2009:** (3)(b) amended and (5) added, (HB 09-1267), ch. 348, p. 1823, § 4, effective June 1. **L. 2017:** IP, (3)(a)(II), and (3)(b) amended, (HB 17-1239), ch. 261, p. 1205, § 13, effective August 9.

Cross references: For the legislative declaration contained in the 2009 act amending subsection (3)(b) and adding subsection (5), see section 1 of chapter 348, Session Laws of Colorado 2009.

23-3.5-103. Grant program authorized - administration. (1) The general assembly hereby authorizes the commission to establish a grant program for in-state students having financial need, to be administered in accordance with federal law and regulations and guidelines established by the commission.

(2) The commission shall determine, by guideline, the institutions of higher education eligible for participation in the grant program, and each eligible institution of higher education shall recommend in-state students to the commission for receipt of a grant.

(3) Grant program disbursements shall be handled by the institution of higher education, subject to audit and review as provided in section 23-3.5-104.

(4) Upon commencement of participation in the grant program, no participating institution of higher education shall decrease the amount of its own funds spent for student aid below the amount so spent prior to participation in the grant program.

(5) In determining the amount of a grant, the commission shall consider only that portion of an in-state student's financial need which would have existed were the nonpublic institution's tuition no greater than the highest in-state tuition rate charged by a comparable state institution of higher education.

Source: L. 77: Entire article added, p. 1105, § 1, effective July 1.

23-3.5-103.5. Assistance to professional theology students prohibited. (1) The guidelines established by the commission pursuant to section 23-3.5-103 (1) shall include:

(a) A prohibition against the awarding of any financial assistance pursuant to this article to a student who is pursuing a professional degree in theology; except that the prohibition described in this section shall not apply to financial assistance that is awarded to a student from a federal program, including but not limited to Title IV of the federal "Higher Education Act of 1965", 20 U.S.C. sec. 1070, as amended; and

(b) A requirement that an institution or nonpublic institution of higher education that seeks to award financial assistance to a student pursuant to this article certify that the student is not pursuing a professional degree in theology.

Source: L. 2009: Entire section added, (HB 09-1267), ch. 348, p. 1824, § 5, effective June 1.

Cross references: For the legislative declaration contained in the 2009 act adding this section, see section 1 of chapter 348, Session Laws of Colorado 2009.

23-3.5-104. Audit and review. The state auditor or his designee shall audit, in accordance with federal and commission guidelines, the grant program at any participating institution of higher education every other year to review residency determinations, needs analyses, awards, payment procedures, and such other practices as may be necessary to ensure that the grant program is being properly administered, but such audit shall be limited to the administration of the grant program at the participating institution of higher education. The state auditor may accept an audit of the program from an institution not supported in whole or in part by the general fund from the institution's independent auditor. The cost of conducting audits of the program at an institution not supported in whole or in part by the general fund shall be borne by the institution.

Source: L. 77: Entire article added, p. 1105, § 1, effective July 1. **L. 81:** Entire section amended, p. 342, § 7, effective March 27. **L. 2006:** Entire section amended, p. 1496, § 30, effective June 1.

23-3.5-105. Determination of eligibility. (Repealed)

Source: L. 77: Entire article added, p. 1106, § 1, effective July 1. **L. 2009:** Entire section repealed, (HB 09-1267), ch. 348, p. 1827, § 12, effective June 1.

Cross references: For the legislative declaration contained in the 2009 act repealing this section, see section 1 of chapter 348, Session Laws of Colorado 2009.

23-3.5-106. Determination of invalidity. A final judicial determination that this article is invalid as applied to any individual institution of higher education or student shall not operate to terminate any grant provided pursuant to this article to any other institution of higher education or student.

Source: L. 77: Entire article added, p. 1106, § 1, effective July 1.

ARTICLE 3.6

Health Care Professionals Loan Programs

PART 1

NURSING TEACHER
LOAN FORGIVENESS PILOT PROGRAM

23-3.6-101 to 23-3.6-104. (Repealed)

Editor's note: (1) This part 1 was added in 2006. For amendments to this part 1 prior to its repeal in 2018, consult the 2017 Colorado Revised Statutes and the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

(2) Section 23-3.6-104 provided for the repeal of this part 1, effective July 1, 2018. (See L. 2006, p. 1544.)

PART 2

STATE HEALTH CARE PROVIDER
LOAN REPAYMENT PROGRAM

23-3.6-201 to 23-3.6-205. (Repealed)

Source: L. 2009: Entire part repealed, (HB 09-1111), ch. 396, p. 2141, § 3, effective June 2.

Editor's note: This part 2 was added in 2007 and was not amended prior to its repeal in 2009. For the text of this part 2 prior to 2009, consult the 2008 Colorado Revised Statutes. The provisions of this part 2 were relocated to part 7 of article 20.5 of title 25. For the location of specific provisions, see the editor's notes following those sections that were relocated to part 7.

ARTICLE 3.7

Tuition Assistance Grant Program

23-3.7-101. Legislative declaration. The general assembly hereby finds, determines, and declares: That the costs of education at Colorado's public and nonpublic institutions of higher education have increased dramatically in recent years; that while the increased costs of education at public institutions have been defrayed by state support of such institutions Coloradans wishing to attend nonpublic institutions of higher education in the state face a serious financial burden; that the decline of Colorado's nonpublic institutions of higher education due to an absence of students able to bear the costs of education would increase the number of students seeking admission to state-funded institutions; and that the preservation of Colorado's traditional diversity in higher education and access to a variety of educational opportunities for Coloradans of all backgrounds and resources require that the general assembly act to assist in-state students in meeting the increased costs of education at Colorado's nonpublic institutions of higher education.

Source: L. 86: Entire article added, p. 824, § 1, effective July 1.

23-3.7-102. Definitions. As used in this article 3.7, unless the context otherwise requires:

(1) "Commission" means the Colorado commission on higher education.

(2) "In-state student" means a student at a nonpublic institution of higher education who meets the criteria established by article 7 of this title for classification as an in-state student at a state institution of higher education, who is pursuing a degree, and who is a graduate of a high school located in Colorado. "In-state student" includes a member of the armed forces of the United States or his dependents.

(3) "Nonpublic institution of higher education" means an institution of higher education operating in this state that:

(a) Receives no support from general fund moneys in support of its operating costs;

(b) Admits as regular students only persons having a certification of graduation from a school providing secondary education or the recognized equivalent of such a certificate;

(c) Is accredited by a nationally recognized accrediting agency or association and, in the case of private occupational schools, holds a certificate of approval from the private occupational school division in accordance with the provisions of article 64 of this title 23, or is regulated or approved pursuant to any other statute;

(d) (I) Provides an educational program for which it awards a bachelor's degree or a graduate degree; or

(II) Provides not less than a two-year program that is acceptable for full credit towards such a degree; or

(III) Provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation; or

(IV) Is a private occupational school providing not less than a six-month program of training to prepare students for gainful employment in a recognized occupation;

(e) Was in operation in this state as of January 1, 1999, or has been in operation in this state for a minimum of ten academic years; and

(f) Is not a branch program or campus of an institution of higher education whose principal campus and facilities are located outside this state, unless the institution operating the branch program has received a certificate of approval from the private occupational school division in accordance with the provisions of article 64 of this title 23.

(4) "Professional degree in theology" means a certificate signifying a person's graduation from a degree program that is:

(a) Devotional in nature or designed to induce religious faith; and

(b) Offered by an institution as preparation for a career in the clergy.

Source: L. 86: Entire article added, p. 824, § 1, effective July 1. **L. 99:** (3) amended, p. 75, § 3, effective July 1, 2000. **L. 2009:** (3)(f) amended and (4) added, (HB 09-1267), ch. 348, p. 1824, § 6, effective June 1. **L. 2017:** IP, (3)(c), and (3)(f) amended, (HB 17-1239), ch. 261, p. 1206, § 14, effective August 9.

Cross references: For the legislative declaration contained in the 2009 act amending subsection (3)(f) and adding subsection (4), see section 1 of chapter 348, Session Laws of Colorado 2009.

23-3.7-103. Tuition assistance grant program - authorization - administration. (1) The general assembly hereby authorizes the commission to establish and administer a tuition

assistance grant program within the scholarship and grant program for in-state students attending nonpublic institutions of higher education in this state.

(2) An in-state student may apply to an eligible nonpublic institution of higher education for a grant at any time after his or her acceptance by such nonpublic institution of higher education. The commission shall award grants, out of moneys in the fund created in section 23-3.7-107, for such students to such institutions in accordance with criteria established by the commission. In establishing this criteria the commission shall include, but not be limited to, the consideration of need and merit. The criteria shall also include:

(a) A prohibition against the awarding of any financial assistance pursuant to this article to a student who is pursuing a professional degree in theology; except that the prohibition described in this section shall not apply to financial assistance that is awarded to a student from a federal program, including but not limited to Title IV of the federal "Higher Education Act of 1965", 20 U.S.C. sec. 1070, as amended; and

(b) A requirement that a nonpublic institution of higher education that seeks to award financial assistance to a student pursuant to this article certify that the student is not pursuing a professional degree in theology.

(3) Grants, except in the case of part-time students, shall be for not more than one thousand five hundred dollars per academic year, and no student may receive more than one grant per academic year.

(4) Students enrolled on less than a full-time but more than a half-time basis shall be eligible for prorated grants as determined by the commission.

(5) A grant shall be awarded for not more than four academic years of credit, which shall be completed within twelve years of the initial award of such grant. Such grant may be renewed annually in accordance with criteria established by the commission in subsection (2) of this section and shall include the consideration of the student's performance and circumstances since the initial award of such grant.

(6) Grants shall be transmitted to nonpublic institutions of higher education on behalf of in-state students at the time of registration by the students.

(7) If an in-state student discontinues attendance at a nonpublic institution of higher education before the end of the academic term for which a grant has been transmitted on his behalf, the institution shall remit the unused portion of such student's grant to the commission as determined by the commission.

Source: L. 86: Entire article added, p. 825, § 1, effective July 1. **L. 2009:** (2) amended, (HB 09-1267), ch. 348, p. 1825, § 7, effective June 1.

Cross references: For the legislative declaration contained in the 2009 act amending subsection (2), see section 1 of chapter 348, Session Laws of Colorado 2009.

23-3.7-104. Determination of eligibility of institution. (Repealed)

Source: L. 86: Entire article added, p. 826, § 1, effective July 1. **L. 2009:** Entire section repealed, (HB 09-1267), ch. 348, p. 1827, § 12, effective June 1.

Cross references: For the legislative declaration contained in the 2009 act repealing this section, see section 1 of chapter 348, Session Laws of Colorado 2009.

23-3.7-105. Audit. The state auditor, in cooperation with the commission, shall establish procedures for biannual audits at institutions participating in the grant program.

Source: L. 86: Entire article added, p. 826, § 1, effective July 1.

23-3.7-106. Rules. The commission shall promulgate such rules as may be necessary for the implementation of this article.

Source: L. 86: Entire article added, p. 826, § 1, effective July 1.

23-3.7-107. Gifts and bequests to commission for grant program. The commission is authorized to receive gifts, grants, and bequests of money from any private source to be credited to the tuition assistance grant program cash fund, which is hereby created. The commission shall hold such funds, invest them, and use the principal thereof or the interest thereon in the awarding of grants pursuant to the provisions of this article.

Source: L. 86: Entire article added, p. 826, § 1, effective July 1.

ARTICLE 3.8

Teacher Tuition Scholarship Loan Program

23-3.8-101 to 23-3.8-107. (Repealed)

Source: L. 94: Entire article repealed, p. 1797, § 12, effective May 31.

Editor's note: This article was added in 1991. For amendments to this article prior to its repeal in 1994, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

ARTICLE 3.9

Educator Recruitment and Retention Programs

PART 1

TEACHER LOAN FORGIVENESS PROGRAM

23-3.9-100.2. Legislative declaration. (1) The general assembly finds that:

(a) Colorado suffers from a shortage of teachers and other educators due to various factors affecting the teaching profession, which include but are not limited to declining

enrollment and completion of educator preparation programs, low educator compensation and benefits, an insufficient number of educators in certain content areas, and difficulty in filling educator positions in rural or isolated areas of the state;

(b) Pursuant to House Bill 17-1003, enacted in 2017, the department of higher education and the department of education, with input from education and community stakeholders, analyzed teacher and other educator shortages and issued a report including recommendations for addressing these shortages;

(c) As part of their findings, the department of higher education and the department of education determined that the state has educator shortages in early childhood education; science; mathematics; world languages; special education; and art, music, and drama;

(d) Further, shortages in these content areas are more pronounced in rural and remote rural areas where school districts and rural schools face additional challenges, including inadequate teacher compensation, lack of affordable housing, and an inability to attract new teachers to rural communities; and

(e) The department of higher education and the department of education found that one strategy for addressing teacher and other educator shortages in hard-to-fill positions due to teaching content area or geographic location is to offer loan repayment of educational loans for educators who serve in these hard-to-fill positions in the state.

(2) Therefore, the general assembly declares that implementing a loan forgiveness program for educators employed in qualified positions in the state is necessary to ensure that the needs of students are met in all Colorado public schools.

Source: L. 2019: Entire section added, (SB 19-003), ch. 333, p. 3075, § 1, effective May 29.

23-3.9-101. Definitions. As used in this part 1, unless the context otherwise requires:

(1) "Approved program of preparation" means a program of study for preparation that is approved by the Colorado commission on higher education pursuant to section 23-1-121 and that upon completion leads to a recommendation for licensure by an accepted institution of higher education in Colorado.

(2) "Commission" means the Colorado commission on higher education.

(2.5) "Educator" means a teacher, principal, or special services provider, as those terms are defined in section 22-60.5-102; except that a special services provider need not be employed by a school district.

(3) "Facility school" means an approved facility school as defined in section 22-2-402 (1), C.R.S.

(3.5) Repealed.

(3.7) "Qualified loan" means an educational loan incurred while completing a program of preparation, including an alternative preparation program approved pursuant to article 60.5 of title 22, that leads to educator licensure pursuant to article 60.5 of title 22, or a bachelor's or master's degree in the area in which the educator is employed in a qualified position. The commission shall determine if a loan is a qualified loan for purposes of the educator loan forgiveness program created in section 23-3.9-102.

(4) "Qualified position" means:

(a) A hard-to-staff educator position in a rural school or rural school district or in a facility school that is in a rural school district identified by the department of education pursuant to section 23-3.9-102 (6); or

(b) A hard-to-staff educator position in a Colorado public school, a school operated by a board of cooperative services created pursuant to article 5 of title 22, or a facility school in a content shortage area identified pursuant to section 23-3.9-102 (6).

(5) "Rural school" or "rural school district" means a public school or school district identified by the department of education pursuant to section 23-3.9-102 (6).

(6) "School" or "public school" means a public school as provided in section 22-1-101, including a charter school authorized by a school district pursuant to part 1 of article 30.5 of title 22, an institute charter school authorized by the state charter school institute pursuant to part 5 of article 30.5 of title 22, or a school operated by a board of cooperative services created and operating pursuant to article 5 of title 22.

Source: L. 2001: Entire article added, p. 1503, § 30, effective June 8. **L. 2005:** (3.5) and (5) added and (4) amended, p. 533, § 1, effective August 8. **L. 2008:** (3) amended, p. 1409, § 64, effective May 27; (5) amended, p. 1627, § 1, effective August 5. **L. 2018:** IP amended, (HB 18-1002), ch. 257, p. 1586, § 2, effective May 25. **L. 2019:** (2.5), (3.7), and (6) added, (3.5) repealed, and (4) and (5) amended, (SB 19-003), ch. 333, p. 3076, § 2, effective May 29. **L. 2020:** (3.7) amended, (SB 20-158), ch. 198, p. 968, § 1, effective June 30.

23-3.9-102. Educator loan forgiveness program - administration - fund - eligibility. (1) (a) The general assembly authorizes the commission to develop and maintain an educator loan forgiveness program for implementation beginning in the 2019-20 academic year for payment of all or part of the principal and interest of the qualified loans of an educator who is hired for a qualified position. Money in the educator loan forgiveness fund, created in subsection (1)(b) of this section, may be used only for repayment of qualified loans through the educator loan forgiveness program. The commission is authorized to seek, accept, and expend gifts, grants, and donations for the educator loan forgiveness program. The commission shall transmit all money received through gifts, grants, or donations to the state treasurer, who shall credit the money to the educator loan forgiveness fund, created in subsection (1)(b) of this section. The commission shall develop loan repayment policies that ensure that money in the educator loan forgiveness fund is used for the repayment of qualified loans of educators employed in qualified positions.

(b) There is created the educator loan forgiveness fund, which consists of all money appropriated to the fund by the general assembly for the educator loan forgiveness program and any gifts, grants, and donations received for that purpose. Money in the fund is continuously appropriated to the department of higher education for the educator loan forgiveness program. At the end of any fiscal year, all unexpended and unencumbered money in the fund remains in the fund and shall not be credited or transferred to the general fund or any other fund; except that on August 30, 2033, any unexpended and unencumbered money in the fund shall be transferred to the general fund.

(c) Subject to available appropriations, the commission shall annually approve applications for the educator loan forgiveness program. If more new participants apply than can

be approved based on the money available in the educator loan forgiveness fund, the commission shall:

(I) First, approve applicants who have contracted for a qualified position in a rural school district or rural school and in a content shortage area;

(II) Second, approve applicants who have contracted for a qualified position in a rural school district or rural school; and

(III) Third, approve applicants who have contracted for a qualified position in a content shortage area.

(2) In addition to any qualifications specified by the commission, to qualify for the educator loan forgiveness program, an educator must:

(a) Graduate from a program of preparation that leads to educator licensure pursuant to article 60.5 of title 22;

(b) Meet licensure requirements pursuant to section 22-60.5-201 (1)(b) or (1)(c), section 22-60.5-301 (1)(a) or (1)(b), or section 22-60.5-210;

(c) Repealed.

(d) Contract for a qualified position, as defined in section 23-3.9-101, no earlier than June 2019 and no later than the end of the 2027-28 academic year; and

(e) (Deleted by amendment, L. 2019.)

(f) Be liable for an outstanding balance on a qualified loan.

(3) An educator who qualifies pursuant to subsection (2) of this section may be eligible for up to five thousand dollars in loan forgiveness for each year of employment in a qualified position for up to a total of five years.

(3.5) (Deleted by amendment, L. 2019.)

(4) If an educator qualifies for the educator loan forgiveness program through employment in a qualified position and in a subsequent academic year the position is no longer identified as a qualified position pursuant to subsection (6) of this section, the educator may continue to participate in the educator loan forgiveness program if the educator continues in the same position in the same location or in a different position that is a qualified position.

(5) If an educator qualifies for the educator loan forgiveness program and subsequently transfers to a nonqualifying position, the educator forfeits participant status pursuant to this section.

(6) (a) For purposes of defining a "qualified position" pursuant to subsection (4) of this section, the department of education shall annually identify:

(I) Rural school districts based on the geographic size of the district and the distance of the district from the nearest large, urbanized area;

(II) Rural schools, which may include but are not limited to individual schools of a school district even though the school district as a whole is not identified as a rural school district if the department of education determines that, as a function of geographic characteristics, the school is experiencing educator shortages that are not experienced by other schools of the school district;

(III) Content shortage areas, which may include those identified by the department of higher education and department of education in their November 2017 report, "Colorado's Teacher Shortages: Attracting and Retaining Excellent Educators", as well as other content shortage areas specific to Colorado that develop over the course of the educator loan forgiveness

program. The department of education may identify content shortage areas generally and for specific geographic areas of the state.

(IV) Hard-to-fill educator positions due to geography or content shortage area, or both.

(b) As part of its annual identification of rural schools, school districts, and content shortage areas, the department of education shall consider education and community stakeholder feedback.

Source: L. 2001: Entire article added, p. 1503, § 30, effective June 8. **L. 2002:** (2)(c)(II) amended, p. 1794, § 57, effective June 7. **L. 2004:** (1)(a) and (2)(d) amended, p. 443, § 1, effective April 13; (1)(a) amended, p. 574, § 30, effective July 1. **L. 2005:** (2)(c)(II) and (2)(d) amended and (2)(e), (2)(f), (4), (5), and (6) added, p. 534, §§ 2, 3, effective August 8. **L. 2008:** (1)(b) and (2)(d)(III) amended and (3.5) added, p. 1627, § 2, effective August 5. **L. 2019:** Entire section amended, (SB 19-003), ch. 333, p. 3077, § 3, effective May 29. **L. 2020:** IP(1)(c), IP(2), and (2)(a) amended and (2)(c) repealed, (SB 20-158), ch. 198, p. 968, § 2, effective June 30.

Editor's note: Amendments to subsection (1)(a) by House Bill 04-1350 and House Bill 04-1039 were harmonized.

23-3.9-103. Reporting. Notwithstanding the provisions of section 24-1-136 (11)(a)(I) to the contrary, on or before December 15, 2019, and on or before December 15 each year thereafter in which an educator is participating in the program, the commission shall prepare an annual report that includes, but is not limited to, the content shortage areas identified by the department of education; the number of applications received and the number of participants awarded loan forgiveness, the public schools in which the participants are employed, and demographic information for the participants; the approved teacher preparation program attended by the participants; and the amount of money applied toward loan forgiveness and the sources of the money. The report must also include, for all participants awarded loan forgiveness, the length of time each participant has remained in the program and has remained teaching in the public school or within the same school district. The commission shall provide notice to the education committees of the senate and the house of representatives, or any successor committees, that the report is available to the members of the committees upon request.

Source: L. 2001: Entire article added, p. 1504, § 30, effective June 8. **L. 2005:** Entire section amended, p. 862, § 5, effective June 1. **L. 2019:** Entire section amended, (SB 19-003), ch. 333, p. 3080, § 4, effective May 29.

23-3.9-104. Repeal of part. This part 1 is repealed, effective September 1, 2033.

Source: L. 2001: Entire article added, p. 1504, § 30, effective June 8. **L. 2005:** Entire section amended, p. 535, § 4, effective August 8. **L. 2008:** Entire section amended, p. 1628, § 3, effective August 5. **L. 2018:** Entire section amended, (HB 18-1002), ch. 257, p. 1586, § 3, effective May 25. **L. 2019:** Entire section amended, (SB 19-003), ch. 333, p. 3080, § 5, effective May 29.

PART 2

TEACHING FELLOWSHIP PROGRAMS

23-3.9-201 to 23-3.9-207. (Repealed)

Source: L. 2019: Entire part repealed, (SB 19-190), ch. 153, p. 1821, § 5, effective May 10.

Editor's note: This part 2 was added in 2018 and was not amended prior to its repeal in 2019. For the text of this part 2 prior to 2019, consult the 2018 Colorado Revised Statutes and the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

ARTICLE 4

Trafficking in Academic Materials

23-4-101. Legislative declaration. The general assembly hereby declares that the practice of trafficking in academic materials, commonly referred to as ghostwriting, serves no legitimate purpose and tends to undermine the academic process to the detriment of students, the academic community, and the public and that such practice should not be permitted to continue.

Source: L. 73: p. 1346, § 1. **C.R.S. 1963:** § 124-28-1.

23-4-102. Definitions. As used in this article 4, unless the context otherwise requires:

(1) "Assignment" means any specific written, recorded, pictorial, artistic, or other academic task, including but not limited to a term paper, thesis, dissertation, essay, or report intended for submission to any institution of higher education in fulfillment of the requirements for a degree, diploma, certificate, or course of study.

(2) "Entity" means a partnership, corporation, or association.

(3) "Institution of higher education" means a state institution of higher education as defined in section 23-18-102 (10)(a), a local district college, an area technical college, a technical college, and any nonpublic institution of higher education as defined in section 23-3.7-102 (3).

(4) "Prepare" means to put into condition for intended use. "Prepare" does not include the mere furnishing of information or research.

(5) "Sale" or "sell" means any transfer, exchange, or barter, in any manner, for any consideration, or by any agreement.

Source: L. 73: p. 1346, § 1. **C.R.S. 1963:** § 124-28-2. **L. 2018:** Entire section R&RE, (HB 18-1252), ch. 276, p. 1746, § 1, effective August 8.

23-4-103. Preparation, sale, and distribution of academic materials - advertising. (1) A person or entity shall not prepare, offer to prepare, cause to be prepared, sell, or distribute

any assignment for another person for a fee or other compensation with the knowledge, or under circumstances in which he or she should reasonably have known, that such assignment is to be submitted by any other person for academic credit at any institution of higher education in this state.

(1.5) A person or entity shall not prepare, sell, or offer to sell to another person a document or service that provides answers for, or completes on behalf of a student, an online exam that is administered pursuant to a course of study at any institution of higher education.

(2) A person or entity shall not make or disseminate, with the intent to induce any other person to enter into any obligation relating thereto, any statement, written or oral, that he or she will prepare, cause to be prepared, sell, or distribute any assignment or answer to an online exam for a fee or other compensation for or on behalf of any person who has been assigned the written preparation of such assignment or answer to an online exam for academic credit at any institution of higher education in this state.

Source: L. 73: p. 1346, § 1. **C.R.S. 1963:** § 124-28-3. **L. 2018:** Entire section amended, (HB 18-1252), ch. 276, p. 1747, § 2, effective August 8.

23-4-104. Injunctions. (1) Any court of competent jurisdiction may grant such relief as is necessary to enforce the provisions of this article, including the issuance of an injunction.

(2) Actions for injunction under the provisions of this article 4 may be brought in the name of the people of the state of Colorado by the attorney general or by the district attorney for the judicial district in which the conduct to be enjoined took place or by any institution of higher education acting for the interest of itself, its students, or the general public.

Source: L. 73: p. 1347, § 1. **C.R.S. 1963:** § 124-28-4. **L. 2018:** (2) amended, (HB 18-1252), ch. 276, p. 1747, § 3, effective August 8.

23-4-104.5. Civil penalty. The attorney general may bring a civil action on behalf of the state to seek the imposition of a civil penalty for any violation of this article 4. The court, upon finding a violation of this article 4, shall impose a civil penalty to be paid to the general fund of the state in an amount not to exceed seven hundred fifty dollars for each such violation.

Source: L. 2018: Entire section added, (HB 18-1252), ch. 276, p. 1747, § 4, effective August 8.

23-4-105. Other remedies. The provisions of this article are not exclusive. Nothing in this article shall be construed to preempt or in any other way to limit, diminish, or imply the absence of rights of any party, public or private, against any person in connection with any of the acts described in section 23-4-103.

Source: L. 73: p. 1347, § 1. **C.R.S. 1963:** § 124-28-5.

23-4-105.5. Exceptions. (1) It is not a violation of this article 4 if a person or entity renders for a fee:

(a) Tutorial assistance if the assistance is not intended to be submitted in whole or in substantial part as an assignment or as an answer to an online exam; or

(b) Service in the form of typing, transcribing, assembling, reproducing, or editing an assignment or answer to an online exam if this service is not intended to make substantive changes in the assignment or answer to an online exam.

(2) This article 4 does not apply to a person who is enrolled for educational purposes.

Source: L. 2018: Entire section added, (HB 18-1252), ch. 276, p. 1747, § 5, effective August 8.

23-4-106. Construction of article. This article shall be liberally construed in order to prevent the practices described therein.

Source: L. 73: p. 1347, § 1. **C.R.S. 1963:** § 124-28-6.

ARTICLE 4.5

Open Educational Resources

23-4.5-101. Legislative declaration. (1) The general assembly finds that:

(a) Student expenditures on textbooks and other educational materials represent a significant portion of student educational costs, adding up to, on average, an additional twenty-two percent above the cost of tuition and fees for a first-year community college student. Research concerning the use of open educational resources indicates the use of these resources results in significant savings for students.

(b) Research also indicates that, because of the cost of textbooks and other materials, students often do not buy textbooks or course materials, resulting in poor academic performance, including failing course grades. Other studies indicate that students take fewer courses or drop courses because of the cost of textbooks and materials, extending the time to graduation.

(c) Several institutions of higher education across the country have begun participating in open educational resources consortia that make textbooks, course activities, and readings available to students online for no cost, resulting in significant student savings. States and institutions are also beginning to offer entire courses, sections, and even degrees that are branded as having zero textbook costs.

(2) The general assembly finds, therefore, that it is appropriate to establish the Colorado open educational resources council to recommend statewide policies concerning promoting the use of open educational resources, facilitate knowledge sharing and professional development to increase and support the statewide use of open educational resources, and implement a statewide grant program for public institutions of higher education, faculty, and staff to create and expand the use of open educational resources.

Source: L. 2018: Entire article added, (HB 18-1331), ch. 186, p. 1252, § 1, effective April 30.

23-4.5-102. Definitions. As used in this article 4.5, unless the context otherwise requires:

(1) "Commission" means the Colorado commission on higher education created in section 23-1-102.

(2) "Council" means the Colorado open educational resources council created in section 23-4.5-103.

(3) "Department" means the department of higher education created in section 24-1-114.

(4) "Executive director" means the executive director of the department of higher education.

(5) "Grant program" means the open educational resources grant program created in section 23-4.5-104.

(6) "Open educational resources" means high-quality teaching, learning, and research resources that reside in the public domain or have been released under an intellectual property license that permits free use or repurposing by others and may include other resources that are legally available and available to students for free or very low cost. Open educational resources may include full courses, course materials, modules, textbooks, faculty-created content, streaming videos, exams, software, and other tools, materials, or techniques used to support access to knowledge.

(7) "Public institution of higher education" means the state institutions of higher education, as defined in section 23-18-102 (10)(a), the local district colleges, and the area technical colleges.

Source: L. 2018: Entire article added, (HB 18-1331), ch. 186, p. 1253, § 1, effective April 30.

23-4.5-103. Colorado open educational resources council - created - duties - report. (1) There is created in the department of higher education the Colorado open educational resources council, which is composed of the following members:

(a) Twelve persons from public institutions of higher education appointed by the executive director as follows:

(I) Five faculty members;

(II) Three library professionals;

(III) One person enrolled as a student at a public institution of higher education;

(IV) One instructional design expert;

(V) One informational technology expert; and

(VI) One administrator;

(b) The executive director of the department, or his or her designee;

(c) The commissioner of education appointed pursuant to section 1 (2) of article IX of the state constitution, or his or her designee; and

(d) The person executing the duties of the state librarian, if different from the commissioner of education as provided in section 24-90-104, or his or her designee.

(2) (a) The term of service for the appointed members of the council is three years. The executive director may appoint the same person to serve multiple, consecutive terms.

(b) The executive director shall appoint the members of the council by July 1, 2018, taking into account any nominations received from the public institutions of higher education. In

appointing the members of the council, the executive director shall ensure that the council includes at least three representatives from two-year public institutions of higher education and at least three representatives from four-year public institutions of higher education, including research universities. To the extent practicable, the executive director shall appoint persons from areas throughout the state who are representative of the demographics of the state.

(3) The executive director shall convene the first meeting of the council as soon as practicable after the council members are appointed, but no later than August 30, 2018. At the first meeting and annually thereafter, the council members shall select a member to serve as chair of the council and a member to serve as vice-chair of the council. The council shall meet as often as necessary at the call of the chair to complete its duties.

(4) The members of the council serve without compensation but may be reimbursed for reasonable and necessary expenses incurred in serving on the council, as determined by the department. The department shall provide staff and resources to support the council in completing its duties and to assist the public institutions of higher education throughout the state in developing and expanding the use of open educational resources.

(5) The council has the following duties:

(a) To recommend to the commission statewide policies for promoting adaptation, creation, and use of open educational resources at public institutions of higher education across the state;

(b) To facilitate professional development and the sharing of knowledge concerning creating and using open educational resources for public institutions of higher education, faculty, staff, and students, which may include:

(I) Developing informational materials about open educational resources to distribute to public institutions of higher education across the state for use and adaptation as appropriate;

(II) Creating and maintaining a website to link to the materials that the council develops, other open educational resources, and any existing institutional open educational resources databases; and

(III) Convening regular meetings, which may include convening open educational resources interest groups to share information and ideas, including through meetings, workshops, conferences, webinars, and an annual open educational resources conference for higher education faculty, instructional designers, librarians, campus administrators, secondary educators who teach concurrent enrollment courses, and other relevant staff;

(c) To implement the open educational resources grant program created in section 23-4.5-104 and ensure that faculty and students at public institutions of higher education across the state can easily identify and access the open educational resources developed using grant money;

(d) To advise the department concerning allocation of the money appropriated for the purposes of this article 4.5 to pay the costs of the grant program, convening interest groups, and providing staff support; and

(e) To prepare and submit an annual report concerning the use of open educational resources at the public institutions of higher education in the state, as described in section 23-4.5-105.

(6) The general assembly may annually appropriate to the department such amount as it deems appropriate for the purposes specified in this article 4.5, including the grant program. Any unexpended and unencumbered money from an appropriation made for the purposes of this

article 4.5 remains available for expenditure by the department for the purposes of this article 4.5 in the next fiscal year without further appropriation.

Source: L. 2018: Entire article added, (HB 18-1331), ch. 186, p. 1253, § 1, effective April 30.

23-4.5-104. Open educational resources grant program - created - report. (1) There is created in the department of higher education the open educational resources grant program to provide funding for public institutions of higher education, faculty, and staff to create and expand the use of open educational resources across institutions around the state. The grant program consists of grants to:

(a) Public institutions of higher education to support creating, adapting, and promoting the use of open educational resources at the institution or on a campus; and

(b) Faculty and staff of public institutions of higher education, individually or in small groups, to support the creating, adapting, and promoting of open educational resources.

(2) (a) The council, working with the department, shall develop timelines and procedures by which public institutions of higher education, faculty, and staff may apply for a grant, including the information that must be included in an application and the deadlines for submitting applications.

(b) An application for an institutional grant may include:

(I) Evidence of the existence of an open educational resources council or committee at the applying institution or campus;

(II) Identification of library, instructional design, and administrative staffing to support the open educational resources initiative for which a grant is requested;

(III) The manner in which the courses that use open educational resources will be identified for students prior to the time of course registration, which may include identification in the schedule of classes;

(IV) A plan for expanding the adoption of open educational resources across the campus or institution that receives the grant, which may include awarding grants to faculty members, reducing a faculty member's required teaching hours, or providing other incentives to faculty for adapting and developing open educational resources;

(V) The manner in which the grant recipient will evaluate the success of the open educational resources initiative; and

(VI) A plan for and commitment to sustaining the open educational resources initiative after the grant is completed.

(c) An application for a faculty or staff grant, whether individual or small group, may include:

(I) Information concerning the textbooks and other materials in use at the time the grant is received, the costs of the textbooks and materials, and how the applicant expects to use the grant money to adapt or develop open educational resources to replace the textbooks and other materials;

(II) The manner in which the grant recipients will evaluate the use of the open educational resources developed using the grant, including the number of students who are affected and the cost savings to students as a result of the open educational resources developed using the grant; and

(III) The plan for ensuring that open educational resources that are adapted or developed using the grant money are publicized and made available to other faculty and students within the public institution of higher education and other public institutions of higher education.

(3) (a) The council shall review the grant applications received and recommend to the commission applicants to which the commission may choose to award grants and the amount of each grant. Subject to available appropriations, the commission shall award grants through the grant program. The commission shall take into account, but is not bound by, the recommendations of the council. In making recommendations and awarding grants, the council and the commission shall consider whether the application:

(I) Affects courses with high student enrollment or high textbook or materials costs;

(II) Affects high-impact courses such as the core courses described in section 23-1-125 (3) or courses included in concurrent enrollment agreements entered into pursuant to article 35 of title 22; and

(III) Supports adaptation or development of open educational resources by teams of faculty, librarians, and instructional designers within a public institution of higher education or across multiple institutions, making it more likely that the resources will be used in multiple courses or sections.

(b) The commission shall adopt guidelines to address potential conflicts of interest for members of the council that may arise in recommending applicants to receive grants.

(4) Each grant recipient, as a condition of receiving the grant, must:

(a) Submit to the council data concerning the number of students affected by open educational resources developed or adapted using the grant, the estimated amount of student savings that results from using the open educational resources, and measures of the effectiveness of the grant project;

(b) Agree to openly license and share, under the broadest possible license, any open educational resources developed or adapted using the grant;

(c) Agree to comply with the guidelines and parameters adopted by the council pursuant to subsection (6) of this section for implementing the grants;

(d) Post new or adapted open educational resources to an open repository in editable file formats or with source code; and

(e) Comply with the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101 et seq., as amended, to enable persons with disabilities to access the open educational resources developed or adapted using the grant.

(5) The council shall summarize the information received from grant recipients as described in subsection (4)(a) of this section and include the summarized information in the annual report required in section 23-4.5-105.

(6) The council shall adopt guidelines and parameters by which grant recipients must implement the grant-funded open educational resources initiatives to ensure that the impact on students of the initiatives may be consistently measured and compared across public institutions of higher education.

Source: L. 2018: Entire article added, (HB 18-1331), ch. 186, p. 1256, § 1, effective April 30.

23-4.5-105. Council report. (1) Notwithstanding the provisions of section 24-1-136 (11)(a)(I), on or before October 1, 2019, and on or before October 1 each year thereafter, the council shall prepare and submit to the commission, the joint budget committee, and the education committees of the senate and the house of representatives, or any successor committees, a report concerning implementation and development of open educational resources around the state. The public institutions of higher education shall collaborate with the council in providing the information necessary for the report. At a minimum, the report must include:

(a) The degree to which all public institutions of higher education are adopting open educational resources support programs and ensuring universal awareness of open educational resources among faculty and students;

(b) The number and percentage of the courses offered by the public institutions of higher education that use open educational resources as the primary resources for the course;

(c) The open educational resources created and shared by grant recipients;

(d) The number of open educational resources revised and adopted by grant recipients;

(e) For public institutions of higher education that receive a grant or that employ faculty or staff that receive a grant, the course enrollment, completion, and pass rates for courses that use open educational resources compared to courses that do not use these resources; and

(f) The summarized information concerning implementation of the grant program as described in section 23-4.5-104 (4)(a) and (5).

Source: L. 2018: Entire article added, (HB 18-1331), ch. 186, p. 1258, § 1, effective April 30.

23-4.5-106. Repeal of article. This article 4.5 is repealed, effective November 1, 2021.

Source: L. 2018: Entire article added, (HB 18-1331), ch. 186, p. 1259, § 1, effective April 30.

ARTICLE 5

General Provisions

23-5-101. Colorado educational institutions - annual reports. (Repealed)

Source: L. 15: p. 365, § 1. **C.L.** § 320. **CSA:** C. 153, § 60. **CRS 53:** § 124-1-1. **L. 61:** pp. 708, 709, §§ 1, 3. **C.R.S. 1963:** § 124-1-1. **L. 64:** p. 170, § 134. **L. 75:** Entire section amended, p. 743, § 1, effective June 16. **L. 77:** Entire section amended, p. 1094, § 3, effective July 1. **L. 78:** Entire section amended, p. 376, § 1, effective March 30. **L. 83:** Entire section amended, p. 833, § 37, effective July 1. **L. 85:** Entire section amended, p. 769, § 26, effective July 1. **L. 88:** Entire section amended, p. 857, § 5, effective July 1. **L. 90:** Entire section amended, p. 1154, § 3, effective July 1. **L. 94:** Entire section repealed, p. 1796, § 8, effective May 31.

23-5-101.5. Enterprise status of auxiliary facilities - definitions. (1) Any auxiliary facility or group of auxiliary facilities with similar functions which is managed by the governing

body of an institution of higher education or by the board of directors of the Auraria higher education center may be designated as an enterprise for the purposes of section 20 of article X of the state constitution so long as the governing body of the institution of higher education or the board of directors of the Auraria higher education center, whichever manages such auxiliary facility or group of auxiliary facilities, retains the authority to issue revenue bonds on behalf of such auxiliary facility or group of auxiliary facilities and such auxiliary facility or group of auxiliary facilities receives less than ten percent of its total annual revenues in grants from all Colorado state and local governments combined. The general assembly hereby finds and declares that, for the purposes of determining whether an auxiliary facility or group of auxiliary facilities may be designated as an enterprise, it is sufficient that the governing body of an institution of higher education or the board of directors of the Auraria higher education center, whichever manages such auxiliary facility or group of auxiliary facilities, has authority to issue revenue bonds on behalf of such auxiliary facility or group of auxiliary facilities. So long as it is designated as an enterprise pursuant to the provisions of this section, an auxiliary facility or group of auxiliary facilities shall not be subject to any of the provisions of section 20 of article X of the state constitution.

(1.5) In pledging revenues for the repayment of revenue bonds issued on behalf of any auxiliary facility or group of auxiliary facilities that is designated as an enterprise, the institution of higher education and the auxiliary facility or group of auxiliary facilities may pledge internal revenues only if the auxiliary facility or group of auxiliary facilities:

(a) Is accounted for separately in institutional financial records;

(b) Is self-supporting from revenues received as gifts from nongovernmental sources or in exchange for goods and services; and

(c) Engages in the type of activities that are commonly carried on for profit outside the public sector.

(2) As used in this section and sections 23-5-101.7 to 23-5-105.5:

(a) "Auxiliary facility" means any student or faculty housing facility; student or faculty dining facility; recreational facility; student activities facility; child care facility; continuing education facility or activity; intercollegiate athletic facility or activity; health facility; alternative or renewable energy producing facility, including but not limited to, a solar, wind, biomass, geothermal, or hydroelectric facility; college store; or student or faculty parking facility; or any similar facility or activity that has been historically managed, and was accounted for in institutional financial statements prepared for fiscal year 1991-92, as a self-supporting facility or activity, including any additions to and any extensions or replacements of any such facility on any campus under the control of the governing board managing such facility. "Auxiliary facility" shall also mean any activity undertaken by the governing board of any state-supported institution of higher education as an eligible lender participant pursuant to parts 1 and 2 of article 3.1 of this title.

(b) (I) "Grant" means any direct cash subsidy or other direct contribution of money from the state or any local government in Colorado which is not required to be repaid.

(II) "Grant" does not include:

(A) Any indirect benefit conferred upon an auxiliary facility, or group of auxiliary facilities or an institution or group of institutions from the state or any local government in Colorado, including any interest in or use of existing facilities owned, funded, or financed by the governing board of an institution, the state, or any local government in Colorado;

(B) Any revenues resulting from market exchanges such as rates, fees, assessments, tuition, or other charges imposed by an auxiliary facility, or group of auxiliary facilities or by an institution or group of institutions for the provision of goods or services by such auxiliary facility, group of auxiliary facilities, institution or group of institutions, including services to the state or a local government in Colorado and fees paid to the auxiliary facility or group of auxiliary facilities for internal services provided to the institution of higher education with which the auxiliary facility is associated;

(C) Any federal funds, regardless of whether such federal funds pass through the state or any local government in Colorado prior to receipt by an auxiliary facility, group of auxiliary facilities, institution, or group of institutions;

(D) Fees received by an institution pursuant to a fee-for-service contract between the department of higher education and the institution or the institution's governing board;

(E) Revenues received by an institution or group of institutions that have been paid on behalf of an eligible undergraduate student from the college opportunity fund pursuant to article 18 of this title.

(c) "Internal revenues" means revenues received in exchange for the provision of goods or services to the institution of higher education with which the auxiliary facility or group of auxiliary facilities is associated; except that revenues received from another auxiliary facility or group of auxiliary facilities that has been designated as an enterprise are not "internal revenues".

(3) (a) The governing body of an institution of higher education or the board of directors of the Auraria higher education center may, by resolution, designate any auxiliary facility or group of auxiliary facilities with similar functions managed by such governing body or board of directors, as applicable, as an enterprise so long as such auxiliary facility or group of auxiliary facilities meets the requirements for an enterprise as stated in subsection (1) of this section. The designation of a group of auxiliary facilities with similar functions may include auxiliary facilities that are located at one or more campuses or institutions under the jurisdiction of the governing body or board of directors. Except as provided in paragraph (b) of this subsection (3), any such designation of an auxiliary facility or group of auxiliary facilities in accordance with the requirements of this paragraph (a) shall not terminate, expire, or be rescinded as long as the auxiliary facility or group of auxiliary facilities meets the requirements for an enterprise.

(b) All designations adopted pursuant to paragraph (a) of this subsection (3) shall be submitted by the adopting body to the office of the state auditor in the form and manner prescribed by the legislative audit committee. Said designations shall be reviewed by said office to determine whether said designations are within the authority of the adopting body pursuant to the provisions of this section and for later review by the legislative audit committee for its opinion as to whether the designations conform 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 a 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 such designation adopted by a governing body of an institution of higher education or by the board of directors of the Auraria higher education center 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 said committee at a public meeting held after timely notice to the public and affected adopting bodies. The

legislative audit committee shall, on affirmative vote, submit such designations, 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 any designation. Rejection of such a bill does not constitute legislative approval of such designation. Each adopting body shall revise its designations to conform with the action taken by the general assembly. For the purpose of performing the functions assigned it by this paragraph (b), 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.

(4) The following auxiliary facilities are designated as enterprises in accordance with the requirements of this section:

(a) Auraria higher education center:

(I) Parking;

(II) Student facilities;

(III) Reprographics; and

(IV) Other auxiliaries;

(V) and (VI) (Deleted by amendment, L. 97, p. 1407, § 6, effective July 1, 1997.)

(b) University of Colorado:

(I) Auxiliary facilities;

(II) Education services;

(III) Research support services; and

(IV) Other self-funded services;

(c) Colorado school of mines:

(I) Student and faculty services;

(II) Continuing education;

(III) General operations; and

(IV) Research revolving;

(d) University of northern Colorado:

(I) Continuing education; and

(II) to (IV) (Deleted by amendment, L. 98, p. 218, § 1, effective April 10, 1998.)

(V) (Deleted by amendment, L. 2004, p. 110, § 1, effective March 17, 2004.)

(VI) Auxiliary facilities;

(e) Colorado community college and occupational education system:

(I) (Deleted by amendment, L. 98, p. 218, § 1, effective April 10, 1998.)

(II) Continuing education;

(III) Student and faculty services;

(IV) (Deleted by amendment, L. 97, p. 1407, § 6, effective July 1, 1997.)

(V) Tec operations; and

(VI) Lowry enterprise;

(f) Colorado state university system:

(I) Student and faculty operations and activities;

(II) Continuing education;

(III) (Deleted by amendment, L. 97, p. 1407, § 6, effective July 1, 1997.)

(IV) Research building revolving fund; and

(V) Colorado state forest service seedling tree nursery;

(g) Adams state university:

(I) Student and faculty services; and
(II) Continuing education;
(h) Colorado Mesa university:
(I) Student and faculty services;
(II) Continuing education; and
(III) Other self-funded services;
(i) Metropolitan state university of Denver:
(I) Student and faculty services; and
(II) Continuing education;
(j) Western Colorado university:
(I) Student and faculty services; and
(II) Continuing education; and
(k) Fort Lewis college:
(I) Student and faculty operations and activities; and
(II) Continuing education.

(5) Notwithstanding paragraph (a) of subsection (3) of this section relating to the designation of auxiliary facilities as enterprises, those auxiliary facilities of Fort Lewis college, which were a part of the Colorado state university system enterprise pursuant to paragraph (f) of subsection (4) of this section, shall, as they relate to Fort Lewis college, be designated enterprises of the board of trustees for Fort Lewis college, established in section 23-52-102.

(6) Notwithstanding subsection (3)(a) of this section relating to the designation of auxiliary facilities as enterprises:

(a) Any auxiliary facilities of Adams state university that were a part of any state colleges enterprise pursuant to paragraph (g) of subsection (4) of this section in existence prior to the establishment of the board of trustees of Adams state university in section 23-51-102 shall, as they relate to Adams state university, be designated enterprises of the board of trustees of Adams state university.

(b) Any auxiliary facilities of Colorado Mesa university that were part of Mesa state college that were a part of any state colleges enterprise pursuant to paragraph (g) of subsection (4) of this section in existence prior to the establishment of the board of trustees of Colorado Mesa university in section 23-53-102 shall, as they relate to Colorado Mesa university, be designated enterprises of the board of trustees of Colorado Mesa university.

(c) Any auxiliary facilities of Metropolitan state university of Denver that were a part of any state colleges enterprise established under law in existence prior to the establishment of the board of trustees of Metropolitan state university of Denver in section 23-54-102 shall, as they relate to Metropolitan state university of Denver, be designated enterprises of the board of trustees of Metropolitan state university of Denver.

(d) Any auxiliary facilities of Western Colorado university that were a part of any state colleges enterprise pursuant to subsection (4)(g) of this section in existence prior to the establishment of the board of trustees of Western Colorado university in section 23-56-102 shall, as they relate to Western Colorado university, be designated enterprises of the board of trustees of Western Colorado university.

Source: L. 93: Entire section added, p. 1820, § 1, effective June 6. **L. 94:** (4) added, p. 624, § 1, effective April 14; (2)(a), (2)(b)(II)(B), and (3)(a) amended, p. 1677, § 3, effective May

31. **L. 97:** (1.5), (2)(c), and (4)(e)(VI) added and (4)(a)(III), (4)(a)(V), (4)(a)(VI), (4)(e)(IV), (4)(e)(V), (4)(f)(II), and (4)(f)(III) amended, p. 1407, §§ 4, 5, 6, effective July 1. **L. 98:** (4) amended, p. 218, § 1, effective April 10. **L. 2002:** (2)(a) amended, p. 962, § 3, effective June 1; (4)(h) and (5) added, pp. 1260, 1261, §§ 19, 20, effective July 1. **L. 2003:** IP(4)(g) amended, p. 789, § 8, effective July 1. **L. 2004:** (4)(d)(I), (4)(d)(V), (4)(g), and (4)(h) amended and (4)(i), (4)(j), (4)(k), and (6) added, pp. 110, 111, §§ 1, 2, effective March 17; (2)(b)(II) amended, p. 720, § 9, effective July 1. **L. 2009:** (3)(a) and (4) amended, (HB 09-1229), ch. 167, p. 734, § 1, effective April 22. **L. 2010:** (2)(a) amended, (SB 10-003), ch. 391, p. 1859, § 41, effective June 9. **L. 2011:** IP(4)(h) and (6)(b) amended, (SB 11-265), ch. 292, p. 1366, § 18, effective August 10. **L. 2012:** (4)(g) and (6)(a) amended, (HB 12-1080), ch. 189, p. 758, § 13, effective May 19; IP(4)(i) and (6)(c) amended, (SB 12-148), ch. 125, p. 425, § 9, effective July 1; IP(4)(j) and (6)(d) amended, (HB 12-1331), ch. 254, p. 1269, § 11, effective August 1. **L. 2019:** IP(4), IP(4)(j), IP(6), and (6)(d) amended, (HB 19-1178), ch. 400, p. 3545, § 11, effective July 1.

Cross references: For the legislative declaration contained in the 2002 act enacting subsections (4)(h) and (5), see section 1 of chapter 303, Session Laws of Colorado 2002. For the legislative declaration contained in the 2004 act amending subsection (2)(b)(II), see section 1 of chapter 215, Session Laws of Colorado 2004. For the legislative declaration in the 2010 act amending subsection (2)(a), see section 1 of chapter 391, Session Laws of Colorado 2010. For the legislative declaration in the 2011 act amending the introductory portion to subsection (4)(h) and subsection (6)(b), see section 1 of chapter 292, Session Laws of Colorado 2011. For the legislative declaration in the 2012 act amending the introductory portion to subsection (4)(i) and subsection (6)(c), see section 1 of chapter 125, Session Laws of Colorado 2012.

23-5-101.7. Enterprise status of institutions of higher education. (1) As used in this section, unless the context otherwise requires, "institution of higher education" or "institution" means the Colorado state university - Pueblo, Adams state university, Colorado Mesa university, Metropolitan state university of Denver, Fort Lewis college, Western Colorado university, the university of northern Colorado, Colorado school of mines, the university of Colorado, Colorado state university, and all community colleges governed by the state board for community colleges and occupational education.

(2) An institution of higher education, or a group of institutions of higher education that is managed by a single governing board, may be designated as an enterprise for the purposes of section 20 of article X of the state constitution so long as the governing board of the institution or group of institutions retains authority to issue revenue bonds on behalf of the institution or group of institutions and the institution or group of institutions receives less than ten percent of its total annual revenues in grants from all Colorado state and local governments combined. So long as it is designated as an enterprise pursuant to the provisions of this section, an institution or group of institutions shall not be subject to any of the provisions of section 20 of article X of the state constitution.

(3) In pledging revenues for the repayment of revenue bonds issued on behalf of an institution of higher education or group of institutions of higher education that is designated as an enterprise, the institution or group of institutions may pledge internal revenues only if the institution or group of institutions:

(a) Is accounted for separately in institutional financial records; and

(b) Engages in the type of activities that are commonly carried on for profit outside the public sector.

(4) (a) The governing board of an institution of higher education may, by resolution, designate an institution of higher education or group of institutions of higher education managed by the governing board as an enterprise so long as the institution or group of institutions meets the requirements for an enterprise stated in subsection (2) of this section. Except as provided in paragraph (b) of this subsection (4), any such enterprise designation shall not terminate, expire, or be rescinded as long as the institution or group of institutions meets the requirements for an enterprise.

(b) All resolutions adopted pursuant to paragraph (a) of this subsection (4) shall be submitted by the adopting governing board to the office of the state auditor in the form and manner prescribed by the legislative audit committee. The designations shall be reviewed by the office of the state auditor to determine whether the designations are within the authority of the adopting governing board pursuant to the provisions of this section. The legislative audit committee shall also review the designations to determine whether the designations conform 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 a 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. A designation adopted by a governing board of an institution or group of institutions of higher education without being submitted within twenty days after adoption to the office of the state auditor for review by the office and by the legislative audit committee shall be void.

(5) Repealed.

Source: L. 2004: Entire section added, p. 719, § 8, effective July 1; (5) repealed, p. 1936, § 5, effective July 1. **L. 2011:** (1) amended, (SB 11-265), ch. 292, p. 1366, § 19, effective August 10. **L. 2012:** (1) amended, (HB 12-1080), ch. 189, p. 758, § 14, effective May 19; (1) amended, (SB 12-148), ch. 125, p. 426, § 10, effective July 1; (1) amended, (HB 12-1331), ch. 254, p. 1270, § 12, effective August 1. **L. 2019:** (1) amended, (HB 19-1178), ch. 400, p. 3545, § 12, effective July 1.

Editor's note: Amendments to subsection (1) by House Bill 12-1080, Senate Bill 12-148, and House Bill 12-1331 were harmonized.

Cross references: For the legislative declaration contained in the 2004 act enacting this section, see section 1 of chapter 215, Session Laws of Colorado 2004. For the legislative declaration contained in the 2004 act repealing subsection (5), see section 1 of chapter 391, Session Laws of Colorado 2004. For the legislative declaration in the 2011 act amending subsection (1), see section 1 of chapter 292, Session Laws of Colorado 2011. For the legislative declaration in the 2012 act amending subsection (1), see section 1 of chapter 125, Session Laws of Colorado 2012.

23-5-101.8. Enterprise status of institutions of higher education - loans - bonds. (Repealed)

Source: L. 2004: Entire section added, p. 1932, § 2, effective (see editor's note).

Editor's note: Section 23-5-101.9 provided for the repeal of this section, effective July 1, 2007. (See L. 2004, p. 1935.)

23-5-101.9. Repeal. (Repealed)

Source: L. 2004: Entire section added, p. 1935, § 3, effective July 1.

Editor's note: This section provided for the repeal of this section, effective July 1, 2007. (See L. 2004, p. 1935.)

23-5-102. Funding for auxiliary facilities - institutions of higher education - loans - bonds. (1) For the purpose of obtaining funds for constructing, otherwise acquiring, and equipping auxiliary facilities for the use of students and employees at any state educational institution or any branch thereof or facilities for use by any institution or group of institutions that is designated as an enterprise pursuant to section 23-5-101.7 and for the acquisition of land for such purposes, the governing board of any state educational institution is authorized, after notification to the commission on higher education, to enter into contracts with any person, corporation, or state or federal government agency for the advancement of money for such purposes and providing for the repayment of such advancements with interest at a specified net effective interest rate.

(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 23-5-119.5 (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.

Source: L. 53: p. 554, § 1. **CRS 53:** § 124-1-6. **L. 61:** p. 710, § 1. **C.R.S. 1963:** § 124-1-4. **L. 67:** p. 201, § 1. **L. 70:** p. 345, § 1. **L. 93:** Entire section amended, p. 1822, § 2, effective June 6. **L. 94:** (2) amended, p. 1678, § 4, effective May 31. **L. 97:** (2) amended, p. 1405, § 2, effective July 1. **L. 2004:** Entire section amended, p. 721, § 10, effective July 1. **L. 2010:** (2) amended, (SB 10-003), ch. 391, p. 1860, § 42, effective June 9. **L. 2011:** (2) amended, (HB 11-1301), ch. 297, p. 1418, § 8, effective August 10.

Cross references: For the legislative declaration contained in the 2004 act amending this section, see section 1 of chapter 215, Session Laws of Colorado 2004. For the legislative declaration in the 2010 act amending subsection (2), see section 1 of chapter 391, Session Laws of Colorado 2010.

23-5-103. Pledge of income. (1) (a) 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 money 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 money 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 23-5-119.5 (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 money 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. Except as provided in paragraph (b) of this subsection (1), 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 money 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 money 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 institutional plan for student fees adopted by the governing board of the applicable institution pursuant to section 23-5-119.5.

(b) Commencing on and after March 31, 2016, 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 the institution or group of institutions

may pledge up to one hundred percent of tuition revenues of the enterprise, except for general fund money appropriated by the general assembly, if:

(I) The contract for the advancement of money for which the institution is pledging tuition revenue is not subject to the higher education revenue bond intercept program set forth in section 23-5-139; and

(II) The institution is not a party to any existing contract for the advancement of money on behalf of the institution or group of institutions that is subject to the higher education revenue bond intercept program set forth in section 23-5-139.

(2) Any advancement of moneys may be evidenced by interim warrants, if necessary, and bonds to be executed by and on behalf of the educational institution receiving the advancement and containing such terms and provisions, including provisions for redemption prior to maturity, as may be determined by the governing board of such institution. Such warrants or bonds may, at the discretion of the governing board, be registerable as to principal or interest, or both, and shall never be sold at less than ninety-five percent of the principal amount thereof and accrued interest thereon to the date of delivery nor at a price which will result in a net effective interest rate which exceeds that specified in the contract for the advancement of moneys. Any of the warrants or bonds of the institution issued pursuant to this article or any other law may be refunded pursuant to article 54 of title 11, C.R.S., if in the judgment of the governing board such refunding is to the best interests of the educational institution. Such refunding obligations may be made payable from any source which may be legally pledged for the payment of the obligations being refunded at the time of the issuance of the obligations so refunded or from any of the sources described in subsection (1) of this section, notwithstanding the pledge for the payment of the outstanding obligations being refunded is thereby modified.

(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; except that, if the governing board uses the surplus moneys on a project expected to be paid from cash funds or other nonstate moneys, 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.

(4) Anticipation warrants or bonds issued pursuant to this article may be used as security for any depository bond or obligation where any kind of bonds or other securities shall or may by law be deposited as security.

Source: L. 53: p. 554, § 2. **CRS 53:** § 124-1-7. **L. 61:** p. 710, § 2. **L. 63:** p. 867, § 1. **C.R.S. 1963:** § 124-1-5. **L. 67:** p. 201, § 2. **L. 68:** p. 7, § 1. **L. 70:** p. 345, § 2. **L. 78:** (1) amended, p. 380, § 1, effective March 24. **L. 88:** (1) amended, p. 858, § 6, effective July 1. **L. 93:** (1) and (3) amended, p. 1823, § 3, effective June 6. **L. 94:** (1) amended, p. 1680, § 6, effective May 31. **L. 97:** (1) and (3) amended, p. 1406, § 3, effective July 1. **L. 2003:** (1) amended, p. 789, § 9, effective July 1. **L. 2004:** (1) amended, p. 722, § 11, effective July 1; (1) amended, p. 1935, § 4, effective July 1. **L. 2011:** (1) and (3) amended, (HB 11-1301), ch. 297, pp. 1419, 1431, §§ 9, 31, effective August 10. **L. 2016:** (1) amended, (SB 16-121), ch. 56, p.

135, § 1, effective March 31; (3) amended, (HB 16-1459), ch. 317, p. 1281, § 2, effective August 10.

Cross references: For the legislative declaration contained in the 2004 act amending subsection (1), see section 1 of chapter 215, Session Laws of Colorado 2004. For the legislative declaration contained in the 2004 act amending subsection (1), see section 1 of chapter 391, Session Laws of Colorado 2004.

23-5-104. No property lien. The governing board of any state educational institution shall not create a mortgage upon any property belonging to the institution, nor shall the state be obligated, for the purpose of securing the repayment of any funds advanced pursuant to the provisions of sections 23-5-102 to 23-5-105 or the interest on such funds.

Source: L. 53: p. 555, § 3. **CRS 53:** § 124-1-8. **C.R.S. 1963:** § 124-1-6.

23-5-105. Tax exemption. Any bonds, certificates, or warrants issued pursuant to the provisions of sections 23-5-102 to 23-5-105 by the governing board of any state educational institution shall be exempt from taxation for any state, county, school district, special district, municipal, or other purpose in the state of Colorado.

Source: L. 53: p. 555, § 4. **CRS 53:** § 124-1-9. **C.R.S. 1963:** § 124-1-7.

23-5-105.5. State board for community colleges and occupational education - authority to create financial obligations. Nothing in sections 23-5-101.5 to 23-5-105 shall be construed to prohibit the state board for community colleges and occupational education from issuing revenue bonds or other revenue obligations payable from the revenues from all or any part of the auxiliary facilities within the community college and occupational education system.

Source: L. 94: Entire section added, p. 940, § 1, effective April 28.

23-5-106. Authority of governing boards - general - health care insurance - contracts of indemnity. (1) The governing board of any state institution of higher education has the authority to promulgate rules and regulations for the safety and welfare of students, employees, and property, to promulgate rules and regulations necessary for the governance of the respective institutions, and to promulgate rules and regulations deemed necessary to carry out the provisions of sections 23-5-106 to 23-5-110. Western Colorado university shall not refuse to admit any Colorado resident qualified in accordance with applicable Colorado commission on higher education admission standards.

(2) The governing board of any state institution of higher education shall not promulgate any rules or regulations that restrict or prohibit on-campus recruiting by any local, state, or federal governmental agency; except that recruiting activities by any local, state, or federal governmental agency shall be subject to the same time, place, or manner restrictions that apply to other entities that conduct recruiting on campus.

(3) If a governing board of an institution of higher education requires a student to purchase health care insurance, the board must allow the same exemption for those participating

in a health care sharing ministry as specified in the federal "Patient Protection and Affordable Care Act".

(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.

Source: L. 69: p. 1063, § 1. **C.R.S. 1963:** § 124-1-8. **L. 94:** Entire section amended, p. 1677, § 2, effective May 31; entire section amended, p. 1796, § 9, effective May 31. **L. 2007:** (3)(a) amended, p. 69, § 1, effective March 15. **L. 2011:** (4) added, (HB 11-1301), ch. 297, p. 1420, § 11, effective August 10. **L. 2012:** (1) amended, (HB 12-1331), ch. 254, p. 1270, § 13, effective August 1. **L. 2013:** (3) amended, (HB 13-1315), ch. 322, p. 1741, § 1, effective May 28. **L. 2019:** (1) amended, (HB 19-1178), ch. 400, p. 3546, § 13, effective July 1.

23-5-106.5. Authority of governing boards - student applications - criminal and disciplinary history inquiry - exceptions - definitions. (1) For the purposes of this section, unless the context otherwise requires:

(a) "Academic institution" means any elementary or secondary school or any postsecondary education institution.

(b) "Conviction" means a conviction by a jury verdict or by entry of a verdict or acceptance of a guilty plea or a plea of nolo contendere by a court. "Conviction" does not include a plea to a deferred judgment and sentence until the deferred judgment and sentence is revoked.

(c) "State institution of higher education" means a state institution of higher education as defined in section 23-18-102 (10).

(2) (a) Except as provided in subsection (3) of this section, the governing board of any state institution of higher education shall not inquire into, or require disclosure of, an applicant's criminal history, or disciplinary history at another academic institution, on any form of application, including electronic applications, for admission to the state institution of higher education.

(b) The application or instructions for the application for admission to a state institution of higher education must inform an applicant of the applicant's rights pursuant to this section, including the right to appeal a decision made based on any information required to be disclosed pursuant to subsection (3) of this section, and that, pursuant to section 24-72-702, the applicant is not required to disclose any information contained in sealed records.

(c) (I) A state institution of higher education that accepts a form of application that may also be used to apply for admission to any other institution of higher education shall not consider any information provided by the student on that application that the state institution of higher education is prohibited from inquiring into pursuant to this section.

(II) Notwithstanding any provision of this section, a state institution of higher education may consider criminal conviction history if information pertaining to such history is provided on

an application that is designed by a national application service, tailored for admission to a specific degree program, and used by postsecondary education institutions in other states. An applicant denied admission based on information provided on an application pursuant to this subsection (2)(c)(II) that an institution would otherwise be prohibited from inquiring into pursuant to this section has the right to appeal that decision pursuant to subsection (4)(b) of this section.

(d) Except as authorized pursuant to any other section of law, the governing board of any state institution of higher education may not obtain the criminal history, or disciplinary history at another academic institution, of an applicant at any time prior to admitting the applicant.

(e) A state institution of higher education may not use as the basis for rejection of an applicant any information that the institution is prohibited from collecting pursuant to this section, regardless of how that information is obtained.

(3) Notwithstanding any requirement in this section, the governing board of a state institution of higher education, on any form of application for admission, may inquire into any of the following:

(a) An applicant's prior convictions for stalking, sexual assault, and domestic violence;

(b) An applicant's prior convictions, within five years before submitting the application, for assault, kidnapping, voluntary manslaughter, or murder;

(c) An applicant's prior disciplinary history at another academic institution for stalking, sexual assault, and domestic violence;

(d) Any criminal charges pending against the applicant; and

(e) An applicant's educational records related to academic performance.

(4) (a) Any additional review by a state institution of higher education of an otherwise qualified applicant based on information provided by the applicant pursuant to subsection (3) of this section must be completed within a reasonable period of time.

(b) An applicant denied admission based on information provided by the applicant pursuant to subsection (2)(c)(II) or (3) of this section has the right to appeal that decision within the state institution of higher education. The governing board of each state institution of higher education shall adopt policies and procedures for appeals made pursuant to this section.

(5) Each state institution of higher education shall publish any policy enacted pursuant to this section on the institution's publicly accessible website and shall file such policies with the commission. A state institution of higher education shall notify the commission at least thirty days before enacting any change to a policy filed with the commission.

(6) Nothing in this section prohibits a state institution of higher education from providing an applicant with information or counseling concerning licensure in a profession that may result from a course of study.

(7) A state institution of higher education may inquire into an admitted applicant's criminal history when obtaining information pertaining to participation in campus life or student housing. If an institution elects to make such inquiries, the institution shall consider the following:

(a) The nature and gravity of any criminal conduct and whether it bears a direct relationship to a particular aspect of a student's participation in campus life, including but not limited to campus residency and campus activities;

(b) The time that has passed since the occurrence of any criminal conduct;

(c) The age of the student at the time of the conduct underlying a criminal conviction;

(d) Any evidence of rehabilitation or good conduct produced by the student; and
(e) The benefit to the student of participating in campus life.

Source: L. 2019: Entire section added, (SB 19-170), ch. 285, p. 2651, § 2, effective May 1, 2020.

Cross references: For the short title ("Ensuring Access to Higher Education Act") in SB 19-170, see section 1 of chapter 285, Session Laws of Colorado 2019.

23-5-107. Authority of governing boards - parking. (1) The governing board of any state institution of higher education is authorized to promulgate rules and regulations providing for the operation and parking of vehicles upon the grounds, driveways, or roadways within the property under the control of the governing board. Such rules and regulations may include, but not be limited to, regulation and control of the following:

(a) Assignment of parking spaces, designation of areas for parking, and regulation of the use of such spaces and areas including the assessment of charges therefor;

(b) Prohibition or limitation of parking in the manner deemed necessary;

(c) Removal of vehicles parked in violation of institutional rules and regulations, ordinances, or law at the expense of the violator;

(d) Assessment of charges for violation of rules and regulations.

Source: L. 69: p. 1063, § 1. **C.R.S. 1963:** § 124-1-9.

23-5-108. Governing boards authorized to cede jurisdiction for enforcement of traffic laws. (1) The governing board of any state institution of higher education is authorized to cede jurisdiction to the town, city, city and county, or county in which the property under the control of the governing board is located for the enforcement of ordinances, resolutions, and laws pertaining to the operation of motor vehicles, subject to the acceptance of jurisdiction by the respective town, city, city and county, or county.

(2) Upon acceptance of jurisdiction:

(a) The town, city, city and county, or county has authority to enforce the provisions of ordinances, resolutions, or state law pertaining to the operation of motor vehicles on streets or highways within the property under the control of the governing board by means of the police and judicial powers established by resolution, ordinance, or law; except that such jurisdiction shall not conflict with the authority provided in section 23-5-107, as such is exercised by the governing board;

(b) The ordinances and resolutions of the respective local authorities and state laws shall have the same force and effect on the driveways and roadways within the property under the control of the governing board as they have on the streets and highways within the jurisdiction of the local authorities;

(c) The local authorities shall, upon recommendation of the governing board of any state institution of higher education or its designated officer, establish traffic control devices upon the property under the control of such institution, and, upon establishment, the devices shall have the same legal effect as provided in sections 42-4-112 and 42-4-603, C.R.S. The traffic control devices so established shall be installed at the expense of the institution.

(3) Even though jurisdiction is ceded in the manner provided by this section, the authority to establish, close, change, alter, or limit access to the driveways or roadways within the property under the control of a governing board shall vest and remain with such governing board.

(4) The jurisdiction of local authorities to enforce ordinances, resolutions, and laws pertaining to the operation of motor vehicles upon the property under the control of a state institution of higher education shall not be deemed to convey any right, title, or interest in the roadways and driveways of said property, and the jurisdiction over said roadways and driveways shall extend only to enforcement of such ordinances, resolutions, and laws. The state of Colorado reserves the right at all times to revoke the jurisdiction of local authorities granted by this section.

(5) The governing board of any state institution of higher education is authorized to institute and carry out a system of registration of vehicle identification owned or operated by its students, faculty, and staff. By rule or regulation, the governing board may provide for the issuance of suitable vehicle identification insignia, its proper use, and requirements for attachment to the registered vehicle. Authority is also granted to provide for suspension of the registration and penalties, other than criminal penalties, upon suspension including, but not limited to, barring the vehicle from parking or driving on institution property. Reasonable charges may be assessed for registration and reinstatement upon suspension.

Source: L. 69: p. 1063, § 1. **C.R.S. 1963:** § 124-1-10. **L. 94:** (2)(c) amended, p. 2554, § 48, effective January 1, 1995.

23-5-109. Identification. The governing board of any state institution of higher education is authorized to promulgate rules and regulations establishing a system of identification of students, faculty, and staff which may include provisions for penalties other than criminal penalties and provisions for disciplinary action for failure to display one's identification card upon request by an authorized official, possession of a false identification card, and alteration of an identification card. The authorized officials of such institution have authority to detain a person upon the property under the control of the institution for the purpose of obtaining proper identification if such person refuses to display his identification card or otherwise give adequate identification upon request by an authorized official.

Source: L. 69: p. 1064, § 1. **C.R.S. 1963:** § 124-1-11.

23-5-110. Medical personnel. Notwithstanding any other provision of law to the contrary, any person holding a license to practice medicine in this state may accept employment from any public or private university, college, junior or community college, school district, or private nonprofit school to examine and treat the students of such a university, college, or school, and, if no increase in staff or expenditures is required by the university, college, or school, the spouses of such students.

Source: L. 69: p. 1065, § 1. **C.R.S. 1963:** § 124-1-12. **L. 81:** Entire section amended, p. 1095, § 1, effective June 4.

23-5-111. Educational benefits for dependents of prisoners of war and military personnel missing in action - definitions. (Repealed)

Source: L. 73: p. 1319, § 1. **C.R.S. 1963:** § 124-1-13. **L. 79:** Entire section repealed, p. 830, § 2, effective June 19.

Cross references: For present provisions concerning educational benefits for dependents of certain military personnel, see §§ 23-3.3-201 and 23-3.3-204.

23-5-111.4. Tuition for members of the National Guard - definitions. (Repealed)

Source: L. 79: Entire section added, p. 831, § 1, effective July 1. **L. 85:** (2) and (3) amended, p. 778, § 1, effective May 10. **L. 88:** (3) amended, p. 858, § 7, effective July 1. **L. 90:** (3) amended, pp. 1154, 1142, §§ 4, 7, effective July 1. **L. 91:** (2) to (5) amended and (6) to (9) added, p. 546, § 1, effective May 18. **L. 96:** (1) to (3) amended, p. 367, § 1, effective April 17; (3) amended, p. 11, § 1, effective August 7; (8) repealed, p. 1238, § 86, effective August 7. **L. 99:** (2)(a), (2)(b)(II), (2)(b)(IV), (2)(c), (3), (6), IP(7), and (7)(b) amended, p. 1138, § 1, effective August 4. **L. 2002:** (2)(a), (2)(c), (4), (5), (6), IP(7), IP(7)(a), (7)(b), and (9) amended, p. 356, § 9, effective July 1; (3) amended, p. 708, § 7, effective July 1, 2003. **L. 2004:** (2)(a.5) added and (9)(a) amended, pp. 1156, 1155, §§ 3, 2, effective July 1. **L. 2005:** (2)(a.5), (2)(b)(IV), (2)(d), (3), (5), (6), and IP(7) amended, p. 257, § 1, effective July 1. **L. 2007:** (4) repealed, p. 1622, § 4, effective July 1. **L. 2008:** (3)(a) amended, p. 371, § 1, effective April 10. **L. 2011:** (3)(a) amended, (SB 11-265), ch. 292, p. 1367, § 20, effective August 10. **L. 2012:** (3)(a) amended, (HB 12-1080), ch. 189, p. 759, § 15, effective May 19; (3)(a) amended, (SB 12-148), ch. 125, p. 426, § 11, effective July 1; (3)(a) amended, (HB 12-1331), ch. 254, p. 1270, § 14, effective August 1. **L. 2016:** (3)(a) amended, (HB 16-1082), ch. 58, p. 145, § 17, effective August 10. **L. 2017:** (3)(a) and (9)(a) amended, (SB 17-174), ch. 10, p. 32, § 2, effective March 1. **L. 2018:** Entire section repealed, (HB 18-1228), ch. 103, p. 787, § 3, effective August 8.

Editor's note: This section was relocated to § 23-7.4-302 in 2018.

23-5-111.5. Educational benefits for dependents of deceased or permanently disabled National Guardsman - definitions. (Repealed)

Source: L. 77: Entire section added, p. 1107, § 1, effective August 1. **L. 79:** Entire section repealed, p. 830, § 2, effective June 19.

Cross references: For present provisions concerning educational benefits for dependents of certain National Guard personnel, see §§ 23-3.3-201 and 23-3.3-205.

23-5-112. Gifts and bequests to institutions of higher education - venture development investment funds. (1) All state institutions of higher education are authorized to receive gifts and bequests of money or property which may be tendered to any such institution by will or gift. The governing board of such institution is authorized, subject to the terms of any gift or bequest and to provisions of any applicable law, to hold such funds or property in trust or

invest or sell them and use either principal or interest or the proceeds of sale for the benefit of such institutions or the students or others for whose benefit such institutions are conducted.

(2) When a governing board of an institution of higher education is offered a gift of property, whether real or personal, which directly or indirectly involves significant ongoing expenditures, the institution shall require in connection therewith an endowment sufficient to fund such expenses. This subsection (2) shall not apply when the gift has been approved by the Colorado commission on higher education with the understanding that acceptance will require an allocation of state funding and the commission is satisfied that provision therefor can be made within available resources. The commission shall prepare a statement of procedures of review and of criteria to be applied in its review of any such gifts, which shall have the approval of the governor and joint budget committee.

(3) Nonprofit entities such as foundations, institutes, and similar organizations organized for the sole benefit of one or more state institutions of higher education are entitled to receive gifts and bequests of money or property which may be tendered to any such entity by will or gift. Such gifts and bequests are subject to audit by the state auditor or the state auditor's designee. If the entity is entirely separate and apart from the institution, if no employees of the institution serve as staff or as voting members of the entity's board, and if the funds and accounts of the entity are entirely separate from those of the institution, such gifts and bequests are subject to annual audit to be performed by an independent accounting firm engaged by the entity if determined in advance to be satisfactory to the legislative audit committee. The state auditor shall have access to all of the accountant's work papers. If, alternatively, the separate relationship does not prevail, members and employees of the board of the entity may include staff members or employees of the institution, and such gifts and bequests are subject to audit by the state auditor or the state auditor's designee.

(4) (a) Each state institution of higher education may elect to establish a venture development investment fund for the purpose of facilitating the commercialization of research projects conducted at a research institution of the institution or a research institution that has an office of technology transfer. A venture development fund may be administered by a nonprofit entity such as a foundation, institute, or similar organization that is affiliated with the institution.

(b) The purposes of a venture development investment fund established by a state institution of higher education pursuant to this section shall include, but need not be limited to, providing the following:

(I) Capital for entrepreneurial programs that are associated with the institution;

(II) Opportunities for students of the institution to gain experience in applying research to commercial activities;

(III) Proof-of-concept funding for the purpose of transforming research and development concepts into commercially viable products or services; and

(IV) Entrepreneurial opportunities for persons who are interested in transforming research into viable commercial ventures that create jobs in Colorado.

(c) Each state institution of higher education and each nonprofit entity, such as a foundation, institute, or similar organization, that is affiliated with a state institution of higher education is authorized to seek and accept gifts, grants, and donations to facilitate the establishment of a venture development investment fund.

(d) Individuals, businesses, and other entities are encouraged to donate moneys to research institutions of state institutions of higher education for the purpose of advancing the commercialization of research projects at the research institutions.

Source: L. 73: p. 1321, § 1. **C.R.S. 1963:** § 124-1-14. **L. 2009:** (4) added, (HB 09-1242), ch. 345, p. 1809, § 1, effective August 5. **L. 2017:** (3) amended, (SB 17-294), ch. 264, p. 1398, § 58, effective May 25.

23-5-113. Collection of loans and outstanding obligations - state educational institutions. (1) Notwithstanding the provisions of section 24-30-202.4, C.R.S., the governing board of any state educational institution may promulgate rules and regulations relating to procedures for collecting any loans or other outstanding obligations owed to such institution. The institution may employ private counsel or a collection agency to handle the collection of any such loan or obligation. Employment of private counsel or a collection agency shall be in accordance with the rules and regulations, but in no event shall the fees paid to the private counsel or collection agency exceed forty percent of the amount recovered.

(2) The institution is authorized to write off, release, or compromise any debt or obligation due the institution, but only in accordance with the rules and regulations applicable thereto.

Source: L. 83: Entire section added, p. 792, § 2, effective June 3. **L. 2010:** Entire section amended, (SB 10-003), ch. 391, p. 1850, § 27, effective June 9.

Cross references: For the legislative declaration in the 2010 act amending this section, see section 1 of chapter 391, Session Laws of Colorado 2010.

23-5-114. National direct student loans - authority to separately collect advances. Each advance remitted to an individual by a state-supported institution of higher education pursuant to the terms of a national direct student loan program master agreement shall constitute a separate obligation for purposes of institutional collection procedures and jurisdictional limits under section 13-6-403, C.R.S.

Source: L. 83: Entire section added, p. 793, § 2, effective June 3.

23-5-115. Loans or outstanding obligations offset. (1) (a) At times prescribed by the department of revenue, but not less frequently than annually, a state educational institution shall certify to the department of revenue information regarding persons who owe a loan repayment or other outstanding obligation to the institution, the amount of which has been determined to be owing as a result of a final agency determination or judicial decision pursuant to section 39-21-108 (3), C.R.S., or which has been reduced to judgment.

(b) Such information shall include the name and social security number of the person owing the debt, the amount of the debt, and any other identifying information required by the department of revenue.

(2) Upon notification by the department of revenue of amounts deposited with the state treasurer pursuant to section 39-21-108 (3), C.R.S., the state treasurer shall disburse such amounts to the appropriate state educational institution.

Source: L. 83: Entire section added, p. 793, § 2, effective June 3. **L. 2002:** (1)(a) amended, p. 100, § 3, effective August 7.

23-5-116. Governing boards - authority to provide out-of-state courses. (1) The governing board of any state institution of higher education may offer postsecondary courses at locations outside the state of Colorado for credit applicable toward a degree program. For the purposes of this section, the commission, in consultation with the governing boards, shall determine by policy the definition of out-of-state courses. Each governing board shall promulgate policies and procedures concerning the administration of such courses. The policies and procedures shall include, but are not limited to, the following:

(a) A requirement that no state general fund moneys shall be expended in connection with such out-of-state courses; and

(b) A requirement that credit earned for courses offered outside the state of Colorado shall be applicable toward a degree from the sponsoring institution.

(2) The governing board of any state institution of higher education may offer postsecondary noncredit courses at locations outside the state of Colorado. Each governing board shall promulgate policies and procedures concerning the administration of such courses. The policies and procedures shall include, but are not limited to, the following:

(a) A requirement that no state general fund moneys shall be expended in connection with such out-of-state courses; and

(b) A requirement that noncredit courses may be provided that are not applicable toward a degree from the sponsoring institution.

(3) Each governing board shall notify the Colorado commission on higher education of policies and procedures promulgated pursuant to this section.

(4) and (5) (Deleted by amendment, L. 2008, p. 1478, § 19, effective May 28, 2008.)

(6) Each governing board shall provide an annual report to the department of higher education that describes all courses offered outside the boundaries of the state of Colorado. The report shall include a statement of need for the instruction, the geographical location of the instruction, and confirmation that no state funds were used in connection with the out-of-state courses.

(7) This section shall not be construed to limit the authority of the governing boards of state institutions of higher education to offer courses in the state of Colorado.

Source: L. 83: Entire section added, p. 796, § 1, effective June 3. **L. 2008:** IP(1), (4), (5), and (6) amended, p. 1478, § 19, effective May 28.

23-5-117. Governing boards - delegation of personnel power. The governing board of any state-supported institution of higher education, including the Auraria higher education center established in article 70 of this title 23, 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

authorize the chief executive officer to delegate to other officers of the institution 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 university, Colorado Mesa university, Western Colorado university, or Metropolitan state university 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.

Source: L. 85: Entire section added, p. 767, § 19, effective July 1. **L. 87:** Entire section amended, p. 851, §2, effective May 1. **L. 99:** Entire section amended, p. 217, § 1, effective April 5. **L. 2003:** Entire section amended, p. 794, § 20, effective July 1. **L. 2011:** Entire section amended, (HB 11-1301), ch. 297, p. 1428, § 24, effective August 10; entire section amended, (SB 11-265), ch. 292, p. 1367, § 21, effective August 10. **L. 2012:** Entire section amended, (HB 12-1080), ch. 189, p. 759, § 16, effective May 19; entire section amended, (SB 12-148), ch. 125, p. 426, § 12, effective July 1; entire section amended, (HB 12-1331), ch. 254, p. 1271, § 15, effective August 1; entire section amended, (HB 12-1081), ch. 210, p. 902, § 3, effective August 8. **L. 2019:** Entire section amended, (HB 19-1178), ch. 400, p. 3546, § 14, effective July 1.

Editor's note: (1) Amendments to this section by House Bill 11-1301 and Senate Bill 11-265 were harmonized.

(2) Amendments to this section by House Bill 12-1080, Senate Bill 12-148, House Bill 12-1331, and House Bill 12-1081 were harmonized.

Cross references: For the legislative declaration in the 2011 act amending this section, see section 1 of chapter 292, Session Laws of Colorado 2011. For the legislative declaration in the 2012 act amending this section, see section 1 of chapter 125, Session Laws of Colorado 2012.

23-5-118. Selective service registration prerequisite to enrollment. (1) No male person who is at least seventeen years and nine months of age but younger than twenty-six years of age shall be eligible to enroll at any state-supported institution of higher education until such person has filed with such institution a statement of registration compliance. In such statement of registration compliance, the person shall certify, under oath, either that he is registered with the selective service system pursuant to the provisions of section 3 of the "Military Selective Service Act", 50 U.S.C. App. sec. 453, as amended, or that, for any reason specified in 50 U.S.C. App. sec. 453, he is not required to be registered. If the person does not possess a current Colorado driver's license or Colorado state identification card, which was issued on or after September 4, 2001, the state-supported institution of higher education at which the person enrolls shall verify the person's sworn statement of registration compliance. The state-supported institution of higher education may require the person to provide appropriate documentation in order to verify the person's sworn statement of registration compliance. The person shall be given the opportunity to provide the appropriate documentation proving registration compliance to an agent of the state-supported institution of higher education prior to any disciplinary action being taken.

(2) The governing board of each state-supported institution of higher education shall prescribe the form for such statement of registration compliance. Such statement shall be included in applications for admission to the institution for new and transfer students. Such institution shall require any male person who is at least seventeen years and nine months of age but younger than twenty-six years of age and who is currently attending such institution or has been admitted to such institution but has not given a statement of registration compliance as required by subsection (1) of this section to file a statement of registration compliance when he seeks to enroll for a new academic term.

(3) If a state-supported institution of higher education receives a statement from any person, as required by subsection (1) of this section, certifying that he has registered with the selective service system pursuant to the provisions of section 3 of the "Military Selective Service Act", 50 U.S.C. App. sec. 453, as amended, or that he is exempt from registration for any reason specified in 50 U.S.C. App. sec. 453, other than that he is under seventeen years and nine months of age, such institution shall not require the person to file any further statements. If such institution receives a statement certifying that such person is not required to register pursuant to the provisions of 50 U.S.C. App. sec. 453, because he is under seventeen years and nine months of age, such institution shall require the person to file a new statement of registration compliance each time he seeks to enroll for a new academic term until the institution receives a statement certifying that the person has registered with the selective service system or is exempt from registration for any reason specified in 50 U.S.C. App. sec. 453, other than that he is under seventeen years and nine months of age.

(4) If any person knowingly gives false information in such statement of registration compliance as required pursuant to the provisions of this section, such person commits perjury in the second degree, as defined in section 18-8-503, C.R.S.

(5) If a student knowingly gives false information under the provisions of this section, the student shall be suspended from the state-supported institution of higher education at which the student is enrolled. If a person knowingly gives false information under the provisions of this section and the person is not enrolled as a student at a state-supported institution of higher education, the person shall be prohibited from enrolling as a student at a state-supported institution of higher education. State-supported institutions of higher education shall be required to provide the person a hearing before an appropriate agent of the state-supported institution of higher education to determine if the person has knowingly given false information under the provisions of this section. A student or prospective student who provides false information under the provisions of this section shall not be eligible to enroll or reenroll until the student provides appropriate documentation proving that he is properly registered with the selective service system.

Source: L. 87: Entire section added, p. 849, § 1, effective July 1. **L. 2003:** Entire section amended, p. 2523, § 1, effective January 1, 2004.

23-5-119. Colorado legislative distinguished professor fund. (Repealed)

Source: L. 90: Entire section added, p. 1148, § 1, effective May 8. **L. 92:** Entire section repealed, p. 2198, § 2, effective February 25.

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 website 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 repaid:

(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 August 10, 2011, each governing board shall make reasonable efforts to provide on the website 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 website or in the most recent course catalog, whichever is appropriate.

(b) As soon as practicable following August 10, 2011, each governing board shall make reasonable efforts to provide a function for calculating tuition and fees on the website 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.

Source: L. 2011: Entire section added, (HB 11-1301), ch. 297, p. 1411, § 2, effective August 10.

23-5-120. Student fees - deposit - interest. (1) Student fees imposed by a governing board for a student association or student government at a state-supported institution of higher education and collected from students enrolled in such institution shall be deposited in a separate fund of the institution to be used for the purposes for which the fees were charged. All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund.

(2) Nothing in this section shall limit the authority of the governing board of any state-supported institution of higher education to pledge moneys in the fund described in subsection

(1) of this section for any of the purposes permitted under section 23-5-103 if the student action authorizing such fees contemplated such pledge.

Source: L. 90: Entire section added, p. 1141, § 6, effective July 1.

23-5-121. Governing boards - authority to establish nonprofit corporations for developing discoveries and technology. (1) The general assembly recognizes that the transfer of newly created technologies from university research to the private sector and the resulting potential creation and expansion of Colorado companies are essential to the economic growth of this state, promote the public good, and should be encouraged. The general assembly further recognizes that a valid public purpose will be furthered and a commitment to the economic growth of this state demonstrated by empowering the governing boards of the state-supported institutions of higher education and the Colorado commission on higher education, referred to in this section as the "commission", to establish nonprofit corporations to effect such a transfer and development and by empowering the governing boards of the state-supported institutions of higher education to cooperate with the private sector.

(2) The governing board of any state-supported institution of higher education or the commission may incorporate one or more private nonprofit corporations under articles 121 to 137 of title 7, C.R.S., for the purpose of developing discoveries and technology resulting from science and technology research at such state-supported institution of higher education. Such a corporation shall have all rights and powers of a private nonprofit corporation organized under the laws of this state and shall not be an agency of state government or a department or political subdivision thereof and shall not be subject to any provisions of law affecting only governmental or public entities; except that provisions as provided for in section 23-1-108 (1)(f) regarding affirmative action shall be followed.

(3) The governing board of any state-supported institution of higher education or the commission may transfer to a corporation incorporated pursuant to subsection (2) of this section all rights to discoveries and technologies resulting from science and technology research at such state-supported institution of higher education. Such transfer may be made in consideration of the corporation's undertaking to develop the technology for the benefit of the state-supported institution of higher education and the state. Any such rights to discoveries and technologies that are transferred to the corporation by a governing board or by the commission shall not be further transferred by the corporation without adequate consideration being received therefor.

(4) Prior to the transfer to a corporation incorporated pursuant to subsection (2) of this section of all rights to discoveries and technologies resulting from science and technology research at any state-supported institution of higher education, the governing board of such state-supported institution of higher education or the commission shall enter into an agreement with said corporation that shall include the terms of financial remuneration due the institution or the commission.

(5) As a means of carrying out the purposes stated in this section, the governing board of any state-supported institution of higher education or the commission may, through one or more corporations incorporated pursuant to subsection (2) of this section:

(a) Own and license rights to products, technology, and scientific information;

(b) Own shares in corporations engaged in the development, manufacture, or marketing of products, technology, or scientific information under a license from the governing board or the commission or a corporation incorporated pursuant to subsection (2) of this section;

(c) Participate as the general partner or as a limited partner, either directly or through a subsidiary corporation formed for that purpose, in limited partnerships, general partnerships, or joint ventures engaged in the development, manufacture, or marketing of products, technology, or scientific information under a license from the board or the commission or a corporation incorporated pursuant to subsection (2) of this section; except that the governing board shall be subject to the provisions of section 24-113-104, C.R.S., regarding competition with private enterprise by institutions of higher education;

(d) Develop economic incentives for faculty members and other employees of the state-supported institution of higher education or the commission in order to encourage development of technology, which may include assignment of a share of the royalty payments, payment of supplemental compensation, or such other economic incentives as will in the judgment of the governing board or the commission best promote the purposes of this section;

(e) In the case of a governing board of a state-supported institution of higher education, cooperate with the commission and the office of information technology created in the office of the governor in technology transfers pursuant to section 23-1-106.7;

(e.5) In the case of the commission, accept donations, income or other revenues and make grants to support commission programs; and

(f) Carry on such other activities as the governing board or the commission may deem appropriate for achieving the purposes of this section.

(6) At the discretion of the governing board of the state-supported institution of higher education, research facilities and personnel at their own institutions or campuses may be utilized to achieve the purposes of this section.

(7) The state of Colorado or state-supported institution or the commission shall not be held responsible for any debt or liability incurred by the corporation created pursuant to subsection (2) of this section.

Source: L. 91: Entire section added, p. 552, § 1, effective April 19. **L. 93:** Entire section amended, p. 638, § 1, effective April 30. **L. 97:** (2) amended, p. 763, § 34, effective July 1, 1998. **L. 99:** (2) amended, p. 850, § 6, effective May 24; entire section amended, p. 882, § 9, effective July 1. **L. 2000:** Entire section amended, p. 412, § 3, effective April 13. **L. 2006:** (5)(e) amended, p. 1734, § 16, effective June 6.

23-5-122. Intrainstitutional and intrasystem transfers - course scheduling. (1) On or before October 1, 1993, the governing board of every state-supported institution of higher education shall have in place and enforce policies regarding transfers by students between undergraduate degree programs which are offered within the same institution or within the same institutional system. Such policies shall include, but shall not be limited to, the following provisions:

(a) If, not more than ten years prior to transferring into an undergraduate degree program, a student earns credit hours which are required for graduation from such undergraduate degree program, such credit hours shall apply to the completion of such student's graduation requirements from such undergraduate degree program following such transfer;

(b) A student who transfers into an undergraduate degree program shall not be required to complete a greater number of credit hours in those courses which are required for graduation from such undergraduate degree program than are required of students who began in such undergraduate degree program, nor shall there be any minimum number of credit hours required post-transfer other than the normal degree requirements for nontransferring students; and

(c) The grade point average which is required for a student to apply for and be fully considered for transfer into an undergraduate degree program shall be no higher than that which is required for graduation from such undergraduate degree program.

Source: L. 93: Entire section added, p. 2126, § 8, effective June 11.

23-5-123. Sabbatical leave - legislative declaration - policy - production of records. (1) The general assembly hereby recognizes the necessity of maintaining a high caliber of faculty within the state system of higher education and the importance of the faculty's contribution in delivering quality education within the state system of higher education. The general assembly recognizes that faculty sabbaticals play an important role in developing and enhancing faculty expertise, thereby supporting faculty excellence in teaching and research. The general assembly also recognizes that a faculty sabbatical is a privilege, rather than a right, and should be granted only when it results in adding value to the institution, the students' education, and the state. The general assembly therefore declares that state-supported institutions of higher education should judiciously grant faculty sabbaticals that will improve excellence within the state system of higher education and will thereby benefit the state.

(2) (a) On or before October 1, 1994, the governing board of each state-supported institution of higher education shall have in place and shall enforce policies regarding faculty sabbaticals, including but not limited to the policies specified in this subsection (2).

(b) Effective October 1, 1994, a governing board of an institution of higher education may not authorize a sabbatical or extended administrative paid leave for any person holding an administrative position at a state-supported institution of higher education; except that a governing board may, for a reasonable period of time, authorize administrative paid leave for disciplinary or investigatory purposes.

(c) A governing board may not grant a sabbatical for any faculty member more often than once every seven years.

(d) Prior to taking a sabbatical, a faculty member shall submit to the governing board of the institution that employs the faculty member a detailed sabbatical plan that:

(I) Specifies how the sabbatical activity will result in the faculty member's professional growth, how it will enhance the institution's reputation and the students' educational experience at the institution, and how it will increase the overall level of knowledge in the faculty member's area of expertise;

(II) Specifies the goals that the faculty member will achieve while on sabbatical.

(e) A governing board may not grant a subsequent sabbatical to any faculty member who does not meet the goals stated in the faculty member's sabbatical plan.

(f) The governing board of each institution shall approve any sabbaticals taken by faculty at the institution in advance. In approving a sabbatical, the governing board shall consider the quality of the faculty member's proposed activities while on sabbatical, the

individuals who will be involved in such activities, and the benefits to be received from such activities by the faculty member, the institution, and the students at the institution.

(g) Upon completion of a sabbatical, the faculty member shall submit a final sabbatical report to the governing board of the institution that employs the faculty member, including a summary of the faculty member's activities while on sabbatical and the benefits derived by the faculty member. Final sabbatical reports need not include specific details of the faculty member's research conducted while on sabbatical. Final sabbatical reports are open records pursuant to section 24-72-203, C.R.S., and may not be included in the faculty member's personnel file.

(h) Each participant in the sabbatical process is responsible for ensuring that each sabbatical meets the requirements of this section and any other requirements that may be included in the appropriate governing board's sabbatical policy. Each governing board shall specify a mechanism to hold each participant in the sabbatical process accountable for meeting the sabbatical policy requirements.

(3) Each governing board shall produce all sabbatical records for all approved sabbaticals and a list of all disapproved sabbaticals for inspection by the joint budget committee, the education committees of the senate and the house of representatives, and the Colorado commission on higher education upon request. In addition, each governing board shall distribute copies of the sabbatical policies developed by each governing board pursuant to this section, with amendments as necessary, to the education committees of the senate and the house of representatives and to the Colorado commission on higher education.

Source: L. 94: Entire section added, p. 830, § 1, effective April 28.

23-5-124. Student enrollment - prohibition - public peace and order convictions - definitions. (1) No person who is convicted of a riot offense shall be enrolled in a state-supported institution of higher education for a period of twelve months following the date of conviction.

(2) A student who is enrolled in a state-supported institution of higher education and who is convicted of a riot offense shall be immediately suspended from the institution upon the institution's notification of such conviction for a period of twelve months following the date of conviction; except that if a student has been suspended prior to the date of conviction by the state-supported institution of higher education for the same riot activity, the twelve month suspension shall run from the start of the suspension imposed by the institution.

(3) Nothing in this section shall be construed to prohibit a state-supported institution of higher education from implementing its own policies and procedures or disciplinary actions, in addition to the suspension in subsection (2) of this section, regarding students involved in riots.

(4) (a) The court in each judicial district shall report to the Colorado commission on higher education the name of any person who is convicted in the judicial district of a riot offense.

(b) The Colorado commission on higher education shall make the conviction reports received pursuant to paragraph (a) of this subsection (4) available to all state-supported institutions of higher education with the notification that the persons included in the conviction reports are subject to the provisions of this section and that the state-supported institution of higher education in which any of such persons are enrolled shall consider appropriate disciplinary action against the student.

(5) Each state-supported institution of higher education shall notify its students and prospective students of the requirements of this section. The governing board of each state-supported institution of higher education shall prescribe the manner in which this information shall be disseminated.

(6) For purposes of this section, unless the context otherwise requires:

(a) "Convicted" means having received a verdict of guilty, pleaded guilty or nolo contendere, or having received a deferred judgment and sentence.

(b) "Riot offense" means:

(I) Inciting riot, as described in section 18-9-102, C.R.S.;

(II) Arming rioters, as described in section 18-9-103, C.R.S.;

(III) Engaging in a riot, as described in section 18-9-104, C.R.S.

(c) "State-supported institution of higher education" means any postsecondary institution that is governed by:

(I) The board of governors of the Colorado state university system;

(II) The board of regents of the university of Colorado;

(III) The board of trustees of the Colorado school of mines;

(IV) The board of trustees for the university of northern Colorado;

(V) (Deleted by amendment, L. 2003, p. 790, § 10, effective July 1, 2003.)

(VI) The state board of community colleges and occupational education;

(VII) The board of any local college district in Colorado;

(VIII) The board of trustees for Adams state university;

(IX) The board of trustees for Colorado Mesa university;

(X) The board of trustees for Western Colorado university;

(XI) The board of trustees for Fort Lewis college; or

(XII) The board of trustees for Metropolitan state university of Denver.

Source: L. 2002: Entire section added, p. 1134, § 1, effective June 3. **L. 2003:** (6)(c)(I), (6)(c)(VI), and (6)(c)(VII) amended and (6)(c)(XI) and (6)(c)(XII) added, p. 1994, § 38, effective May 22; (6)(c) amended, p. 790, § 10, effective July 1. **L. 2011:** (6)(c)(IX) amended, (SB 11-265), ch. 292, p. 1367, § 22, effective August 10. **L. 2012:** (6)(c)(VIII) amended, (HB 12-1080), ch. 189, p. 759, § 17, effective May 19; (6)(c)(XII) amended, (SB 12-148), ch. 125, p. 427, § 13, effective July 1;(6)(c)(X) amended, (HB 12-1331), ch. 254, p. 1271, § 16, effective August 1. **L. 2019:** (6)(c)(X) amended, (HB 19-1178), ch. 400, p. 3546, § 15, effective July 1.

Editor's note: (1) Subsections (6)(c)(XI) and (6)(c)(XII) were originally numbered as (6)(c)(VIII) and (6)(c)(IX), respectively, in House Bill 03-1344, but were renumbered on revision for ease of location.

(2) Amendments to subsection (6)(c) by House Bill 03-1093 and House Bill 03-1344 were harmonized.

Cross references: For the legislative declaration in the 2011 act amending subsection (6)(c)(IX), see section 1 of chapter 292, Session Laws of Colorado 2011. For the legislative declaration in the 2012 act amending subsection (6)(c)(XII), see section 1 of chapter 125, Session Laws of Colorado 2012.

23-5-125. Campus sex offender information. Each institution of postsecondary education in the state shall provide a statement to its campus community identifying the name and location at which members of the community may obtain the law enforcement agency information collected pursuant to section 16-22-110 (3.5), C.R.S., concerning registered sex offenders.

Source: L. 2002: Entire section added, p. 1201, § 2, effective July 1; entire section amended, p. 1192, § 39, effective July 1.

Editor's note: This section was originally numbered as 23-5-124 in House Bill 02-1114, but was renumbered on revision for ease of location.

23-5-126. Governing boards - anti-terrorism measures. (1) The Colorado commission on higher education in consultation with each governing board shall adopt such guidelines and policies, no later than December 1, 2002, as may be necessary to provide all lawful information requested by the federal bureau of investigation, the central intelligence agency, the department of homeland security, or any other federal agency in connection with an anti-terrorism investigation. The guidelines and policies shall include requiring each state-supported institution of higher education to verify and report the status of all foreign students, as required by the department of homeland security, or any other federal agency.

(2) The administrators at each state-supported institution of higher education shall cooperate with and provide, in an immediate manner, all lawful information requested by the federal bureau of investigation, the central intelligence agency, the department of homeland security, or any other federal agency in connection with an anti-terrorism investigation.

Source: L. 2002: Entire section added, p. 999, § 1, effective June 1. **L. 2011:** Entire section amended, (HB 11-1303), ch. 264, p. 1162, § 50, effective August 10.

Editor's note: This section was originally numbered as 23-5-124 in Senate Bill 02-113, but was renumbered on revision for ease of location.

23-5-127. Unique student identifying number - social security number - prohibition. (1) Each postsecondary institution in Colorado shall assign to each student enrolled in the institution a unique primary identifier that may be a series of numbers or characters.

(2) On and after July 1, 2003, each postsecondary institution in Colorado shall take reasonable and prudent steps to ensure the privacy of a student's social security number.

(3) (a) On and after July 1, 2004, a postsecondary institution in Colorado shall not use a student's social security number or part of a student's social security number as the student's primary identifier.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (3), the Colorado commission on higher education may allow a postsecondary institution in Colorado to use a student's social security number or part of a student's social security number as the student's primary identifier if:

(I) The institution demonstrates to the satisfaction of the commission that the institution is unable to comply with the provisions of paragraph (a) of this subsection (3) because of the financial cost of compliance; and

(II) The institution submits to the commission and the commission approves a plan and timetable for phasing out the use of a student's social security number or part of a student's social security number as the student's primary identifier.

(4) (a) Notwithstanding the provisions of paragraph (b) of subsection (3) of this section, for each student who graduates from or was enrolled in a Colorado high school, a postsecondary institution in Colorado that is eligible for the college opportunity fund program created in section 23-18-201 shall use the unique student identifier assigned, in accordance with rules adopted pursuant to section 22-11-104, C.R.S., to the student while he or she was enrolled in the elementary to secondary public education system, including public prekindergarten programs, as an alternative student identifier at the postsecondary institution.

(b) Adams state university, Colorado Mesa university, Western Colorado university, and Metropolitan state university of Denver shall implement the provisions of subsection (4)(a) of this section on or before July 1, 2008. All other postsecondary institutions shall implement the provisions of subsection (4)(a) of this section on or before July 1, 2009.

Source: L. 2003: Entire section added, p. 1042, § 1, effective April 17. **L. 2006:** (4) added, p. 715, § 1, effective July 1. **L. 2007:** (4)(b) amended, p. 1065, § 4, effective May 23. **L. 2009:** (4)(a) amended, (SB 09-163), ch. 293, p. 1546, § 56, effective May 21. **L. 2011:** (4)(b) amended, (SB 11-265), ch. 292, p. 1368, § 23, effective August 10. **L. 2012:** (4)(b) amended, (HB 12-1080), ch. 189, p. 760, § 18, effective May 19; (4)(b) amended, (SB 12-148), ch. 125, p. 427, § 14, effective July 1; (4)(b) amended, (HB 12-1331), ch. 254, p. 1271, § 17, effective August 1. **L. 2019:** (4)(b) amended, (HB 19-1178), ch. 400, p. 3546, § 16, effective July 1.

Editor's note: Amendments to subsection (4)(b) by House Bill 12-1080, Senate Bill 12-148, and House Bill 12-1331 were harmonized.

Cross references: For the legislative declaration in the 2011 act amending subsection (4)(b), see section 1 of chapter 292, Session Laws of Colorado 2011. For the legislative declaration in the 2012 act amending subsection (4)(b), see section 1 of chapter 125, Session Laws of Colorado 2012.

23-5-128. Meningococcal disease - information - immunity - definitions. (1) As used in this section:

(a) "Institution" means any public or nonpublic postsecondary education institution in the state.

(b) "New student" means each incoming freshman student residing in student housing, as defined by the institution, or any student who the institution requires to complete and return a standard certificate indicating immunizations received by the student as a requirement for residing in student housing.

(2) (a) On and after July 1, 2005, each institution shall provide to each new student, or, if a new student is under the age of eighteen years, to the student's parent or guardian, information concerning meningococcal disease, including but not limited to the following:

(I) (A) Meningococcal disease is a serious disease;

(B) Meningococcal disease is a contagious, but a largely preventable, infection of the spinal cord fluid and the fluid that surrounds the brain;

(C) Scientific evidence suggests that college students living in dormitory facilities are at a modestly increased risk of contracting meningococcal disease; and

(D) Immunization against meningococcal disease decreases the risk of contracting the disease.

(II) Website addresses, telephone numbers, or other similar information to assist a new student or the student's parent or legal guardian in identifying a location or locations where the new student may receive an immunization against meningococcal disease.

(b) An institution may provide the information required by subparagraph (I) of paragraph (a) of this subsection (2) exactly as written or through similar language that reasonably meets the intent of the notification requirement and is based upon established and scientifically recognized medical or epidemiological data.

(3) On and after July 1, 2005, each institution shall require each new student who has not received a vaccination against meningococcal disease, or, if the new student is under the age of eighteen years, the student's parent or guardian, to check a box on a document provided by the institution stating that the signor has reviewed the information provided pursuant to subsection (2) of this section and has decided that the new student will not obtain a vaccination against meningococcal disease. An institution may include the acknowledgment required in this section on another signed document used to collect health or housing information that must be returned to the institution and that the institution is already required to retain for other purposes regarding the student's health or housing.

(4) Nothing in this section shall be construed to:

(a) Require a student who is planning to reside in student housing to obtain the vaccination against meningococcal disease;

(b) Require an institution to provide or pay for the vaccination of a student; or

(c) Prohibit an institution from establishing additional requirements concerning meningococcal vaccination.

(5) An institution that has made a reasonable effort to comply with this section shall not be liable for damages for injuries sustained by a student as a result of contracting meningococcal disease where the student's claim is based solely upon the provision of the information required by paragraph (a) of subsection (2) of this section.

Source: L. 2004: Entire section added, p. 484, § 1, effective August 4.

23-5-129. Governing boards - performance contract - authorization - operations - definitions. (Repealed)

Source: L. 2004: Entire section added, p. 712, § 3, effective July 1. **L. 2005:** (2)(e) and (6)(c) amended, p. 1015, § 8, effective June 2. **L. 2008:** (6)(b) amended, p. 1479, § 20, effective May 28. **L. 2010:** (4) repealed and (6)(c) and (10) amended, (SB 10-003), ch. 391, pp. 1847, 1841, §§ 21, 6, effective June 9. **L. 2011:** (1)(b), (2)(a), (2)(f), (5)(a), and (9) amended and (5)(a.5) and (11) added, (SB 11-052), ch. 232, pp. 998, 999, §§ 3, 4, effective May 27; (5)(a) and (9) amended, (HB 11-1303), ch. 264, p. 1162, § 51, effective August 10. **L. 2016:** (1)(b) and (11)

amended, (HB 16-1082), ch. 58, p. 145, § 18, effective August 10. **L. 2017:** Entire section repealed, (SB 17-297), ch. 210, p. 819, § 11, effective May 18.

23-5-130. Governing boards - fee-for-service contracts - authorization. (Repealed)

Source: L. 2004: Entire section added, p. 712, § 3, effective July 1. **L. 2005:** (2)(b), (2)(c), (2)(d), and (2)(h) amended, p. 1015, § 7, effective June 2.**L. 2014:** Entire section repealed, (HB 14-1319), ch. 169, p. 611, § 3, effective May 9.

Editor's note: Subsections (2)(b)(II), (2)(c)(II), and (2)(d)(II) provided for the repeal of subsections (2)(b), (2)(c), and (2)(d), respectively, effective July 1, 2006. (See L. 2005, p. 1015.)

Cross references: For current provisions relating to fee-for-service contracts, see § 23-18-303.

23-5-130.5. Governing boards - tuition-setting - repeal. (Repealed)

Source: L. 2010: Entire section added, (SB 10-003), ch. 391, p. 1837, § 3, effective June 9. **L. 2014:** (2) amended and (2.5) added, (SB 14-001), ch. 138, p. 474, § 3, effective May 1.

Editor's note: Subsection (5) provided for the repeal of this section, effective July 1, 2016. (See L. 2010, p. 1837.)

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

(a) "Commission" means the Colorado commission on higher education.

(b) "Fixed rate" means the fixed tuition 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 rate program.

(d) "Student" means a student who is classified for tuition purposes as an in-state student.

(2) There is hereby established a fixed tuition rate program. 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 rate to a student who is willing to enter into a contract with the institution for the fixed rate. 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 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.

(3) If a student is unable to complete a degree program within the duration of the fixed-rate contract because a course is unavailable due to a lack of available classes or class space, the state-supported institution of higher education shall provide the course to the student free of charge.

(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 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) (Deleted by amendment, L. 2011, (HB 11-1301), ch. 297, p. 1410, § 1, effective August 10, 2011.)

(c) Each state-supported institution of higher education under the direction and control of a governing board participating in the program shall publish information relating to the fixed-rate contract option in the institution's course catalog or student handbook and on the institutional website.

(5) and (6) Repealed.

Source: L. 2004: Entire section added, p. 1338, § 1, effective July 1. **L. 2011:** (5) repealed, (SB 11-101), ch. 42, p. 111, § 1, effective March 21; (1)(b), (1)(c), (2), (4)(a), and (4)(b) amended and (6) added, (HB 11-1301), ch. 297, p. 1410, § 1, effective August 10. **L. 2017:** (6) repealed, (SB 17-294), ch. 264, p. 1399, § 59, effective May 25.

23-5-132. Governing boards - travel policies - exemption from state travel rules. Each governing board shall adopt travel policies for the institutions of higher education under its control, including but not limited to the use of travel services or travel agencies by the employees of the governing board or said institutions. Any rules adopted by the state controller pursuant to section 24-30-202 (26), or by the executive director of the department of personnel pursuant to section 24-102-202, that impose restrictions or requirements pertaining to the use of travel services or travel agencies shall not apply to a governing board or state institution of higher education.

Source: L. 2005: Entire section added, p. 1017, § 12, effective June 2. **L. 2017:** Entire section amended, (HB 17-1051), ch. 99, p. 350, § 63, effective August 9.

23-5-133. Instructors - health benefits study - report. (1) The Colorado commission on higher education shall conduct a study to determine the impact of providing health and dental benefits to persons who are employed by one or more state colleges, universities, or community colleges and who teach an aggregate of fifteen or more credit hours at one or more state colleges, universities, or community colleges in a consecutive twelve-month period. In the course of conducting the study, the commission shall determine but shall not be limited to determining the following:

(a) The number of persons who are employed by one or more state colleges, universities, or community colleges who teach an aggregate of fifteen or more credit hours in a consecutive twelve-month period and who are not eligible to enroll in a health insurance benefit plan and a dental insurance benefit plan provided through a state college, university, or community college;

(b) The number of persons specified in paragraph (a) of this subsection (1) who are teaching at each state college, university, or community college;

(c) The estimated annual cost of providing health insurance benefits and dental insurance benefits to the persons specified in paragraph (a) of this subsection (1), including but not limited to the cost of paying the employer's share of the premium for such benefits and any administrative costs; and

(d) Any other information deemed necessary by the Colorado commission on higher education in order to determine the impact of providing health insurance benefits and dental insurance benefits to the persons specified in paragraph (a) of this subsection (1).

(2) The Colorado commission on higher education shall work with each state college, university, and community college that employs one or more persons who teach an aggregate of fifteen or more credit hours at one or more state colleges, universities, or community colleges in order to collect the information required pursuant to this section.

(3) In connection with the study required pursuant to this section, each state college, university, and community college shall, when it next negotiates its health insurance and dental insurance benefit plans, evaluate the options for and costs of including persons who teach less than full time at the state college, university, or community college in such benefit plans. Each state college, university, and community college shall transmit its findings to the Colorado commission on higher education, and the commission shall include the finding in the report required pursuant to subsection (4) of this section.

(4) The Colorado commission on higher education shall submit a report to the members of the house and senate education committees, or any successor committees, detailing the results of the study conducted pursuant to this section and including the findings of each state college, university, and community college pursuant to subsection (3) of this section, no later than January 15, 2007.

Source: L. 2006: Entire section added, p. 846, § 1, effective May 4.

23-5-134. Appointments to governing boards - considerations. (1) It is the intent of the general assembly that the governor shall consider, when appointing individuals to serve on governing boards of institutions of higher education, an individual's:

(a) Commitment to public education;

(b) Record of public or community service;

(c) Knowledge of complex organizations and academic institutions;

(d) Demonstrated collaborative leadership;

(e) Commitment to open-minded, nonpartisan decision-making; and

(f) Record of integrity and civic virtue.

Source: L. 2006: Entire section added, p. 1235, § 10, effective May 26.

Editor's note: This section was originally numbered as 23-5-133 in Senate Bill 06-204 but has been renumbered on revision for ease of location.

23-5-135. Governing boards - underserved students - report - repeal. (Repealed)

Source: L. 2006: Entire section added, p. 1351, § 1, effective June 1.

Editor's note: (1) This section was originally numbered as 23-5-133 in House Bill 06-1024 but was renumbered on revision for ease of location.

(2) Subsection (2) provided for the repeal of this section, effective July 1, 2007. (See L. 2006, p. 1351.)

23-5-136. Governing boards - online textbook program. Each governing board of a state institution of higher education shall consider creation and implementation of an online textbook library at the institution to allow students to purchase only those materials needed for the applicable course work. In considering the program, the governing board, at a minimum, shall take into account both the costs to the institution of higher education and the potential for reduced costs to students. Whether an institution of higher education creates an online textbook library shall be at the sole discretion of the institution's governing board.

Source: L. 2006: Entire section added, p. 1351, § 1, effective June 1.

Editor's note: This section was originally numbered as 23-5-134 in House Bill 06-1024 but has been renumbered on revision for ease of location.

23-5-137. Loan repayment assistance - legislative declaration - definitions. (1) This section shall be known and may be cited as the "Loan Repayment Assistance Act".

(2) (a) The general assembly hereby finds, determines, and declares that:

(I) It is of great value to the state to encourage students and graduates of institutions of higher education to enter public interest careers;

(II) With rising costs of education and the debt that many students incur to finance their education, there are increasing barriers to entering public interest employment because the pay is typically substantially lower than that of other employment sectors; and

(III) Inspired by a tradition of public interest, the university of Colorado law school developed a loan repayment assistance program to encourage and assist students and graduates to enter careers related to public interest and to help improve access to the justice system.

(b) The general assembly therefore declares that it is in the best interest of the state of Colorado to encourage and authorize institutions of higher education to create loan repayment assistance programs that provide for the partial or full repayment of the educational loans of students or graduates who enter public interest careers.

(3) As used in this section, unless the context otherwise requires:

(a) "Institution of higher education" means a postsecondary educational institution established and existing pursuant to law.

(b) "Program" means a loan assistance repayment program authorized pursuant to this article for students or graduates who enter public interest careers.

(4) (a) The governing board of each institution of higher education is hereby encouraged and authorized to establish a loan repayment assistance program to assist students or graduates from the institution who select careers in public interest. The governing board of each institution shall establish criteria and rules to govern the implementation and operation of the program at the institution. The program shall allow the governing board to provide a loan or a grant to a student or graduate of the institution in accordance with the criteria and rules set forth by the governing board pursuant to this section.

(b) Private contributions made for the benefit of a program and other available funds shall fund a program at an institution of higher education. An institution of higher education shall hold moneys to support a program in a fund account, and any unexpended or unencumbered moneys remaining in the account at the end of a fiscal year shall remain in the account and shall not revert or be transferred to another account or fund.

Source: L. 2007: Entire section added, p. 431, § 1, effective April 9.

23-5-138. Textbooks - academic freedom - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Adopting entity" means the person or persons responsible for selecting and ordering a textbook or supplemental learning material for use in a college course at a state institution of higher education.

(b) "Bundle" means one or more college textbooks or other supplemental learning materials offered in combination with one or more additional educational products to be sold as course materials for a single price.

(c) "College textbook" means a textbook or set of textbooks developed for use in a course in postsecondary education at a state institution of higher education. The term "college textbook" includes but need not be limited to custom textbooks and integrated textbooks.

(d) "Course material" means any textbook or other instructional tool that is published with the intent that it be used for or in conjunction with classroom instruction and that is adopted for academic use by faculty members, instructors, or the person or entity in charge of selecting learning material at the state institution of higher education.

(e) "Custom textbook" means a college textbook that is compiled at the direction of a faculty member, instructor, or other person or adopting entity in charge of selecting course materials at a state institution of higher education. A custom textbook may include but need not be limited to selections from original instructor materials, previously copyrighted publisher materials, copyrighted third-party works, or elements unique to a specific institution such as commemorative editions.

(f) "Integrated textbook" means a college textbook that is combined with materials and is designed solely for use as a combined unit, or that is developed by a third party and that, according to third-party contractual agreements, a publisher may not offer separately from the textbook with which the materials are combined.

(g) "Publisher" means a publisher of college textbooks or supplemental learning materials.

(h) "State institution of higher education" shall have the same meaning as provided in section 23-18-102 (10).

(i) "Substantial content" means a part of a college textbook, such as a new chapter, coverage of an additional historical era, a new theme, or new subject matter.

(j) "Supplemental learning material" means educational material developed to accompany a college textbook. Supplemental learning material is not a component of an integrated textbook. Supplemental learning material may include but need not be limited to printed materials, computer disks, website access, and electronically distributed materials.

(2) Beginning on or before July 1, 2009:

(a) When a publisher provides a faculty member, instructor, or other person or adopting entity in charge of selecting course materials at a state institution of higher education with information regarding a college textbook or supplemental learning material, the publisher shall provide, in writing or electronically, the following information, at a minimum:

(I) The price at which the publisher would make the textbook or supplemental learning material available;

(II) The substantial content revisions made, if any, between the current edition of the college textbook or supplemental learning material and a previous edition;

(III) Whether the college textbook or supplemental learning material is available in another format, including but not limited to paperback or unbound copies, and the price at which the publisher would make the college textbook or supplemental learning material in the other format available.

(b) A publisher that sells a college textbook and any supplemental learning material accompanying that college textbook as a single bundle to a state institution of higher education shall also make available the college textbook and any of the supplemental learning materials as separate and unbundled items at separate prices.

(c) To the maximum extent practicable, a publisher shall provide the information required in this subsection (2) for the development and provision of custom textbooks.

(3) Nothing in this section shall be construed as superseding the institutional autonomy or academic freedom of a state institution of higher education or its faculty members or instructors in the selection of college textbooks and supplemental learning materials.

Source: L. 2008: Entire section added, p. 335, § 2, effective August 5.

Cross references: For the legislative declaration contained in the 2008 act enacting this section, see section 1 of chapter 108, Session Laws of Colorado 2008.

23-5-139. Higher education revenue bond intercept program - definitions. (1) (a) The state treasurer, on behalf of an institution, shall make payment as provided in this section of principal and interest on intercept bonds unless the governing board adopts a resolution stating that it will not accept on behalf of the institution payment of principal of and interest on intercept bonds as provided in this section. Any such resolution must be adopted prior to issuance or incurrence of the intercept bonds to which it applies. Following adoption of the resolution, the institution shall provide written notice to the state treasurer of its refusal to accept the payment. The refusal to accept payment takes effect on the date the state treasurer receives the written notice and continues in effect until the date the state treasurer receives written notice from the institution that the governing board has adopted a resolution rescinding the refusal to accept payment pursuant to this section. Notwithstanding any provision of subsections (2) to (7) of this section to the contrary, the state treasurer shall not make payment of principal of or interest on intercept bonds on behalf of an institution that provides written notice of its refusal to accept payment by the state treasurer on its behalf as provided in this paragraph (a) until the state treasurer receives written notice of the rescission of refusal to accept payment.

(b) If an institution issues a revenue bond pursuant to this article on or after June 6, 2016, or issues a refunding bond pursuant to article 54, 56, or 57 of title 11, C.R.S., on or after June 6, 2016, and the governing board wishes for such revenue or refunding bond to be an intercept bond, then:

(I) The maximum total annual debt service payment of the new intercept bond to be issued plus the debt service payment for all other intercept bonds that were issued on or after June 4, 2008, by the same governing board, must equal seventy-five percent or less of the most recent fiscal year general fund appropriation for stipends and fee-for-service contracts that is reappropriated to such governing board; and

(II) Except as provided in paragraph (c) of this subsection (1), the governing board must have:

(A) A credit rating in one of the three highest categories, without regard to modifiers within a category, from at least one nationally recognized statistical rating organization and, if more than one such organization has rated an institution, no credit rating that is in a category below the three highest categories, without regard to modifiers within a category; and

(B) A debt service coverage ratio of at least one and one-half to one, measured by dividing the governing board's net revenue available for annual debt service over such governing board's total amount of annual debt service plus the annual debt service to be issued by such governing board; and

(III) The pledged revenues for the new intercept bond issue include not less than:

(A) The net revenues of auxiliaries;

(B) Ten percent of tuition if the institution is an enterprise, as defined in section 24-77-102 (3), C.R.S.;

(C) Indirect cost recovery revenues, if any;

(D) Facility construction fees designated for bond repayment, if any; and

(E) Student fees and ancillary revenues currently pledged to existing bondholders; and

(IV) Except as provided in paragraph (c) of this subsection (1), the governing board has obtained a preapproval certificate from the state treasurer as described in subparagraph (II) of paragraph (d) of this subsection (1), and obtained approval from both the capital development committee and the joint budget committee as specified in subsection (1.5) of this section.

(c) (I) (A) If the state treasurer determines that a governing board does not meet the requirements set forth in subparagraph (II) of paragraph (b) of this subsection (1), the state treasurer confirms that the revenue bonds to be issued are refunding bonds that result in cost savings to the governing board based on a cash flow analysis, the refunding bonds will refund intercept bonds, and the refunding bonds will not extend the number of years of repayment, then the requirements set forth in subparagraphs (II) and (IV) of paragraph (b) of this subsection (1) shall not apply. No later than fifteen days after receiving a request in writing from a governing board to use the intercept program, the state treasurer shall notify the capital development committee, the joint budget committee, the Colorado commission on higher education, and the office of state planning and budgeting that the governing board has met the requirements of this sub-subparagraph (A). The state treasurer may make recommendations to the governing board regarding the structure of the refunding.

(B) If the state treasurer determines that a governing board does not meet the requirements set forth in subparagraph (II) of paragraph (b) of this subsection (1), the state treasurer confirms that the revenue bonds to be issued are refunding bonds that result in cost savings to the governing board based on a cash flow analysis, the refunding bonds will either refund revenue bonds that are not intercept bonds, or the refunding bonds will extend the number of years of repayment, then the requirements set forth in subparagraph (II) of paragraph (b) of this subsection (1) shall not apply. No later than fifteen days after receiving a request in writing from a governing board to use the intercept program, the state treasurer shall notify the capital development committee, the joint budget committee, the Colorado commission on higher education, the office of state planning and budgeting, and the governing board whether or not he or she recommends the requested use of the intercept program. The governing board must subsequently seek approval from the capital development committee and the joint budget

committee as set forth in subsection (1.5) of this section. The notification issued by the state treasurer may include the state treasurer's recommendations regarding the structure of the refunding.

(II) If the state treasurer determines that a governing board meets the requirements set forth in subparagraph (II) of paragraph (b) of this subsection (1), the state treasurer confirms that the revenue bonds to be issued are refunding bonds that result in cost savings to the governing board based on a cash flow analysis by the state treasurer, the refunding bonds will refund intercept bonds, and the refunding bonds will not extend the number of years of repayment, then the requirements set forth in subparagraph (IV) of paragraph (b) of this subsection (1) shall not apply. No later than fifteen days after receiving a request in writing from a governing board to use the intercept program, the state treasurer shall notify the capital development committee, the joint budget committee, the Colorado commission on higher education, and the office of state planning and budgeting that the governing board has met the requirements of this subparagraph (II). The state treasurer may make recommendations to the governing board regarding the structure of the refunding.

(III) The state treasurer shall develop and issue guidelines that detail how the state treasurer will determine whether a refunding bond results in cost savings to the governing board based on a cash flow analysis. The state treasurer may consult with financial advisors in order to determine whether a refunding bond results in cost savings to the governing board on a cash flow analysis.

(d) (I) No later than September 1, 2016, and each September 1 thereafter, the state treasurer shall provide the capital development committee, the joint budget committee, the Colorado commission on higher education, and the office of state planning and budgeting with a report that includes:

(A) The credit rating described in sub-subparagraph (A) of subparagraph (II) of paragraph (b) of this subsection (1) of each governing board that has issued intercept bonds;

(B) The debt service coverage ratio described in sub-subparagraph (B) of subparagraph (II) of paragraph (b) of this subsection (1) of each governing board that has issued intercept bonds;

(C) The total amount of all intercept bonds issued by governing boards, including the anticipated payment schedule for such intercept bonds; and

(D) The total amount of all revenue bonds issued by governing boards under section 23-5-101.7 (2), including the anticipated payment schedule for all such revenue bonds.

(II) The report described in subparagraph (I) of this paragraph (d) is the basis for the annual preapproval certificate that the state treasurer shall issue to each governing board that meets the requirements set forth in subparagraph (II) of paragraph (b) of this subsection (1). In the event a governing board desires to issue intercept bonds between June 6, 2016, and September 1, 2016, the capital development committee may request the state treasurer to issue an early preapproval certificate for such governing board when a preapproval certificate has not yet been issued. The preapproval certificate must include the total amount of intercept bonds that the governing board may issue for the period that the preapproval certificate covers. The total amount of intercept bonds that a governing board may issue must be calculated based on the lesser of the following, as of the date of issuance of the preapproval certificate:

(A) The difference between seventy-five percent of the most recent fiscal year's general fund appropriations for stipends and fee-for-service contracts that are reappropriated to such

governing board and the total annual debt service payments for intercept bonds of such governing board; or

(B) The total amount of additional revenue bonds a governing board could issue while maintaining the requirements set forth in subparagraph (II) of paragraph (b) of this subsection (1).

(III) The preapproval certificate described in subparagraph (II) of this paragraph (d) may be amended if requested by the capital development committee as specified in subparagraph (II) of paragraph (a) of subsection (1.5) of this section.

(IV) The preapproval certificate described in subparagraph (II) of this paragraph (d) may include the state treasurer's recommendations regarding the structure of any intercept bonds to be issued.

(1.5) (a) (I) A governing board desiring to issue intercept bonds shall present the state treasurer's preapproval certificate, described in paragraph (d) of subsection (1) of this section, to the capital development committee and request approval from the capital development committee. The request must include:

(A) A description of the project or projects that the governing board seeks to finance through the issuance of intercept bonds;

(B) The maximum amount of intercept bonds the governing board seeks to issue for the project or projects;

(C) The anticipated terms of the intercept bonds including the maximum anticipated annual debt service payment; and

(D) If available, a copy of the governing board's resolution that authorizes the issuance of revenue bonds.

(II) If there are actual or anticipated changes to the financial position and credit rating of the governing board that may affect the governing board's compliance with paragraph (b) of subsection (1) of this section since the preapproval certificate was issued by the state treasurer, the governing board shall provide the capital development committee with documentation regarding such changes. The capital development committee may request the state treasurer to prepare an amended preapproval certificate on the basis of the additional documentation.

(b) No later than thirty days after the request for approval described in paragraph (a) of this subsection (1.5) during a regular legislative session of the general assembly, or no later than forty-five days after the request for approval described in paragraph (a) of this subsection (1.5) during any period that the general assembly is not in regular legislative session, the capital development committee shall review the request for approval and forward a letter to the joint budget committee setting forth its approval or disapproval for such governing board to use the intercept program and, if approved, any recommendations the capital development committee may have regarding the maximum amount of intercept bonds that may be issued by such governing board.

(c) No later than forty-five days after receipt of the letter from the capital development committee during the period of October 10 to April 10 of any calendar year, or no later than ninety-five days after receipt of the letter from the capital development committee during the period of April 11 to October 9 of any calendar year, the joint budget committee shall review the project or projects and the governing board's request to finance the project or projects through the issuance of intercept bonds. The joint budget committee shall forward a letter to the state treasurer, the office of state planning and budgeting, the Colorado commission on higher

education, and the governing board setting forth the committee's approval or disapproval for such governing board to use the intercept program and the maximum amount of intercept bonds that may be issued by such governing board.

(d) Except as provided in paragraph (c) of subsection (1) of this section, no governing board may issue intercept bonds until the joint budget committee issues the approval letter described in paragraph (c) of this subsection (1.5).

(e) The capital development committee shall develop instructions on the format for requests for approval to issue intercept bonds. Such instructions must be developed in consultation with the joint budget committee, the Colorado commission on higher education, and the office of state planning and budgeting. If a request to issue intercept bonds does not relate to a new capital construction, capital renewal, or controlled maintenance project, the guidelines may allow the governing board to submit the request directly to the capital development committee.

(f) The capital development committee may request input from the state treasurer on all requests from a governing board to expand or restructure intercept bonds.

(2) Whenever the paying agent has not received payment of principal of or interest on intercept bonds on the business day immediately prior to the date on which such payment is due, the paying agent shall so notify the state treasurer and the institution by telephone, facsimile, or other similar communication, followed by written verification, of such payment status. The state treasurer shall immediately contact the institution and determine whether the institution will make the payment by the date on which it is due.

(3) If an institution indicates that it will not make a payment by the date on which it is due, or if the state treasurer is unable to contact the institution, the state treasurer shall forward the amount in immediately available funds necessary to make the payment of the principal of or interest on the intercept bonds to the paying agent. The state treasurer shall recover the amount forwarded by withholding amounts from the institution's payments of the state's fee-for-service contract with the institution, from any other state support for the institution, and from any unpledged tuition or other moneys collected by the institution.

(4) The amounts forwarded to the paying agent by the state treasurer pursuant to subsection (3) of this section shall be applied by the paying agent solely to the payment of the principal of or interest on such intercept bonds. The state treasurer shall notify the department of higher education and the general assembly of amounts withheld and payments made pursuant to this section. Institutions that have a debt service payment forwarded to the paying agent by the state treasurer shall not request a supplemental general fund appropriation or budget amendment for the amount forwarded in order to replace withheld fee-for-service revenue.

(5) (a) Any governing board with an intercept bond issue for which this section applies shall file with the state treasurer within thirty days of its public release a copy of the resolution that authorizes the issuance of intercept bonds; a copy of the official statement or other offering document for the intercept bonds; the agreement, if any, with the paying agent for the intercept bonds; and the name, address, and telephone number of the paying agent. A copy of the official statement or other offering document for the intercept bonds must also be submitted within thirty days of its public release to the office of state planning and budgeting, the Colorado commission on higher education, the capital development committee, and the joint budget committee.

(b) On the day a preliminary official statement is publicly released for an intercept bond to be issued, the governing board shall notify the state treasurer, the office of state planning and

budgeting, the Colorado commission on higher education, the capital development committee, and the joint budget committee by providing an electronic link to or an electronic copy of the preliminary official statement.

(c) The failure of any governing board to file any information required in this subsection (5) does not affect the state treasurer's obligations set forth in this section.

(6) As provided in section 11 of article II of the state constitution, the state hereby covenants with the purchasers and owners of intercept bonds that it will not repeal, revoke, or rescind the provisions of this section or modify or amend this section so as to limit or impair the rights and remedies granted by this section; except that nothing in this subsection (6) shall be deemed or construed to require the state to continue the payment of state assistance to any institution or to limit or prohibit the state from repealing, amending, or modifying any law relating to the amount of state assistance to institutions or the manner of payment or the timing thereof. Nothing in this section shall be deemed or construed to create a debt of the state with respect to such intercept bonds within the meaning of any state constitutional provision or to create any other liability except to the extent provided in this section.

(7) Whenever the state treasurer is required by this section to make a payment of principal of or interest on intercept bonds on behalf of an institution, the department of higher education shall initiate an audit of the institution to determine the reason for the nonpayment and to assist the institution, if necessary, in developing and implementing measures to ensure that future payments will be made when they are due.

(8) As used in this section, unless the context otherwise requires:

(a) "Cash flow analysis" means a comparison made by the state treasurer of a governing board's annual debt service currently being paid on the revenue bonds or intercept bonds to be refunded versus annual debt service to be paid on the intercept bonds being issued to effectuate the refunding and the resulting debt service savings or dissavings that are generated. The cash flow analysis must consider the universe of refunding candidates and refunding bond statistics including the true interest cost, average life of refunded and refunding bonds, average annual debt service, gross debt service, and the expected present value savings on the refunding.

(b) "Governing board" means the governing body of a state institution of higher education.

(c) "Intercept bonds" means revenue bonds, refunding bonds, or other obligations issued pursuant to this section.

(d) "Intercept program" means the program set forth in this section.

(e) "State institution of higher education" or "institution" has the same meaning as set forth in section 23-18-102 (10).

Source: L. 2008: Entire section added, p. 2160, § 1, effective June 4. **L. 2013:** IP(1)(b) and (1)(b)(I) amended and (1)(c) added, (SB 13-199), ch. 146, p. 470, § 1, effective April 26. **L. 2016:** Entire section amended, (SB 16-204), ch. 222, p. 841, § 1, effective June 6.

23-5-140. Lifesaving school safety information - legislative declaration - definitions. (1) (a) The general assembly hereby finds and declares that:

(I) The safety of students, faculty, and staff who work and learn on the campuses of Colorado institutions of higher education can be enhanced by informing, organizing, and empowering those individuals to respond appropriately to emergency situations on campus;

(II) Critical incidents that take place on campuses are unique, life-changing events that require exercising basic survival skills during an intense period of high mental and physical stress. Having the information necessary to respond effectively to these critical incidents can be key to a positive individual or group outcome in a true life or death situation; and

(III) Colorado institutions of higher education should ensure that all students, faculty, and staff receive updated school safety information that reflects best practices for their institution at the beginning of each school year.

(b) The general assembly therefore finds that the dissemination of safety information to students, faculty, and staff that reflects best practices for the institution may encourage students, faculty, and staff to respond appropriately and in coordination with school safety personnel in emergency situations.

(2) As used in this section, unless the context otherwise requires:

(a) "Institution of higher education" or "institution" means a state institution of higher education as defined in section 23-18-102 (10)(a), a local district college, an area technical college, or a technical college.

(b) "School building" means a building, including but not limited to a classroom building or a school dormitory, that is a public building of an institution of higher education.

(3) (a) Each institution of higher education shall develop policies and procedures that are tailored to the institution and that reflect best practices concerning critical incident response protocols and personal safety on campus and in school buildings on campus.

(b) Beginning in the 2011-12 academic year, each institution shall disseminate annually school safety information to students, faculty, and staff concerning the policies and procedures developed pursuant to paragraph (a) of this subsection (3).

Source: L. 2010: Entire section added, (HB 10-1054), ch. 117, p. 394, § 1, effective August 11. **L. 2016:** (2)(a) amended, (HB 16-1082), ch. 58, p. 146, § 19, effective August 10.

23-5-140.5. Employee information - student loan repayment and forgiveness programs. Each governing board shall annually distribute to each employee informational materials relating to federal student loan repayment programs and student loan forgiveness programs, including updated materials, received from the department of higher education pursuant to section 23-1-106.6 (1)(a). In addition to annual distribution, each governing board shall distribute the informational materials to newly hired employees as part of its employee orientation process. The governing board may distribute the informational materials to its employees through an e-mail to employees or as part of a mailing or regular communication to employees.

Source: L. 2019: Entire section added, (SB 19-057), ch. 35, p. 115, § 9, effective August 2.

23-5-141. Campus police information sharing - legislative declaration - definitions. (1) The general assembly finds and declares that:

(a) Providing for the safety of the students, faculty, and staff of Colorado's state institutions of higher education is an important priority for those institutions and for the state;

(b) Unfortunate and tragic events at educational institutions within the state and around the nation have raised concerns regarding campus safety at Colorado's institutions of higher education; and

(c) State institution of higher education police departments should be authorized to share with responsible administrators information regarding behaviors which pose a potential risk to the campus community in order to mitigate such risk.

(2) For purposes of this section:

(a) "Campus behavioral intervention task force" means any group of persons that includes at least one administrator listed in subparagraph (I) of paragraph (a) of subsection (3) of this section and is appointed by the chief executive officer of a state institution of higher education, or his or her designee, to monitor and mitigate risks to campus safety posed by individuals who display concerning behaviors.

(b) "Sexual assault" means any of the offenses listed in section 24-72-304 (4)(b)(I), C.R.S.

(c) "State institution of higher education" means a state institution of higher education as defined in section 23-18-102 (10)(a), a local district college, an area technical college, the Auraria higher education center, an education center, or a technical college.

(3) (a) Except as provided in paragraph (b) of this subsection (3), a state institution of higher education police department may provide unredacted information, which information may include but need not be limited to police reports, regarding any incident within its jurisdiction to:

(I) The director, or director's designee, of any campus program or unit with administrative responsibility for victims assistance, mental health services, university housing, student discipline processes, or student affairs; and

(II) A campus behavioral intervention task force.

(b) When providing information regarding a sexual assault or attempted sexual assault pursuant to paragraph (a) of this subsection (3), a state institution of higher education police department shall redact the victim's name and identifying information unless the victim agrees otherwise in writing with respect to each administrator or behavioral intervention task force to which the police department intends to release the information.

(c) A state institution of higher education police department may provide to a person who is the focus of a specific threat of physical violence information regarding any incident within its jurisdiction that is necessary to protect the person who is the focus of the threat.

(d) Notwithstanding the provisions of section 24-72-304 (4), 27-65-121, or 27-81-113, C.R.S., to the contrary, the authorization to share information established by this section specifically includes but is not limited to information regarding sexual assaults, emergency mental health holds, and protective custody for alcohol or drug detoxification. Any person receiving information regarding sexual assaults, emergency mental health holds, and protective custody for alcohol or drug detoxification pursuant to this section shall make all reasonable efforts to ensure the information is not disseminated beyond what is necessary.

(4) A faculty member, staff member, or student of the campus disclosing information to a campus behavioral intervention task force while acting under a good-faith belief that the disclosure is necessary to protect the health, safety, or well-being of any person, or to protect the property of any person or of the institution, shall not be liable in any civil action for disclosing the information. The immunity provided in this section does not nullify or rescind any statutory duty of confidentiality by a licensed professional or victim's advocate pursuant to section 13-90-

107 (1)(k), C.R.S., or any statutory duty to warn and protect specified in section 13-21-117, C.R.S.

Source: L. 2011: Entire section added, (HB 11-1169), ch. 119, p. 372, § 1, effective April 20. **L. 2016:** (2)(c) amended, (HB 16-1082), ch. 58, p. 146, § 20, effective August 10.

23-5-142. Institution law enforcement agencies to provide identification cards to retired peace officers upon request - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Law enforcement agency of an institution of higher education" means an agency within an institution of higher education described in this title that employs at least one peace officer.

(b) "Peace officer" means a certified peace officer described in section 16-2.5-102, C.R.S.

(c) "Photographic identification" means a photographic identification that satisfies the description at 18 U.S.C. sec. 926C (d).

(2) Except as described in subsection (3) of this section, on and after August 7, 2013, if a law enforcement agency of an institution of higher education has a policy, on August 7, 2013, of issuing photographic identification to peace officers who have retired from the agency, and the agency discontinues said policy after August 7, 2013, the agency shall continue to provide such photographic identification to peace officers who have retired from the agency if:

(a) The peace officer requests the identification;

(b) The peace officer retired from the law enforcement agency before the date upon which the agency discontinued the policy; and

(c) The peace officer is a qualified retired law enforcement officer, as defined in 18 U.S.C. sec. 926C (c).

(3) Before issuing or renewing a photographic identification to a retired law enforcement officer pursuant to this section, a law enforcement agency of the state shall complete a criminal background check of the officer through a search of the national instant criminal background check system created by the federal "Brady Handgun Violence Prevention Act" (Pub.L. 103-159), the relevant portion of which is codified at 18 U.S.C. sec. 922 (t), and a search of the state integrated criminal justice information system. If the background check indicates that the officer is prohibited from possessing a firearm by state or federal law, the law enforcement agency shall not issue the photographic identification.

(4) A law enforcement agency of an institution of higher education may charge a fee for issuing a photographic identification to a retired peace officer pursuant to subsection (2) of this section, which fee shall not exceed the direct and indirect costs assumed by the agency in issuing the photographic identification.

(5) Notwithstanding any provision of this section to the contrary, a law enforcement agency of an institution of higher education shall not be required to issue a photographic identification to a particular peace officer if the chief administrative officer of the agency elects not to do so.

(6) If a law enforcement agency of an institution of higher education denies a photographic identification to a retired peace officer who requests a photographic identification

pursuant to this section, the law enforcement agency shall provide the retired peace officer a written statement setting forth the reason for the denial.

Source: L. 2013: Entire section added, (HB 13-1118), ch. 81, p. 261, § 5, effective August 7.

23-5-143. Sexual assault victim care - memorandum of understanding - training - definitions. (1) The general assembly finds and declares:

(a) College-aged students are at a high risk of being victims of sexual assault;

(b) It is important for a victim of a sexual assault to receive time-sensitive medical care following the assault whether or not medical forensic evidence is collected;

(c) The medical professionals best equipped to provide this care have specialized sexual assault training, including sexual assault nurse examiner training, sexual assault forensic examiner training, or medical forensic exam training;

(d) Few, if any, institutions of higher education have medical professionals on site with the necessary specialized training to care for sexual assault victims; and

(e) Institutions of higher education should have procedures in place to refer and transport sexual assault victims to nearby hospitals or clinics that have medical professionals specifically trained to care for those victims.

(2) As used in this section, unless the context otherwise requires:

(a) "Institution of higher education" means a state institution of higher education as defined in section 23-18-102 or a participating private institution of higher education as defined in section 23-18-102.

(b) "Medical forensic exam program" means a healthcare program with licensed medical professionals, such as registered nurses, nurse practitioners, physician assistants, or physicians, who have received some specialized training in conducting medical forensic examinations of adults and adolescents according to established Colorado protocols but have not received formal SAFE or SANE training. "Medical forensic exam programs" may be based in hospitals, medical clinics, safe houses, children's advocacy centers, stand-alone medical forensic exam clinics, public health clinics, or another facility where appropriate medical care is provided to sexual assault victims.

(c) "Sexual assault forensic examiner" or "SAFE" means a registered nurse, physician assistant, or physician who has been specifically trained to provide comprehensive sexual assault care, including evidence collection and testimony, pursuant to the International Association of Forensic Nurses' forensic nursing education guidelines.

(d) "Sexual assault nurse examiner" or "SANE" means a registered nurse, including an advanced practice nurse, who has been specifically trained to provide comprehensive sexual assault care, including evidence collection and testimony, pursuant to the International Association of Forensic Nurses' forensic nursing education guidelines.

(3) Within one hundred eighty days after May 4, 2015, each institution of higher education shall enter into and have in effect a memorandum of understanding or other formalized arrangement with at least one nearby medical facility or other facility that has sexual assault nurse examiners, sexual assault forensic examiners, or a medical forensic exam program. Each state-funded institution of higher education shall renew or obtain a new memorandum of understanding within three years after the date of each such memorandum. Each memorandum

of understanding or other formalized arrangement must include provisions that the institution of higher education shall refer appropriate patients to the medical facility or other facility for the purposes of providing campus sexual assault victims medical care and evidence collection, if the victim chooses, and assist with or provide transportation to the facility.

(4) Each institution of higher education shall:

(a) Provide easily available information on the website of the institution of higher education on how to access a medical forensic examination following a sexual assault. The information must, at a minimum, inform victims of the medical facility with which the institution has a memorandum of understanding or formalized arrangement; of the methods of transportation available to get to the facility, including public transportation options; and that having a medical forensic examination does not require them, at any time, to participate with a law enforcement investigation or any criminal justice response.

(b) Have a sexual assault training and response policy that includes:

(I) A plan to ensure that campus health center staff is able to provide appropriate resources and referrals to students regarding medical forensic exams and sexual assault care. Within one year after the enactment of this section and at least every two years thereafter, each institution of higher education shall contract or otherwise arrange with a sexual assault nurse examiner and a trained sexual assault advocate to provide relevant campus health center staff with sexual assault response training. Such training must include campus, community, or law enforcement advocates as trainers. At a minimum, training should include content in the following areas:

(A) An overview of medical forensic exams for the purpose of enabling campus health staff to answer a victim's questions about medical forensic exams;

(B) Trauma response;

(C) Victim dynamics;

(D) Short-term and long-term health impact of sexual assault;

(E) Victim compensation eligibility as described in article 4.1 of title 24, C.R.S.; and

(F) Sexual assault victim emergency payment program eligibility as described in section 18-3-407.7, C.R.S.

(II) A referral plan to connect a student who is a victim to the appropriate victim advocates. Confidential victim advocates may be campus advocates or community-based advocates. Victims may also be referred to victim advocates employed by a law enforcement agency with jurisdiction over the crime, if appropriate.

(III) Transportation instructions to inform about, assist with, or provide transport to the hospital, clinic, or other facility performing the medical forensic examination or sexual assault-related medical care.

(5) The general assembly encourages all other institutions of higher education in this state to enter into a similar memorandum of understanding or formalized arrangement as described in this section, to post information on the institution's website, and to have sexual assault training and response policies.

Source: L. 2015: Entire section added, (HB 15-1220), ch. 156, p. 465, § 1, effective May 4.

23-5-144. Students' right to speak in a public forum - legislative declaration - violations - court actions - free speech zones - definitions. (1) (a) The first amendment of the United States constitution and article II, section 10 of the Colorado constitution each protect the right to free speech, including the speech of students enrolled at public institutions of higher education. The general assembly declares that it is a matter of statewide interest to protect the rights of students to exercise their freedom of speech on the campuses of public institutions of higher education, while recognizing the right of those institutions of higher education to enact reasonable time, place, and manner restrictions that preserve their ability to fulfill their educational missions. At the same time, the general assembly declares that student expression on the campuses of institutions of higher education is a vital component of the educational environment at these institutions of higher education and that promoting the free and unfettered exchange of ideas in this marketplace of ideas is one way in which these institutions of higher education fulfill their educational missions.

(b) Therefore, it is the intent of the general assembly that the provisions of subsections (2) to (6) of this section be confined to and apply only to student expression in a student forum at an institution of higher education, as defined herein.

(2) As used in this section, unless the context otherwise requires:

(a) "Expression" means any lawful verbal or written means by which individuals may communicate ideas to one another, including all forms of peaceful assembly, protests, speaking verbally, holding signs, circulating petitions, and distributing written materials. "Expression" includes voter registration activities but does not include speech that is primarily for a commercial purpose, including the promotion, sale, or distribution of any product or service.

(b) "Institution of higher education" means a public postsecondary institution.

(c) "Student" means a person who is enrolled for educational purposes at an institution of higher education.

(d) "Student forum" means, as applied to students, any generally accessible, open, outdoor area on the campus of an institution of higher education, as well as any nonacademic and publicly open portion of a facility that the institution of higher education has traditionally made available to students for expressive purposes.

(3) (a) An institution of higher education shall not limit or restrict a student's expression in a student forum, including subjecting a student to disciplinary action resulting from his or her expression, because of the content or viewpoint of the expression or because of the reaction or opposition by listeners or observers to such expression.

(b) Nothing in this section grants students, faculty, or staff of the college or university the right to materially disrupt previously scheduled or reserved activities in a portion or section of the student forum at that scheduled time.

(c) Nothing in this section shall be interpreted as preventing an institution of higher education from prohibiting, limiting, or restricting expression that is not protected under the first amendment and article II, section 10 of the Colorado constitution.

(4) An institution of higher education shall not designate any area on campus as a free speech zone or otherwise create policies implying that its students' expressive activities are restricted to particular areas of campus. An institution of higher education shall not, except for the purpose of enacting time, place, and manner restrictions permitted pursuant to subsection (5) of this section, restrict the right of students to engage in expression in a student forum.

(5) An institution of higher education shall not impose restrictions on the time, place, and manner of student expression in a student forum unless the restrictions:

(a) Are reasonable;

(b) Are justified without reference to the content of the speech;

(c) Are narrowly tailored to serve a significant governmental interest; and

(d) Leave open ample alternative channels for communication of the information or message.

(6) Any student who has been denied access to a student forum for expressive purposes protected by this section may bring an action in a court of competent jurisdiction to enjoin any violation of this section or to recover reasonable court costs and attorney fees.

(7) In an action brought pursuant to subsection (6) of this section, if the court finds that a violation occurred, the court shall award the aggrieved party injunctive relief for the violation and shall award reasonable court costs and attorney fees.

(8) A student shall bring an action pursuant to this section within one calendar year after the date that the violation occurred.

Source: L. 2017: Entire section added, (SB 17-062), ch. 100, p. 355, § 1, effective August 9.

23-5-145. Credit for military education and training - policy - definition. (1) As used in this section, unless the context otherwise requires, "state institution of higher education" or "institution" has the same meaning as provided in section 23-18-102 (10); except that "state institution of higher education" or "institution" includes each local district college that is part of a local college district organized pursuant to article 71 of this title 23 and the area technical colleges, as defined in section 23-60-103.

(2) On or before January 1, 2018, each governing board of a state institution of higher education shall adopt, make public, and implement a prior learning assessment policy for awarding academic credit for college-level learning acquired while in the military. The policy adopted by the governing board must require each campus of the institution to:

(a) Use the American Council on Education's recommendations on the joint services transcript, among other factors, to evaluate college-level learning acquired by a student while in the military and, at the discretion of the campus, assign appropriate prior learning assessment credit;

(b) Provide specific guidance to active duty and veteran military members in selecting a program of study and in optimizing the use of prior learning assessment credit to accelerate the student's path to degree or certificate completion in the chosen program of study; and

(c) Beginning June 1, 2018, accept in transfer from within the institution and from other state institutions of higher education prior learning assessment credit awarded for courses with guaranteed-transfer designation, unless the Colorado commission on higher education adopts a new policy prior to June 1, 2018, concerning the transfer of prior learning assessment credit for courses with guaranteed-transfer designation that requires each campus to accept in transfer credit awarded by a state institution of higher education pursuant to the provisions of subsection (2)(a) of this section. Each campus may also accept other prior learning assessment credit toward the student's program of study if the credit meets standards established by the campus.

(3) The state institution of higher education shall grant prior learning assessment credit free of tuition but may charge a reasonable fee for the prior learning assessment.

(4) Repealed.

Source: L. 2017: Entire section added, (HB 17-1004), ch. 274, p. 1510, § 2, effective June 1.

Editor's note: Subsection (4)(b) provided for the repeal of subsection (4), effective July 1, 2019. (See L. 2017, p. 1510.)

Cross references: For the legislative declaration in HB 17-1004, see section 1 of chapter 274, Session Laws of Colorado 2017.

23-5-145.5. Credit for work-related experience - plan - report - definitions - repeal. (1) As used in this section, unless the context otherwise requires:

(a) "Commission on higher education" or "commission" has the same meaning set forth in section 23-1-101.1 (1).

(b) "Council" means the council created and existing pursuant to section 23-1-108.5, convened by the commission on higher education.

(c) "Guaranteed-transfer pathways" or "GT pathways" means the statewide articulation matrix system of common course numbering for general education courses described in section 23-1-108.5 (3)(c).

(d) "State institution of higher education" or "institution" has the same meaning set forth in section 23-1-135 (2).

(e) "Statewide degree transfer agreement" means a statewide degree transfer agreement described in section 23-1-108 (7).

(f) "Work-related experience" means any experience acquired within the past ten years through paid or unpaid employment, including but not limited to self-employment, an internship, a residency, a pre-apprenticeship program, or an apprenticeship program that may lead to or result in a business credential, an industry credential, a technical certificate, or a professional license.

(2) (a) The department of higher education, in consultation with institutions, shall conduct a study concerning awarding academic credit for prior learning opportunities within all institutions. The study must examine:

(I) The processes by which a student can receive academic credit for any course in the undergraduate curriculum, free of tuition, through successful completion of a portfolio assessment, individual assessment, examination, or any combination thereof that is appropriate to the learning outcomes of the course;

(II) The potential benefits to a student, including but not limited to impact on a student's overall attendance cost, whether a policy would accelerate the time to complete a postsecondary credential, and the impact on the state's goal to increase credential attainment rates; and

(III) The costs to institutions to develop and maintain processes to grant academic credit to a student for prior learning and the ability to recover administrative costs from students requesting the prior learning assessment.

(b) On or before September 1, 2021, the commission shall report to the education committees of the senate and house of representatives, or any successor committees, the results of the study described in subsection (2)(a) of this section.

(3) (a) On or before January 1, 2022, the council, in collaboration with the commission, shall create, adopt, and implement a plan, referred to in this section as the "plan", to award postsecondary academic credit for courses in GT pathways or a statewide degree transfer agreement for learning demonstrated from work-related experience. In creating the plan, priority may be given to work-related experience that is responsive to workforce demands and growing industries identified by the most recent Colorado talent pipeline report prepared pursuant to section 24-46.3-103 or identified in consultation with the Colorado work force development council in section 24-46.3-101.

(b) The council, commission, or department of higher education, or any combination thereof, may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of creating, adopting, and implementing a plan pursuant to this section. The plan shall not be created, adopted, or implemented unless sufficient money is available from gifts, grants, or donations to cover the costs of creating, adopting, and implementing a plan pursuant to this section.

(4) The plan must include:

(a) A process for assessing and aligning work-related experience to the knowledge and competencies required for awarding postsecondary academic credit for courses in GT pathways or a statewide degree transfer agreement, which credit granted must be transferable to another institution pursuant to commission policy regarding GT pathways or a statewide degree transfer agreement; and

(b) A process for evaluating credentials earned by a student at an area technical college pursuant to section 23-60-802 and determining how postsecondary academic credit will transfer from area technical colleges, if appropriate, to public two-year and four-year state institutions of higher education.

(5) The council, in creating the plan, shall consult with:

(a) Representatives of institutions, including, but not limited to, faculty members and registrars;

(b) Representatives of organizations that represent students in Colorado;

(c) Representatives of the Colorado work force development council;

(d) Representatives of industries with high workforce demand and growing industries identified in the most recent Colorado talent pipeline report and organizations representing them; and

(e) Representatives selected by the commission.

(6) Upon completion of the plan, the council, in collaboration with the representatives described in subsection (5) of this section, shall continue to work toward expanding opportunities for awarding postsecondary academic credit for learning acquired from work-related experience not otherwise addressed in this section.

(7) Beginning in the 2022-23 academic year, unless the plan is implemented prior to the beginning of the 2022-23 academic year, an institution shall accept in and transfer within the institution and to other institutions postsecondary academic credit awarded for work-related experience for a course that is GT pathways designated or part of a statewide degree transfer agreement.

(8) (a) During the second regular session of the seventy-third general assembly in 2022, the department of higher education shall report to the education committees of the senate and house of representatives, or any successor committees, regarding the creation, adoption, and implementation of the plan adopted pursuant to this section.

(b) This subsection (8) is repealed, effective July 1, 2022.

(9) (a) On or before March 1, 2024, and on or before March 1 of each year thereafter, the council shall report to the education committees of the senate and house of representatives, or any successor committees, regarding the continued implementation of this section. The report must include, at a minimum:

(I) The number of students who were awarded credits and who transferred credits to or from an institution pursuant to this section;

(II) Data regarding the age and demographics of students who were awarded credits and who transferred credits to or from an institution pursuant to this section;

(III) The implementation challenges of this section;

(IV) The fee established and charged by institutions, if any, to administer a portfolio assessment, individual assessment, examination, or any combination thereof;

(V) The direct costs imposed on institutions to implement this section; and

(VI) Any recommended statutory revisions to this section.

(b) Notwithstanding the provisions of section 24-1-136 (11)(a)(I), the reporting requirement pursuant to this subsection (9) continues until the repeal of this subsection (9).

(c) This subsection (9) is repealed, effective July 1, 2029.

Source: L. 2020: Entire section added, (HB 20-1002), ch. 255, p. 1241, § 2, effective July 8.

Cross references: For the legislative declaration in HB 20-1002, see section 1 of chapter 255, Session Laws of Colorado 2020.

23-5-146. Sexual misconduct - policies - confidential resources - training - reports - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Clery act" means the federal "Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act" or "Clery Act", 20 U.S.C. sec. 1092(f).

(b) "Complainant" means a person who is subject to alleged sexual misconduct under an institution's sexual misconduct policy.

(c) "Department" means the department of higher education created and existing pursuant to section 24-1-114.

(d) "Institution of higher education" or "institution" means a state institution of higher education, as defined in section 23-18-102 (10)(b), or any accredited campus of a state institution of higher education; a participating private institution of higher education, as defined in section 23-18-102 (8); a local district college, as defined in section 23-71-102 (1)(a); and an area technical college, as defined in section 23-60-103 (1).

(e) "Reporting party" means an individual who reports an alleged incident of sexual misconduct under an institution's sexual misconduct policy.

(f) "Responding party" means an individual who has been accused of sexual misconduct under an institution's sexual misconduct policy.

(g) "Title IX" means Title IX of the federal education amendments of 1972, as amended, 20 U.S.C. secs. 1681 to 1688.

(h) "Violence against women act" means the act codified in part at 42 U.S.C. secs. 13701 to 14040.

(2) (a) On or before August 1, 2020, each institution of higher education shall adopt a sexual misconduct policy for enrolled students. Each institution shall periodically review and update the policy.

(b) Notwithstanding the provisions of this section, if there is a conflict between this section and any federal law or regulation and based on that conflict an institution of higher education is at risk of losing federal money for itself or its students, the institution shall follow federal law and shall not be liable for any violation of this section based on that action.

(3) At a minimum, each sexual misconduct policy must include:

(a) Definitions of forms of sexual misconduct consistent with federal and state law and policy;

(b) Confidential and nonconfidential reporting options for sexual misconduct;

(c) An explanation of the role of the institution in the response to:

(I) A violation of the sexual misconduct policy; or

(II) A report of an incident of sexual misconduct;

(d) Procedures for investigating reports of sexual misconduct, which must:

(I) Be fair, impartial, and prompt, and the institution must make a good-faith effort to complete an investigation or adjudicative process, excluding any appeals, within an average of sixty to ninety days, without jeopardizing the rights of a complainant or responding party. The procedure may include a process that allows for the extension of these time frames for good cause with prior written notice of the delay and the reason for the delay to the complainant and the responding party.

(II) Include the preponderance of the evidence as the evidentiary standard when a student is the respondent, notwithstanding any other evidentiary standard in any other policy of the institution;

(III) Outline the procedures to be followed in the investigation and adjudication process, which must specify that all questions go through the official individual or individuals conducting or participating in the investigation process;

(IV) Provide the complainant and the responding party with the same opportunities to have an advisor or other person present during any part of the proceeding; except that the advisor or other person is not allowed to speak on behalf of the complainant or responding party during the course of the proceedings;

(V) Provide regular written updates on the status of the investigation or proceeding to the complainant and responding party throughout the process until conclusion; and

(VI) Provide for concurrent notification of the outcome of the investigation or proceeding to the complainant and the responding party;

(e) Prohibitions on:

(I) The consideration of prior, irrelevant sexual conduct, except relating to a prior relationship or history between the parties if relevant to some material issue in the process; and

(II) Any action that would be retaliatory under Title IX;

(f) Protection from disciplinary action against a complainant, reporting party, or witness for his or her participation in the reporting or investigation and from policy violations related to the incident, such as, at a minimum, personal consumption of alcohol or drugs; and

(g) That all provisions of the sexual misconduct policy, including any appeal process that may be provided, be applied equally to both the complainant and the responding party.

(4) (a) Commencing on or before August 1, 2020, each institution shall provide information to students on how to receive support regarding sexual misconduct. The institution may designate faculty or staff members to fill this role; except that the institution's Title IX coordinator shall not be such an individual. An institution may also designate an outside entity or service to serve this purpose. If an institution uses an outside entity or service, it shall make its sexual misconduct policy available to the entity or service. An institution that enrolls fewer than one thousand students may partner with another institution in the region or within the state to provide services pursuant to this subsection (4).

(b) If an individual described in subsection (4)(a) of this section meets the requirements of section 13-90-107 (1)(k)(II) or section 12-245-220, the individual has the protections for confidentiality or privileges established pursuant to those sections.

(5) (a) Commencing on or before August 1, 2020, each institution of higher education shall promote:

(I) Awareness and prevention of sexual misconduct; and

(II) The institution's sexual misconduct policy.

(b) Each institution shall promote the information described in subsection (5)(a) of this section by:

(I) Prominently displaying on its website:

(A) The institution's sexual misconduct policy; and

(B) The telephone number and website for an institutional, local, state, or national twenty-four-hour hotline that provides information on sexual misconduct; and

(II) Annually distributing through electronic or other means of communication the institution's sexual misconduct policy.

(6) (a) Commencing on or before August 1, 2020, each institution of higher education shall offer training:

(I) To promote awareness and prevention of sexual misconduct; and

(II) On the institution's sexual misconduct policy.

(b) The training must be offered annually to all incoming students and newly employed faculty and staff and, when applicable, to all students, faculty, and staff if the sexual misconduct policy is substantially updated. Any individual designated as responsible for investigating or adjudicating complaints under the sexual misconduct policy must be trained on the policy in effect at the time of the investigation or adjudication.

(c) The training required by this subsection (6) may include but is not limited to:

(I) How to promote awareness and prevention of sexual misconduct;

(II) An explanation of the institution's sexual misconduct policy;

(III) An explanation of relevant state and federal laws concerning sexual misconduct;

(IV) An explanation of types of conduct that would constitute a violation of the institution's sexual misconduct policy;

(V) The role of the institution in ensuring a coordinated response to an allegation of sexual misconduct;

(VI) The definition of "consent" in the context of sexual activity;

(VII) Options for bystander intervention;

(VIII) Options for involving law enforcement in responding to sexual misconduct;

(IX) The importance of treating and how to treat others with dignity and respect; and

(X) The effects of trauma on reporting parties or complainants who have experienced sexual misconduct that may include:

(A) Information on working with and interviewing persons who have experienced sexual misconduct;

(B) Ways to communicate sensitively and compassionately with a reporting party or complainant; and

(C) Information regarding how sexual misconduct may impact students with intellectual and developmental disabilities.

(7) (a) On or before October 1, 2020, each institution of higher education shall provide to the department, to be posted on the department's website:

(I) A copy of the institution's sexual misconduct policy;

(II) A statement as to how the institution is providing information to students on how to receive support regarding sexual misconduct as required by subsection (4) of this section and how it is promoting the information required by subsection (5) of this section; and

(III) A description of the sexual misconduct training provided by the institution as required by subsection (6) of this section.

(b) On or before October 1, 2021, and on or before each January 1 thereafter, each institution of higher education shall provide to the department, to be posted on the department's website:

(I) A copy of any updated institutional sexual misconduct policy adopted during the previous calendar year;

(II) A statement as to any changes in the manner in which the institution provides or promotes the information required by subsection (4) or (5) of this section; and

(III) A description of the sexual misconduct training provided by the institution as required by subsection (6) of this section.

(8) Beginning in 2020, and every year thereafter, the department shall include as part of its "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act" hearing required by section 2-7-203 information concerning the reports submitted by institutions pursuant to subsection (7)(a) of this section.

(9) (a) Commencing on or before August 1, 2020, subject to available appropriations, the department shall host biennial summits on sexual misconduct on institution campuses for stakeholders, advocates, students, faculty, and other interested persons to facilitate communication, share information, and hear from experts, and other efforts to promote awareness and prevention of sexual misconduct on Colorado's institution campuses.

(b) Prior to each biennial summit, the department shall convene a planning committee composed of:

(I) A representative of a public four-year institution, appointed by the governing boards of public four-year institutions;

(II) A representative of a public two-year college, appointed by the governing boards of public two-year colleges;

(III) A representative of a public rural college, as defined by the department, appointed by the governing boards of public rural colleges;

(IV) A representative of a public area technical college, appointed by the governing boards of public area technical colleges;

(V) A representative of a private four-year institution, appointed by the governing boards of the private four-year institutions;

(VI) Two students, one from a public four-year institution and one from a public two-year college, appointed by a statewide organization of public student governments;

(VII) A representative of a campus-based organization that represents victims of sexual misconduct from an institution not otherwise represented on the committee, appointed by the executive director of the department;

(VIII) A representative of a statewide community-based advocacy organization that represents victims of sexual misconduct, appointed by the executive director of the department; and

(IX) A victim of sexual misconduct at an institution, appointed jointly by the representatives appointed pursuant to subsections (9)(b)(VII) and (9)(b)(VIII) of this section.

(c) The planning committee may collaborate with other interested parties, including community partners, to develop the most effective event to facilitate the purposes of the summit as described in subsection (9)(a) of this section.

(d) (I) On or before January 15 of the year following the summit, the planning committee shall submit a report to the education committees of the senate and the house of representatives, or any successor committees, including a summary of the events, attendees, outcomes, and recommendations.

(II) Notwithstanding the provisions of section 24-1-136 (11)(a)(I), the requirement for the report in subsection (9)(d)(I) of this section continues indefinitely.

Source: L. 2019: Entire section added, (SB 19-007), ch. 401, p. 3549, § 1, effective May 31.

23-5-147. Sexual misconduct advisory committee - membership - duties - report - legislative declaration - definitions - repeal. (1) (a) The general assembly finds and declares that in November of 2018, the federal department of education issued new, proposed rules on Title IX dealing with sexual misconduct.

(b) The draft rules included changes in how educational institutions were to handle:

(I) Allegations of off-campus sexual misconduct; and

(II) Cross-examination of parties and witnesses during hearings.

(c) In response to the proposed rules, the federal department of education received numerous comments and has not yet adopted the final rules.

(d) Institutions of higher education will need to respond to the new federal rules quickly.

(e) Therefore, the state should have in place an advisory committee to quickly make recommendations to the general assembly and institutions of higher education on the proposed rules.

(2) As used in this section, unless the context otherwise requires:

(a) "Advisory committee" means the sexual misconduct advisory committee created pursuant to subsection (3) of this section.

(b) "Department" means the department of higher education created and existing pursuant to section 24-1-114.

(c) "Institution of higher education" or "institution" means a state institution of higher education, as defined in section 23-18-102 (7), or any accredited campus of a state institution of higher education; a participating private institution of higher education, as defined in section 23-18-102 (8); a local district college, as defined in section 23-71-102 (1)(a); and an area technical college, as defined in section 23-60-103 (1).

(3) There is created in the department the sexual misconduct advisory committee to make recommendations to the general assembly and to institutions of higher education concerning sexual misconduct policies and methods to reduce sexual misconduct at institutions of higher education.

(4) (a) The advisory committee consists of the following eleven persons appointed by the executive director of the department:

(I) Three representatives from institutions of higher education;

(II) Two Title IX coordinators from institutions of higher education;

(III) Three persons who are representatives of organizations that advocate on behalf of or provide services to victims of sexual misconduct;

(IV) An attorney who has experience representing victims of sexual misconduct at institutions of higher education;

(V) An attorney who has experience representing persons accused of sexual misconduct at institutions of higher education; and

(VI) A person with experience providing trauma-informed care.

(b) Members of the advisory committee serve four-year terms and may be reappointed.

(c) Members of the advisory committee serve without compensation or reimbursement of expenses.

(5) After the final federal rules on Title IX sexual misconduct are adopted, the advisory committee shall study, examine best practices, and make recommendations to the general assembly and to institutions of higher education on issues related to sexual misconduct at institutions of higher education including:

(a) How to handle incidents of sexual misconduct that occur outside of an institution's programs, activities, or property;

(b) How to conduct cross-examination of parties and witnesses at hearings;

(c) Whether a standard of reasonableness should be included in an institution's sexual misconduct policy; and

(d) Can and should institutions of higher education have higher standards than are required by federal law and regulation.

(6) (a) Within ninety days after the final federal rules on Title IX sexual misconduct are adopted, the advisory committee shall submit a report to the education committees of the senate and house of representatives, or any successor committees, on suggested changes to institutions' policies of sexual misconduct due to the new federal rules.

(b) On or before January 15, 2021, and each January 15 thereafter, the advisory committee shall submit a report to the education committees of the senate and house of representatives, or any successor committees, including recommendations for changes to statutes and policies of institutions of higher education.

(7) This section is repealed, effective September 1, 2023. Before the repeal, this section is scheduled for review in accordance with section 2-3-1203.

Source: L. 2019: Entire section added, (SB 19-007), ch. 401, p. 3555, § 1, effective May 31.

ARTICLE 6

Higher Education Emeritus
Retirement Benefits

23-6-101. Persons eligible for benefits. (1) This article shall apply to all presidents, deans, professors, administrators, instructors, and research workers, referred to in this article as "faculty members", retired from service of state institutions of higher education in Colorado, to their dependent surviving spouses, and to the surviving spouses of said faculty members who have died in service after ten or more years of employment in said state institutions.

(2) Any faculty members applying for benefits under this article:

(a) Shall have served as such faculty member at least fifteen years in one or more state institutions of higher education in Colorado, shall be at least sixty-five years of age, and shall have retired prior to July 1, 1962;

(b) Shall have retired at any age and at any time, at the initiative of the Colorado institution where last serving, for disability regarded as rendering such faculty member unfit for further service if such faculty member has served at least fifteen years and the president of the institution so retiring such member certifies to the commissioner of education as to the disability of such member;

(c) Shall, prior to July 1, 1962, have attained the age of sixty years and shall, upon the date of his retirement, have served at least twenty years; or

(d) Shall, prior to July 1, 1962, have attained the age of sixty years and shall, upon the date of his retirement, have served at least ten but less than twenty years.

(3) Any surviving spouse of any deceased faculty member applying for benefits under this article:

(a) Shall have been married to said faculty member on the date on which eligibility of said member for retirement benefits under this article was established under the provisions of paragraphs (a) to (c) of subsection (2) of this section;

(b) Shall have been married to said faculty member on the date on which eligibility of said member for retirement benefits under this article was established under the provisions of paragraph (d) of subsection (2) of this section;

(c) Shall have been married to said faculty member who died in service after twenty years of employment in state institutions of higher education in Colorado;

(d) Shall have been married to said faculty member who died in service after ten or more years of employment in state institutions of higher education in Colorado;

(e) May be of any age.

Source: L. 54: p. 160, § 1. **CRS 53:** § 124-17-1. **L. 57:** p. 717, § 1. **C.R.S. 1963:** § 124-16-1. **L. 67:** p. 727, § 1.

23-6-102. Application. Any faculty member or surviving spouse of such faculty member eligible under section 23-6-101 who is not receiving a pension or annuity under a retirement system supported in whole or in part from the state or its political subdivisions which is in excess of the retirement benefits provided for by this article shall make application to the commissioner of education for retirement benefits.

Source: L. 54: p. 160, § 2. **CRS 53:** § 124-17-2. **L. 57:** p. 718, § 1. **C.R.S. 1963:** § 124-16-2. **L. 67:** p. 728, § 1.

23-6-103. Benefits commence - when. All faculty members or their surviving spouses who are declared eligible by the commissioner of education to receive the retirement benefits provided by this article shall receive a monthly benefit provided in this article effective the first month after the commissioner declares the faculty member or surviving spouse so eligible. All faculty members or their surviving spouses receiving retirement benefits under this article before June 8, 1967, shall receive the increased benefits provided in this article effective on or after the first month following said date without being required further to establish eligibility to receive such retirement benefits.

Source: L. 54: p. 161, § 3. **CRS 53:** § 124-17-3. **L. 57:** p. 718, § 1. **C.R.S. 1963:** § 124-16-3. **L. 67:** p. 728, § 1.

23-6-104. Fund - limitation on pension. (1) There is hereby created a state institutions of higher education emeritus retirement fund from which the commissioner of education shall authorize payments from such appropriations as are made to the fund, as follows:

(a) (I) To any faculty member eligible under section 23-6-101 (2)(a), (2)(b), or (2)(c), a monthly payment of two hundred forty dollars or a lesser sum which, together with any pension or retirement benefit or annuity which at the time of his retirement he was eligible to receive from any other retirement or annuity pension fund supported in whole or in part by the state of Colorado or its political subdivisions, provides a total retirement income of three hundred fifty dollars per month; and, effective July 1, 1975, and each year thereafter, said amount shall be increased by three percent.

(II) For the fiscal year commencing July 1, 1980, payments and amounts provided for in subparagraph (I) of this paragraph (a) shall be increased by eight percent or the average percentage increase in the state salary survey for 1980-81, whichever is higher. Effective July 1, 1981, and each fiscal year thereafter, the percentage increase shall be commensurate with the average state salary survey percentage increase.

(b) To any faculty member eligible under section 23-6-101 (2)(d), a monthly payment determined as specified in paragraph (a) of this subsection (1) after multiplying each dollar sum specified therein by that fraction given by multiplying years of service by one-twentieth;

(c) To any surviving spouse eligible under section 23-6-101 (3)(a) or (3)(c), a monthly payment of one hundred twenty-five dollars or a lesser sum which, together with any pension or annuity or retirement benefit received from any other retirement or annuity pension fund supported in whole or in part by the state of Colorado or its political subdivisions, provides a total retirement benefit of one hundred seventy-five dollars per month;

(d) To any surviving spouse eligible under section 23-6-101 (3)(b) or (3)(d), a monthly payment determined as specified in paragraph (c) of this subsection (1) after multiplying each dollar sum specified therein by that fraction determined by multiplying years of faculty member's service by one-twentieth.

(2) If at any time there are insufficient moneys in the state institutions of higher education emeritus retirement fund to pay the full amount of the retirement benefits provided by this article, said moneys shall be distributed as follows:

(a) Each eligible faculty member shall receive that payment which, together with all other retirement benefits supported in whole or in part by the state of Colorado or its political subdivisions, provides a retirement income of two hundred dollars per month, or the surviving spouse shall receive one hundred dollars per month.

(b) From the moneys remaining after the above specified allotments are made, each faculty member shall receive that additional payment which, together with all other retirement benefits supported in whole or in part by the state of Colorado or its political subdivisions, provides a retirement income of two hundred fifty dollars per month, or the surviving spouse shall receive one hundred twenty-five dollars per month.

(c) All moneys remaining after the above specified allotments are fulfilled shall be prorated among all eligible recipients to provide, within the limits of the moneys available, those additional benefits for which each is eligible under subsection (1)(a) to (1)(d) of this section.

Source: L. 54: p. 161, § 4. **CRS 53:** § 124-17-4. **L. 57:** p. 719, § 1. **C.R.S. 1963:** § 124-16-4. **L. 67:** p. 728, § 1. **L. 74:** (1)(a) amended, p. 361, § 2, effective July 1. **L. 80:** (1)(a) amended, p. 568, § 2, effective July 1. **L. 2004:** IP(2) amended, p. 202, § 19, effective August 4.

Cross references: For provisions relating to the state salary survey, see § 24-50-104.

ARTICLE 7

Classification of Students for
Tuition Purposes

Cross references: For the authority to charge a tuition fee for out-of-state students at the university of Colorado, see § 23-20-132; for tuition at the dental school at the university of Colorado, see § 23-20.5-101; for tuition at Colorado state university, see § 23-31-107; for tuition at the Colorado school of mines, see § 23-41-107; for tuition at Fort Lewis college, see § 23-52-105; for tuition at community and technical colleges, see § 23-60-202.

23-7-101. Legislative declaration. It is the intent of the general assembly that the state institutions of higher education shall apply uniform rules, as prescribed in this article and not otherwise, in determining whether students are classified as in-state students or out-of-state students for tuition purposes.

Source: L. 61: p. 718, § 1. **CRS 53:** § 124-19-1. **C.R.S. 1963:** § 124-18-1.

23-7-102. Definitions. As used in this article, unless the context otherwise requires:

(1) Repealed.

(2) "Domicile" means a person's true, fixed, and permanent home and place of habitation. It is the place where he intends to remain and to which he expects to return when he leaves without intending to establish a new domicile elsewhere.

(3) "Emancipated minor" means a minor whose parents have entirely surrendered the right to the care, custody, and earnings of such minor, no longer are under any duty to support or maintain such minor, and have made no provision for the support of such minor.

(4) "His" applies to the female as well as the male sex.

(5) "In-state student" means a student who has been domiciled in Colorado for one year or more immediately preceding registration at any institution of higher education in Colorado for any term or session for which domiciliary classification is claimed, but attendance at an institution of higher education, public or private, within the state of Colorado shall not alone be sufficient to qualify for domicile in Colorado. "In-state student" includes a member of the armed forces of the United States or his dependents who qualify under section 23-7-103 (1)(c).

(6) "Institution" means a Colorado college, university, or local district college supported partially or entirely by appropriations made by the general assembly.

(7) "Minor" means a male or female person who has not attained the age of twenty-two years.

(8) "Parent-qualified student" means an unemancipated minor who is not domiciled in Colorado but who has a parent domiciled in Colorado.

(9) "Qualified person" means a person qualified to determine his or her own domicile. A person twenty-two years of age or older, a student commencing a postbaccalaureate degree-granting program, an emancipated minor, or an unaccompanied homeless youth pursuant to section 23-7-103.5 is so qualified.

Source: L. 61: p. 718, § 2. **CRS 53:** § 124-19-2. **C.R.S. 1963:** § 124-18-2. **L. 67:** p. 822, § 1. **L. 84:** (1) repealed and (3), (8), and (9) amended, pp. 633, 631, §§ 3, 1, effective April 5. **L. 86, 2nd Ex. Sess.:** (5) amended, p. 59, § 1, effective August 15. **L. 93:** (9) amended, p. 1865, § 2, effective July 1. **L. 96:** (7) and (9) amended, p. 732, § 1, effective May 22. **L. 2016:** (9) amended, (HB 16-1100), ch. 169, p. 536, § 2, effective May 17.

Cross references: For the legislative declaration contained in the 1993 act amending this section, see section 1 of chapter 311, Session Laws of Colorado 1993.

23-7-103. Presumptions and rules for determination of status - definition. (1) Unless the contrary appears to the satisfaction of the registering authority of the institution at which a student is registering, it shall be presumed that:

(a) The domicile of an unemancipated minor is that of the parent with whom he or she resides or, if there is a guardian of his or her person, that of such guardian, but only if the court appointing such guardian (who has legal custody of the minor child as defined in section 19-1-103 (73), C.R.S.) certifies that the primary purpose of such appointment is not to qualify such unemancipated minor as a resident of this state and that his or her parents, if living, do not provide substantial support to the minor child;

(b) Repealed.

(c) (I) (A) A person does not lose in-state status by reason of his or her presence in any state or country while a member of the armed forces of the United States or a dependent of said member; but a member of the armed forces or a dependent of said member is eligible for in-state status if the member is domiciled in Colorado for twelve continuous months prior to enlistment and returns to Colorado within six months following discharge from the military.

(B) A member of the armed forces shall be eligible to obtain in-state status, notwithstanding the length of his or her residency, upon moving to Colorado on a permanent change-of-station basis or on a temporary assignment to duty in Colorado.

(C) A dependent of a member of the armed forces is eligible for in-state tuition classification when the member moves to Colorado on a permanent change-of-station basis, regardless of the length of the member's or dependent's residency in Colorado. After qualifying as an in-state student, a member of the armed forces of the United States on active duty, or the member's dependent, shall not lose his or her eligibility for in-state tuition status if the member retires or separates from the military. As used in this sub-subparagraph (C), "dependent" means a spouse of a member of the armed services who was the member's spouse at the time that the member was stationed in Colorado and at the time the spouse is requesting in-state tuition classification and any child under twenty-three years of age born to or legally adopted by the member of the armed forces who enrolls in a public institution of higher education within twelve years after the member was stationed in Colorado.

(D) Nothing in this subparagraph (I) shall be interpreted to deny a person in-state tuition classification after that person is found eligible for such classification nor to deny in-state tuition classification to any person who is eligible for such classification under any other provision of law.

(II) Notwithstanding any provision of section 23-18-102 (5) to the contrary, a member of the armed forces or his or her dependent who obtains in-state status upon moving to Colorado on a temporary assignment to duty in Colorado shall not be eligible to receive a stipend pursuant to part 2 of article 18 of this title unless said member or dependent is eligible to obtain in-state status under another provision of this section.

(III) Repealed.

(d) The establishment of a new domicile in Colorado by a qualified person formerly domiciled in another state has occurred if he is physically present in Colorado without a present intention to return to such other state or to acquire a domicile at some other place outside of Colorado;

(e) Once established, a domicile has not been lost by mere absence unaccompanied by intention to establish a new domicile;

(f) The establishment of a Colorado domicile for twelve continuous months in accordance with the provisions of this article by the parent of a parent-qualified student entitles the student to in-state tuition rates;

(g) A minor is unemancipated.

(2) To aid the institutions in deciding whether a student, a parent or guardian of the student, or the person who provides substantial support to the student is domiciled in Colorado, the following rules shall be applied:

(a) Payment of Colorado income tax is highly persuasive evidence of domicile in Colorado. If spouses file income tax returns in different states, the income tax paid to each state may be considered in determining whether domicile in Colorado is proper.

(b) Nonpayment of Colorado income tax by a person whose income is sufficient to be taxed is highly persuasive evidence of non-Colorado domicile.

(c) After a student has registered at an institution, his classification for tuition purposes remains unchanged in the absence of clear and convincing evidence to the contrary. Such evidence shall be reduced to writing and filed with the registering authority of the college. Changes in classification established by such evidence, whether from out-of-state to in-state or the reverse, shall be in writing, signed by the registering authority of the college, and given effect at the time of the student's next registration.

(d) A qualified person cannot establish a new domicile in Colorado if he lacks the intention of so doing.

(e) No person may establish a domicile in Colorado solely for the purpose of changing a student's classification for tuition purposes from out-of-state to in-state. Any student who is classified for tuition purposes as an out-of-state student at the time of registration at an institution and who personally or through his parent, his guardian, or the person who provides substantial support to him seeks to establish Colorado domicile while registered shall be presumed to seek to establish Colorado domicile solely for tuition purposes in the absence of clear and convincing evidence to the contrary.

(f) The following may be considered evidence of domicile even though no one of these criteria, if taken alone, may be considered as conclusive evidence of domicile:

(I) Employment in Colorado, other than that normally provided on a temporary basis to students by an institution of higher education or other temporary employment;

(II) Ownership of residential real property in Colorado;

(III) Graduation from a high school located in Colorado;

(IV) Continued residence in the state of Colorado during periods when not enrolled as a student or during periods between academic sessions;

(V) Acceptance of future employment in the state of Colorado;

(VI) Vehicle registration in Colorado;

(VII) Any other factor peculiar to the individual which tends to establish the necessary intent to make Colorado a permanent home;

(VIII) Voter registration in Colorado.

(g) The following may be considered as evidence of domicile in another state even though no one of these criteria, if taken alone, may be considered as conclusive evidence of domicile in another state:

(I) Failure to comply with any law imposing a mandatory duty upon a domiciliary or resident of this state;

(II) Maintenance of a home in another state;

(III) Prolonged absence from Colorado, except in military or governmental service or except when the absence is due to a temporary relocation required as a condition of employment which the employer does not intend to make permanent or except when the student has been out of state for less than three years and such student's parent or legal guardian was and continues to be a resident of Colorado;

(IV) Return to one's former residence for a substantial portion of the time during periods when not enrolled as a student or between academic sessions;

(V) Vehicle registration in another state;

(VI) Any other factor peculiar to the individual which tends to establish the fact that his permanent home is in another state.

(h) The following may be considered as evidence of emancipation for the purposes of this article even though no one of these criteria, if taken alone, may be considered as conclusive evidence of emancipation:

(I) An affidavit of the parents stating their relinquishment of any claim or right to the care, custody, and earnings of the minor as well as the duty to support the minor;

(II) Entry into the military service by the minor;

(III) Failure of the parents to provide financial support to the minor, coupled with the evidence that the minor is independently able to meet his own financial obligations, including the costs of his education;

(IV) Any other factor peculiar to the individual which tends to establish that he is independent of his parents and is providing his own support.

(i) The following may be considered as evidence of nonemancipation for the purpose of this article even though no one of these criteria, if taken alone, may be considered as conclusive evidence of nonemancipation:

(I) The claiming of a minor as a dependent for the purposes of income taxation;

(II) Receipt of gifts, loans, or trust proceeds from an inter vivos trust by a minor regardless of the date of receipt thereof which the minor depends upon for financial support, whether the gifts, loans, or trusts from which proceeds are paid are made by the parents, any other relative, or a friend of the minor;

(III) Residence in the home of his parents by the minor, except for temporary visits;

(IV) Any other factor peculiar to the individual which tends to establish that he lacks independence and is dependent upon his parents.

(j) The marriage of a minor results in his emancipation.

(k) The establishment of a Colorado domicile shall be the burden of the person seeking to establish domicile. The registering authority of any state institution of higher education shall require the individual seeking to establish domicile to support his claim by clear and convincing evidence of the validity of the claim. The registering authority may require the individual seeking to establish domicile to complete forms prepared by the Colorado commission on higher education for the purpose of aiding him in his determination and to provide such documentation as may be required to support the classification.

(l) Only a qualified person can establish a domicile.

(m) (I) Any person who himself or, if an unemancipated minor, through his parent or legal guardian has had an established domicile in this state for not less than one year shall not be considered to have lost such domicile for tuition purposes unless such person would be classified as an in-state student for tuition purposes in another state if the rules and presumptions in this section for classification as an in-state student were applied in such other state to such person.

(II) Any unemancipated minor whose parent or legal guardian was domiciled in Colorado for at least the four immediately preceding years and whose parent or legal guardian moves from this state shall be classified as an in-state student if:

(A) The parent or legal guardian leaves the state after the minor completes his or her junior year of high school and the minor matriculates at a Colorado institution within three years and six months after the time the parent or legal guardian leaves the state; or

(B) Notwithstanding his or her unemancipated status, the minor maintains continuous Colorado domicile subject to all other provisions of this section.

(n) Participation in an education expense program shall not be considered evidence of domicile in this state or in another state.

(o) (I) A foreign national, notwithstanding an intention to return to his or her country of origin or ineligibility to establish domicile in the United States pursuant to federal law, is eligible for classification as an in-state student subject to all other provisions of this section if the primary purpose of the foreign national's residence in Colorado, pursuant to federal immigration regulations, is other than for his or her education or for the education of a family member. The Colorado commission on higher education shall designate those nonimmigrant classifications under which such foreign nationals may qualify as in-state students. In no event shall said designation displace students who would otherwise qualify as Colorado residents for in-state tuition classification purposes.

(II) A foreign national admitted to the United States as a refugee pursuant to 8 U.S.C. sec. 1157 or who was admitted to the United States as a special immigrant pursuant to Pub.L. 110-181, sec. 1244, as amended; Pub.L. 109-163, sec. 1059, as amended; or Pub.L. 111-8, Division F, Title VI, sec. 602, as amended, who settled in Colorado upon entering the United States is eligible for classification as an in-state student immediately upon settlement in Colorado.

(III) For the purpose of this subsection (2)(o), "settle" means a special immigrant or refugee who, upon entering the United States, has made his or her home in Colorado and presently intends to reside permanently in the state.

(2.5) Repealed.

(3) An unemancipated minor qualifies for a change in his or her classification to in-state student for tuition purposes only if either of his or her parents, regardless of custody or parental responsibilities, or his or her legal guardian has completed the requirements for establishing a Colorado domicile. Eligibility for classification as an in-state student for tuition purposes shall be lost if both of his parents, regardless of custody or parental responsibilities, or his or her legal guardian has lost eligibility. An emancipated minor or adult who has registered as a student does not qualify for a change in his or her classification to in-state student for tuition purposes unless he or she has established and maintained a domicile for twelve continuous months in this state.

(4) Repealed.

(5) The presumptions and rules in this section shall determine tuition classification except when exceptions are made by the general assembly in other sections of this article.

Source: L. 61: p. 719, § 3. **CRS 53:** § 124-19-3. **C.R.S. 1963:** § 124-18-3. **L. 65:** p. 1040, § 1. **L. 67:** p. 822, § 2. **L. 69:** p. 1069, § 1. **L. 73:** pp. 1331-1333, §§ 1, 2, 3. **L. 77:** (1)(a) amended, p. 1379, § 1, effective July 1. **L. 79:** (3) amended and (4) added, p. 833, § 1, effective June 7. **L. 84:** (1)(b) and (4) repealed, (1)(c), (1)(f), IP(2), (2)(h)(II), and (3) amended, and (2)(k) and (2)(l) added, pp. 633, 631, §§ 3, 2, effective April 5. **L. 85:** (2) R&RE, p. 780, § 1, effective May 24. **L. 86, 2nd Ex. Sess.:** (1)(c) amended, p. 59, § 2, effective August 15. **L. 87:** (1)(a) amended, p. 819, § 30, effective October 1. **L. 90:** (2.5) added, p. 1142, § 8, effective July 1. **L. 93:** (2)(a), (2)(g)(III), and (2)(i)(II) amended and (5) added, p. 1866, § 3, effective July 1. **L. 96:** (2)(n) added, p. 430, § 12, effective April 22; (2)(m)(II) amended and (2)(o) added, p. 732, § 2, effective May 22; (2.5) repealed, p. 1836, § 16, effective June 5. **L. 98:** (1)(a) amended, p. 831, §

58, effective August 5; (3) amended, p. 1411, § 76, effective February 1, 1999. **L. 99:** (1)(c)(III) repealed, p. 850, § 7, effective May 24. **L. 2003:** (5) amended, p. 1994, § 39, effective May 22. **L. 2004:** (1)(c)(I) amended, p. 1153, § 1, effective May 27. **L. 2005:** (1)(c)(I) amended, p. 656, § 1, effective May 27. **L. 2006:** (1)(c)(I) amended, p. 154, § 1, effective March 31; (1)(c)(I) amended, p. 1777, § 1, effective June 6. **L. 2007:** (1)(c) amended, p. 1620, § 1, effective July 1. **L. 2009:** (1)(c)(I)(C) amended, (HB 09-1039), ch. 382, p. 2075, § 2, effective August 5. **L. 2013:** (1)(c)(I)(C) amended and (1)(c)(I)(D) added, (HB 13-1194), ch. 362, p. 2116, § 1, effective May 28. **L. 2015:** (1)(c)(I)(C) amended, (HB 15-1215), ch. 152, p. 459, § 3, effective August 5. **L. 2018:** (2)(o) amended, (SB 18-087), ch. 121, p. 825, § 2, effective August 8.

Editor's note: Amendments to subsection (1)(c)(I) by Senate Bill 06-031 and Senate Bill 06-032 were harmonized.

Cross references: (1) For the legislative declaration contained in the act amending subsection (2)(a), (2)(g)(III), and (2)(i)(II) and enacting subsection (5), see section 1 of chapter 311, Session Laws of Colorado 1993. For the legislative declaration in HB 15-1215, see section 1 of chapter 152, Session Laws of Colorado 2015. For the legislative declaration in SB 18-087, see section 1 of chapter 121, Session Laws of Colorado 2018.

(2) For the short title of the act amending subsection (1)(c)(I)(C), see section 1 of chapter 382, Session Laws of Colorado 2009.

23-7-103.5. Unaccompanied homeless youth - domicile - definitions. (1) As defined in subsection (2) of this section, an unaccompanied homeless youth is a "qualified person", as defined in section 23-7-102, for purposes of determining his or her own domicile pursuant to the provisions of section 23-7-103.

(2) (a) As used in this section, unless the context otherwise requires, "unaccompanied homeless youth" means an individual who has not attained twenty-two years of age and who has been verified by a person described in subsection (2)(b) of this section as either:

(I) An unaccompanied youth who is a homeless child or youth, as those terms are defined in section 725 of the federal "McKinney-Vento Homeless Assistance Act", 42 U.S.C. sec. 11434a; or

(II) An unaccompanied youth, at risk of homelessness, and self-supporting. The Colorado commission on higher education shall include in its tuition classification policies a definition of "unaccompanied youth, at risk of homelessness, and self-supporting".

(b) The following persons may verify that a youth is an unaccompanied homeless youth as defined in paragraph (a) of this subsection (2):

(I) A local educational agency homeless liaison, designated pursuant to section 722 (g)(1)(J)(ii) of the federal "McKinney-Vento Homeless Assistance Act", 42 U.S.C. sec. 11432;

(II) The director of a program funded under the federal "Runaway and Homeless Youth Act", 42 U.S.C. sec. 5701 et seq., or a designee of the director;

(III) The director of a program funded under subtitle B of Title IV of the federal "McKinney-Vento Homeless Assistance Act", 42 U.S.C. sec. 11371 et seq., relating to emergency shelter grants, or a designee of the director; or

(IV) A financial aid administrator at an institution.

Source: L. 2016: Entire section added, (HB 16-1100), ch. 169, p. 535, § 1, effective May 17. **L. 2017:** IP(2)(a) and (2)(a)(II) amended, (SB 17-294), ch. 264, p. 1399, § 60, effective May 25.

23-7-104. Commission to recommend enrollment incentive program. The Colorado commission on higher education shall propose an enrollment incentive program for summer sessions at state-supported colleges and universities and make recommendations for the legislative implementation thereof to the education committees of the general assembly on or before January 15, 1979. Such recommendations shall be accompanied by an analysis of the fiscal impact of differentiated tuition levels, projections of the extent of the effect that summer school tuition rates have on overall enrollment, and a summary of the experiences any other states may have had in implementing a similar program.

Source: L. 78: Entire section added, p. 382, § 1, effective April 27.

23-7-105. Tuition classification of Olympic athletes. (1) Notwithstanding any other provision of this article 7 to the contrary, but subject to subsections (2) and (3) of this section, every athlete who otherwise would not be classified as an in-state student for tuition purposes under this article may be classified as an in-state student for purposes of tuition at any state-supported institution of higher education if the athlete is:

(a) In residence and in training at the United States Olympic training center at Colorado Springs; or

(b) (Deleted by amendment, L. 2017.)

(c) Residing in Colorado and training in an elite level program in Colorado approved by the United States Olympic Committee and the governing body for the athlete's Olympic, Paralympic, Pan American, or Parapan American sport.

(2) If a student is classified as an in-state student pursuant to this section, he or she may be counted as a resident student for any purpose; except that no such student shall be entitled to receive state financial aid.

(3) The governing board of each state-supported institution of higher education may grant in-state tuition status to students classified pursuant to this section.

Source: L. 86: Entire section added, p. 827, § 1, effective May 26. **L. 88:** (1) amended, p. 841, § 1, effective May 29. **L. 89:** IP(1) amended, p. 980, § 1, effective April 5; (3) amended, p. 1643, § 6, effective June 5. **L. 93:** Entire section RC&RE, p. 1262, § 1, effective June 6. **L. 96:** IP(1) and (2) amended, p. 1006, § 1, effective July 1. **L. 2017:** (1) amended, (HB 17-1081), ch. 124, p. 429, § 1, effective August 9.

Editor's note: Prior to its recreation and reenactment in 1993, subsection (4) provided for the repeal of this section, effective July 1, 1992. (See L. 86, p. 827.)

23-7-106. Tuition classification of Canadian military personnel. (1) Notwithstanding any other provisions of this article to the contrary, any member of the military forces of Canada stationed in Colorado, or the dependent of any such member, shall receive in-state tuition status at any institution of higher education in this state. No member of the Canadian military shall be

deemed to be stationed in this state unless he maintains a full-time principal residence in this state. In-state tuition status for Canadian military personnel or their dependents shall terminate at the conclusion of the current quarter or semester upon transfer to any station outside of this state.

(2) No student classified as an in-state student pursuant to this section shall be counted as a resident student for any purpose other than tuition classification.

(3) The Colorado commission on higher education shall report annually, with their budget request, on the enrollment of Canadian military personnel in Colorado institutions of higher education.

Source: L. 89: Entire section added, p. 981, § 1, effective June 6.

23-7-107. Tuition classification of Chinese and Russian students in graduate public policy programs. (1) Notwithstanding any other provision of this article to the contrary, but subject to subsections (4) and (5) of this section, up to a total of twenty-five students deserving of financial support per year from the Commonwealth of Independent States and the People's Republic of China, five of whom shall be of Tibetan nationality, if possible, who are enrolled in a qualifying master's program at a graduate school of public affairs at a state-supported institution of higher education may be classified as in-state students for purposes of tuition at such institution. The total number of students enrolled under this section may not exceed fifty. To qualify for in-state classification pursuant to this section, such students must be enrolled in a master's program which focuses on developing such students' understanding of democracy and which will enable them to apply the doctrines of democracy and free-market principles upon returning to their respective countries, such students must meet the academic requirements of such program, and such students must meet the requirements stated in subsection (3) of this section. In addition, such students shall plan, following graduation, to return to their respective countries to apply the knowledge obtained from such master's program.

(2) To receive in-state classification pursuant to this section, a student shall annually submit an application to the graduate school of public affairs at the university of Colorado at Denver. The dean and faculty council of such graduate school of public affairs shall annually determine those students who may receive in-state classification based on each student's satisfaction of the requirements stated in this section. Upon determining which students may receive in-state classification, the dean or the faculty council shall notify such students and the state-supported institutions of higher education at which such students are enrolled. Notification shall be made not later than July 1 of each year in which such student receives in-state classification pursuant to this section.

(3) To be eligible for in-state classification pursuant to this section, each student must be enrolled as a full-time student and must maintain a full-time principal residence in this state during the time such student is enrolled. Eligibility for in-state classification for each student shall terminate at the time such student receives a degree from the program in which such student was enrolled at the time such in-state classification was first received.

(4) No student admitted pursuant to this section shall be admitted in lieu of a qualified Colorado resident who is applying to a qualified master's program at the graduate school of public affairs at the university of Colorado at Denver.

(5) No student classified as an in-state student pursuant to this section shall be counted as a resident student for any purpose other than tuition classification.

(6) The governing board of each state-supported institution of higher education may grant in-state tuition status to students classified pursuant to this section.

(7) Repealed.

Source: L. 93: Entire section added, p. 2113, § 1, effective June 9. **L. 2004:** (7) repealed, p. 202, § 20, effective August 4.

23-7-108. Tuition classification of Colorado National Guard personnel. (Repealed)

Source: L. 2007: Entire section added, p. 1621, § 3, effective July 1. **L. 2008:** (3) repealed, p. 1644, § 1, effective August 5. **L. 2018:** Entire section repealed, (HB 18-1228), ch. 103, p. 787, § 3, effective August 8.

Editor's note: This section was relocated to § 23-7.4-202 in 2018.

23-7-108.5. Tuition classification of armed forces veterans. (Repealed)

Source: L. 2009: Entire section added, (HB 09-1039), ch. 382, p. 2076, § 3, effective August 5. **L. 2018:** Entire section repealed, (HB 18-1228), ch. 103, p. 787, § 3, effective August 8.

Editor's note: This section was relocated to § 23-7.4-203 in 2018.

23-7-108.6. Tuition classification for veterans pursuant to federal law. (Repealed)

Source: L. 2015: Entire section added, (HB 15-1294), ch. 143, p. 435, § 1, effective May 1. **L. 2018:** Entire section repealed, (HB 18-1228), ch. 103, p. 787, § 3, effective August 8.

Editor's note: This section was relocated to § 23-7.4-204 in 2018.

23-7-108.7. Tuition classification of dependents of members of the armed forces. (Repealed)

Source: L. 2012: Entire section added, (HB 12-1350), ch. 272, p. 1441, § 1, effective June 8. **L. 2015:** Entire section repealed, (HB 15-1215), ch. 152, p. 459, § 2, effective August 5.

Cross references: For the legislative declaration in HB 15-1215, see section 1 of chapter 152, Session Laws of Colorado 2015.

23-7-109. Tuition classification for employees or employees' children of companies who move to Colorado. (1) (a) Notwithstanding any other provision of this article to the contrary, but subject to subsections (2) and (3) of this section, a student who otherwise would not be classified as an in-state student for tuition purposes under this article may be classified as an in-state student for purposes of tuition at any state-supported institution of higher education if the student or the student's parent or legal guardian moved to Colorado in the twelve months

preceding enrollment as a result of the student's employer or the employer of the student's parent or legal guardian moving all or a portion of its operations to Colorado as a result of receiving an incentive from the Colorado office of economic development, created in section 24-48.5-101, C.R.S., or an incentive from a local government economic incentive program. Each state-supported institution of higher education shall develop a policy to use to verify that the student's employer or the employer of the student's parent or legal guardian did, in fact, move all or a portion of its operations to Colorado as a result of receiving an incentive from the Colorado office of economic development or a local government economic incentive program and that the student or the student's parent or legal guardian was employed by the employer prior to the relocation.

(b) Notwithstanding any other provision of this article to the contrary, but subject to subsections (2) and (3) of this section, a student who otherwise would not be classified as an in-state student for tuition purposes under this article may be classified as an in-state student for purposes of tuition at any state-supported institution of higher education if the student moved to the state of Colorado in the twelve months preceding enrollment as a result of the student's parent or legal guardian moving to Colorado to take a faculty position at a state-supported institution of higher education. Each state-supported institution of higher education shall develop a policy to use to verify that the student's parent or legal guardian moved to Colorado to take a faculty position at a state-supported institution of higher education.

(2) If a student is classified as an in-state student pursuant to this section, he or she may be counted as a resident student for any purpose; except that the student shall not be entitled to receive state financial aid.

(3) The governing board of each state-supported institution of higher education may grant in-state tuition status to students classified pursuant to this section.

Source: L. 2007: Entire section added, p. 1824, § 2, effective August 3.

Cross references: For the legislative declaration contained in the 2007 act enacting this section, see section 1 of chapter 402, Session Laws of Colorado 2007.

23-7-110. Tuition classification of students who successfully complete high school or a high school equivalency examination in Colorado. (1) Notwithstanding any other provision of this article to the contrary, a student, other than a nonimmigrant alien, must be classified as an in-state student for tuition purposes if:

(a) The student attended a public or private high school in Colorado for at least three years immediately preceding the date the student either graduated from a Colorado high school or successfully completed a high school equivalency examination, as defined in section 22-33-102 (8.5), C.R.S., in Colorado; and

(b) Except as provided in subsection (3) of this section, within twelve months after graduating or successfully completing a high school equivalency examination, as defined in section 22-33-102 (8.5), C.R.S., in Colorado, the student is admitted to a Colorado institution or attends an institution of higher education under a reciprocity agreement pursuant to section 23-1-112.

(2) (a) In addition to satisfying the requirements set forth in subsection (1) of this section, a student seeking tuition classification as an in-state student pursuant to this section who

does not have lawful immigration status must submit an affidavit to the institution to which the student is admitted, stating that the student has applied for lawful presence or will apply as soon as he or she is eligible to do so.

(b) The institution shall not count a student described in subsection (2)(a) of this section as a resident for any purpose other than tuition classification; except that the student is eligible for the college opportunity fund program pursuant to the provisions of part 2 of article 18 of this title 23 and state student financial assistance pursuant to article 3.3 of this title 23, upon confirmation of the student's uniquely identifying student number provided by the local education provider where the student graduated from high school or successfully completed his or her high school equivalency examination, as defined in section 22-33-102 (8.5), and may be eligible for institutional or other private financial aid programs.

(3) A student who satisfies the requirements of paragraph (a) of subsection (1) of this section, who is subject to the provisions of paragraph (a) of subsection (2) of this section, and who graduated or successfully completed his or her high school equivalency examination, as defined in section 22-33-102 (8.5), C.R.S., prior to September 1, 2013, but was not admitted to an institution within twelve months after graduating or completing the high school equivalency examination, must be classified as an in-state student for tuition purposes so long as the student has been physically present in Colorado on a continuous basis for at least eighteen months prior to enrolling in the institution.

(4) Any information provided to satisfy the criteria specified in this section shall be confidential unless disclosure is explicitly required by law. An institution that receives an affidavit described in subsection (2) of this section shall treat the affidavit as an education record of the student under the provisions of the federal "Family Educational Rights and Privacy Act of 1974", 20 U.S.C. sec. 1232g.

(5) This section provides an additional option for a student seeking classification as an in-state student for tuition purposes. This section shall not be interpreted to impose additional requirements upon a student seeking classification as an in-state student under any other section of this article.

Source: L. 2008: Entire section added, p. 884, § 1, effective May 20. **L. 2013:** Entire section R§RE, (SB 13-033), ch. 156, p. 504, § 1, effective April 29. **L. 2014:** (1), (2)(b), and (3) amended, (SB 14-058), ch. 102, p. 382, § 14, effective April 7. **L. 2019:** (2)(b) amended, (HB 19-1196), ch. 162, p. 1894, § 1, effective May 13.

Cross references: For the legislative declaration in the 2013 act amending this section, see section 3 of chapter 156, Session Laws of Colorado 2013.

23-7-111. Tuition classification for persons who move to Colorado for employment. (1) (a) Notwithstanding any other provision of this article to the contrary, and subject to the provisions of subsections (2) to (4) of this section, a child who is a legal resident of the United States and who would otherwise not be classified as an in-state student for tuition purposes under this article may be classified as an in-state student for purposes of tuition at an institution if:

(I) The child's parent or legal guardian moved his or her family to Colorado for the purpose of accepting a job in the state during the child's senior year of high school;

(II) The child moved with his or her parent or legal guardian to Colorado during the child's senior year of high school; and

(III) The child graduated from a Colorado public high school.

(b) Each institution shall develop a policy to verify that a child meets each of the requirements specified in paragraph (a) of this subsection (1).

(2) If a child is classified as an in-state student pursuant to this section, he or she may be counted as a resident student for any purpose; except that the child shall not be entitled to receive state financial aid.

(3) The governing board of each institution may grant in-state tuition status to a child classified as an in-state student pursuant to this section.

(4) If a child is classified as an in-state student pursuant to this section, the child shall not be entitled to receive a stipend pursuant to article 18 of this title for the first year the child is enrolled at an institution.

Source: L. 2009: Entire section added, (HB 09-1063), ch. 228, p. 1040, § 2, effective August 5.

Cross references: For the legislative declaration contained in the 2009 act adding this section, see section 1 of chapter 228, Session Laws of Colorado 2009.

ARTICLE 7.4

Military Members, Veterans, and Dependents

Editor's note: This article 7.4 was added with relocations in 2018. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated.

PART 1

GENERAL PROVISIONS

23-7.4-101. Short title. The short title of this article 7.4 is the "Higher Education for Military Service Act".

Source: L. 2018: Entire article added with relocations, (HB 18-1228), ch. 103, p. 781, § 1, effective August 8.

23-7.4-102. Legislative declaration. (1) The general assembly finds that:

(a) Active duty members and veterans of the United States armed forces and Colorado National Guard provide an essential service to the nation and to the state of Colorado;

(b) The families of service members often sacrifice personal goals due to frequent moves and deployments that disrupt or delay work and education, including higher education;

(c) Veterans who return to civilian life and their dependents have opportunities to further their education in Colorado through the state system of community and technical colleges, local district colleges, and four-year institutions of higher education; and

(d) Many active duty and veteran military members and their dependents have difficulty navigating the various state and federal laws relating to military benefits, including in-state tuition classification and state financial assistance programs.

(2) Therefore, the general assembly declares that locating provisions of the state's higher education statutes, where possible, into a single article of this title 23 relating to military members, veterans, and military dependents minimizes confusion and provides greater transparency concerning military benefits available in higher education.

Source: L. 2018: Entire article added with relocations, (HB 18-1228), ch. 103, p. 781, § 1, effective August 8.

23-7.4-103. Higher education provisions relating to military members, veterans, and dependents - located in other articles. (1) The following provisions relating to higher education for military members, veterans, and dependents are contained in other articles of this title 23:

(a) Presumptions and rules for determination of status, section 23-7-103 (1)(c), (2)(g), (2)(h), and (5);

(b) Tuition and other financial assistance for dependents of prisoners of war and military personnel missing in action, section 23-3.3-204;

(c) Tuition and other financial assistance for dependents of deceased or permanently disabled National Guardsman, section 23-3.3-205;

(d) Eligibility for payment of a Colorado opportunity fund stipend for off-campus, extended campus, or continuing education classes, section 23-18-202 (5)(d)(I)(F);

(e) Credit for military education and training, section 23-5-145;

(f) Teach Colorado grant initiative, section 23-3.3-901 (4)(d); and

(g) Tuition classification of Canadian military personnel, section 23-7-106.

Source: L. 2018: Entire article added with relocations, (HB 18-1228), ch. 103, p. 782, § 1, effective August 8.

PART 2

TUITION CLASSIFICATION

23-7.4-201. Definitions. As used in this part 2, unless the context otherwise requires:

(1) "Domicile" has the same meaning as set forth in section 23-7-102 (2).

(2) "Institution" has the same meaning as set forth in section 23-7-102 (6).

Source: L. 2018: Entire article added with relocations, (HB 18-1228), ch. 103, p. 782, § 1, effective August 8.

23-7.4-202. Tuition classification of Colorado National Guard personnel. (1) Notwithstanding any provision of this article 7.4 or article 7 of this title 23 to the contrary, a member of the Colorado National Guard who maintains his or her sole residence in Colorado, or the dependent of that member of the Colorado National Guard, has in-state tuition status at any

institution of higher education in this state. Such member of the Colorado National Guard has in-state tuition status regardless of whether he or she is eligible for or is receiving tuition assistance pursuant to section 23-7.4-302.

(2) A student who is classified as an in-state student solely pursuant to this section is not counted as a resident for any purpose other than tuition classification.

Source: L. 2018: Entire article added with relocations, (HB 18-1228), ch. 103, p. 783, § 1, effective August 8.

Editor's note: This section is similar to former § 23-7-108 as it existed prior to 2018.

23-7.4-203. Tuition classification of armed forces veterans. (1) (a) Notwithstanding any provision of this article 7.4 or article 7 of this title 23 to the contrary, beginning with the fall semester of the 2009-2010 academic year, the governing board of each state institution of higher education in Colorado shall adopt a policy that grants in-state tuition status to an honorably discharged member of the armed forces of the United States who enrolls in the state institution of higher education and who meets, for any length of time, the presumptions and rules for maintaining a domicile in Colorado described in section 23-7-103.

(b) Notwithstanding any provision of this article 7.4 or article 7 of this title 23 to the contrary, beginning with the fall semester of the 2009-2010 academic year, the governing board of each state institution of higher education in Colorado may adopt a policy that grants in-state tuition status to a dependent of an honorably discharged member of the armed forces of the United States who enrolls in the state institution of higher education if the honorably discharged member of the armed forces meets, for any length of time, the presumptions and rules for maintaining a domicile in Colorado described in section 23-7-103.

(2) A student who is classified as an in-state student solely pursuant to this section is not counted as a resident for any purpose other than tuition classification; except that, beginning with the fall semester of the 2011-2012 academic year, upon classification as an in-state student pursuant to this section, the student is also eligible to receive a stipend from the college opportunity fund pursuant to part 2 of article 18 of this title 23.

Source: L. 2018: Entire article added with relocations, (HB 18-1228), ch. 103, p. 783, § 1, effective August 8.

Editor's note: This section is similar to former § 23-7-108.5 as it existed prior to 2018.

23-7.4-204. Tuition classification for veterans pursuant to federal law. (1) Notwithstanding any provision of this article 7.4 or article 7 of this title 23 to the contrary, beginning with any courses enrolled as of July 1, 2015, the governing board of each state institution of higher education shall adopt a policy granting in-state tuition status to "covered individuals", as defined in section 702 of the federal "Veterans Access, Choice, and Accountability Act of 2014", 38 U.S.C. sec. 3679, as may be amended, and as determined by the United States department of veterans affairs.

(2) A covered individual must be classified as an in-state student for tuition purposes if:

(a) The covered individual resides in Colorado while enrolled in the institution, regardless of the length of time the covered individual resided in Colorado prior to enrolling in the institution; and

(b) The covered individual enrolls in courses with educational assistance benefits pursuant to chapter 30 or 33 of U.S.C. title 38.

(3) Notwithstanding the provisions of subsection (2) of this section to the contrary, a student who qualified as a covered individual and who has exhausted his or her educational assistance benefits pursuant to chapter 30 or 33 of U.S.C. title 38 must continue to be classified as an in-state student for tuition purposes so long as the student continues to reside in Colorado and remains continuously enrolled in the same institution.

(4) Beginning July 1, 2015, upon classification pursuant to this section, the covered individual is also eligible to receive a stipend from the college opportunity fund pursuant to part 2 of article 18 of this title 23.

(5) A covered individual that is classified as an in-state student solely pursuant to this section is not counted as a resident student for any other purpose other than tuition classification.

Source: L. 2018: Entire article added with relocations, (HB 18-1228), ch. 103, p. 783, § 1, effective August 8.

Editor's note: This section is similar to former § 23-7-108.6 as it existed prior to 2018.

23-7.4-205. Tuition classification for community college - definitions. (1) Notwithstanding any provision of this article 7.4 or article 7 of this title 23 to the contrary, on or before January 1, 2021, the state board for community colleges and occupational education shall adopt and implement a policy granting in-state tuition status at a community college for an active member of the armed forces of the United States or a veteran of the armed forces of the United States, or a dependent of said member or veteran, regardless of whether the person satisfies Colorado domicile or residency status.

(2) (a) A person who is eligible for in-state tuition status pursuant to this section is not counted as a resident for any purpose other than tuition classification, except as provided by subsection (2)(b) of this section.

(b) Notwithstanding subsection (2)(a) of this section or any provision to the contrary, on or before January 1, 2021, a person who is classified for in-state tuition status pursuant to this section is eligible to receive a stipend from the college opportunity fund pursuant to part 2 of article 18 of this title 23.

(3) As used in this section, unless the context otherwise requires:

(a) "Community college" means a community college described in section 23-60-205 that is governed by the state board for community colleges and occupational education.

(b) "Dependent" means either:

(I) A spouse of an active member of the armed forces of the United States or a veteran, living or deceased, of the armed forces of the United States, at the time the spouse is requesting in-state tuition classification; or

(II) A child under twenty-three years of age either born to or legally adopted by an active member of the armed forces of the United States or a veteran, living or deceased, of the armed forces of the United States.

Source: L. 2020: Entire section added, (HB 20-1275), ch. 95, p. 374, § 1, effective September 14.

PART 3

FINANCIAL ASSISTANCE

23-7.4-301. Financial assistance - dependents of prisoners of war or missing in action - deceased or permanently disabled National Guardsman. Provisions relating to tuition and other financial assistance for dependents of prisoners of war and military personnel missing in action are set forth in section 23-3.3-204. Provisions relating to tuition and other financial assistance for dependents of a deceased or permanently disabled National Guardsman are set forth in section 23-3.3-205.

Source: L. 2018: Entire article added with relocations, (HB 18-1228), ch. 103, p. 784, § 1, effective August 8.

23-7.4-302. Tuition for members of the National Guard - definitions. (1) The general assembly recognizes its responsibility for the establishment and maintenance of a strong well-trained and high-spirited National Guard. The encouragement of membership in the guard through the granting of reduced or free tuition at certain institutions of postsecondary education simultaneously expresses a commitment to a part of this responsibility and supports existing institutions, carrying out a policy of maintaining reasonable access to quality education as broadly in this state as possible. The general assembly hereby finds and declares that the establishment of a tuition assistance program will encourage enlistments, enhance the knowledge and skills of the National Guard, and retain membership in the National Guard.

(2) (a) Any person who is a member of the Colorado National Guard, upon being accepted for enrollment at any designated institution of higher education, is permitted to pursue studies leading toward a bachelor's degree, a postgraduate degree, an associate degree, or a certificate of completion with at least fifty percent but not more than one hundred percent of the cost of tuition paid by the department of military and veterans affairs, subject to available appropriations, for so long as the person remains a member of the Colorado National Guard, but the tuition payments shall not be made for more than one hundred thirty-two semester hours or one hundred ninety-eight quarter hours or for more than eight years.

(a.5) A member is eligible for tuition assistance pursuant to this section to the extent that the sum of the member's tuition assistance from all sources, including the federal government, does not exceed one hundred percent of the cost of tuition.

(b) In order to qualify for the tuition assistance authorized by this section, a member:

(I) Must meet the criteria for eligibility, as established by rules and regulations promulgated pursuant to subsection (7) of this section;

(II) Must not be drawing tuition from any other tuition assistance program funded by a private employer that, when combined with the assistance in this section, would exceed one hundred percent of the tuition costs;

(III) Must not be a recipient of a full scholarship for tuition and fees to any designated institution of higher education; and

(IV) Must serve in the Colorado National Guard during the period of time that the member is receiving tuition and fee assistance.

(c) In providing the tuition assistance to members pursuant to subsection (2)(a) of this section, the department of military and veterans affairs is encouraged to consider providing assistance on a priority basis to newly-enlisted members in their first term of service and who enlist in those military specialties that are experiencing shortages as determined by the department.

(d) For purposes of this section, "member" means an enlisted member or officer of the National Guard.

(3) (a) For purposes of this section, "designated institution of higher education" means the Colorado state university - Pueblo, Adams state university, Colorado Mesa university, Metropolitan state university of Denver, Fort Lewis college, Western Colorado university, all independent area technical colleges, all local district colleges, the university of northern Colorado, the university of Colorado at Boulder, the university of Colorado at Denver, the university of Colorado at Colorado Springs, Colorado state university, Colorado state university - global campus, the Colorado school of mines, the university of Colorado health sciences center, all community colleges governed by the state board for community colleges and occupational education, and any private institution of higher education in Colorado that qualifies for the college opportunity fund pursuant to article 18 of this title 23 and that offers an accredited certificate or degree program in homeland security. For a member of the Colorado National Guard enrolled in a private institution of higher education, tuition assistance is limited to the completion of the accredited certificate or degree program in homeland security and is provided at the discretion of the adjutant general of the department of military and veterans affairs.

(b) The department of military and veterans affairs shall establish the basis for the tuition assistance at the university of Colorado health sciences center.

(4) Repealed.

(5) For each individual member of the Colorado National Guard who is a continuing student and who is receiving tuition assistance as provided in this section, the department of military and veterans affairs shall obtain certification from the designated institution of higher education prior to the payment to the institution attesting to the member's current satisfactory academic standing at the designated institution of higher education, as determined by military regulations promulgated pursuant to subsection (7) of this section, for each semester or quarter for which tuition assistance is requested. Tuition assistance shall not be granted without such certification.

(6) Any member who leaves the Colorado National Guard in violation of the member's agreement under subsection (2) of this section during an academic term for which the member is receiving tuition assistance is required to repay to the department of military and veterans affairs the amount of tuition assistance granted for that academic term and any and all collection fees incurred by the department of military and veterans affairs. The repayment of tuition assistance shall be credited to the Colorado National Guard tuition fund created in subsection (9) of this section.

(7) The department of military and veterans affairs shall promulgate military regulations for the administration of tuition assistance as provided in this section, including, but not limited to, the following:

(a) Criteria for the eligibility of a member of the National Guard for tuition assistance. In establishing this criteria, the department of military and veterans affairs shall include, but not be limited to, consideration of the following:

(I) The member's past service and record, if any, in the National Guard;

(II) An evaluation of the member's commitment to future service in the National Guard;

(III) The member's military record, if any, including the member's achievements and whether the member has been honorably discharged;

(IV) The benefit to the National Guard by having such an individual as a member;

(V) Financial need, merit, or talent;

(b) Procedures to be followed by designated institutions of higher education in reporting the member's academic standing and in providing timely billing to the department of military and veterans affairs;

(c) A definition of satisfactory academic standing, including, but not limited to, consideration of the member's cumulative grade point average, credit hours completed, and progress toward a degree.

(8) Repealed.

(9) (a) There is created in the state treasury the Colorado National Guard tuition fund which is administered by the department of military and veterans affairs and which consists of all money that may be appropriated thereto by the general assembly or that is otherwise made available to it by the general assembly. Money "otherwise made available" includes any repayment of tuition assistance made pursuant to subsection (6) of this section. The money in the fund is continuously appropriated for the payment of tuition assistance as provided in this section. Any money not expended at the end of the fiscal year remains in the fund and shall not be transferred to or revert to the general fund of the state.

(b) An audit of the Colorado National Guard tuition fund must be made during the department of military and veterans affairs postaudit pursuant to section 2-3-103.

Source: L. 2018: Entire article added with relocations, (HB 18-1228), ch. 103, p. 784, § 1, effective August 8. **L. 2019:** (3)(a) amended, (SB 19-194), ch. 219, p. 2243, § 1, effective May 20; (3)(a) amended, (HB 19-1178), ch. 400, 3547, § 17, effective July 1.

Editor's note: (1) This section is similar to former § 23-5-111.4 as it existed prior to 2018.

(2) Amendments to subsection (3)(a) by SB 19-194 and HB 19-1178 were harmonized.

ARTICLE 7.5

Tuition for Critical Services Programs

23-7.5-101 to 23-7.5-106. (Repealed)

Editor's note: (1) This article was added in 1985. For amendments to this article prior to its repeal in 1990, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

(2) Section 23-7.5-106 provided for the repeal of this article, effective June 30, 1990. (See L. 85, p. 785.)

ARTICLE 8

State Assistance for
Career and Technical Education

23-8-101. Legislative declaration. Nothing in this article shall be construed to prohibit or limit existing programs of career and technical education in any grade level, the value of which is specifically recognized by the general assembly.

Source: L. 70: p. 429, § 1. **C.R.S. 1963:** § 146-4-5. **L. 2008:** Entire article amended, p. 307, § 1, effective August 5.

23-8-101.5. Definitions. As used in this article, unless the context otherwise requires:

(1) "Board" means the state board for community colleges and occupational education created in section 23-60-104.

(2) "Board of cooperative services" shall have the same meaning as set forth in section 22-5-103 (2), C.R.S.

(3) "Education provider" means a school district, a board of cooperative services, an institute charter school, or a facility school.

(4) "Education provider's per pupil revenues" means:

(a) For a school district, the district's per pupil revenues, as defined in section 22-54-103 (9.3), C.R.S.;

(b) For a board of cooperative services, the amount received by a board of cooperative services as tuition for students enrolled in an approved career and technical education program;

(c) For an institute charter school, the amount received by an institute charter school pursuant to the provisions of section 22-54-115 (1.3), C.R.S., for any budget year, divided by the number of pupils enrolled in the institute charter school for that budget year; and

(d) For a facility school, the amount received by a facility school pursuant to section 22-54-129 (2)(c)(II), C.R.S.

(5) "Facility school" means an approved facility school, as defined in section 22-2-402 (1), C.R.S.

(6) "Institute charter school" means a charter school that enters into a charter contract with the state charter school institute pursuant to part 5 of article 30.5 of title 22, C.R.S.

Source: L. 2004: Entire section added, p. 1646, § 54, effective July 1. **L. 2005:** Entire section amended, p. 435, § 11, effective April 29. **L. 2008:** Entire article amended, p. 307, § 1, effective August 5; entire section amended, p. 1412, § 68, effective August 5. **L. 2010:** IP(4), (4)(a), and (4)(c) amended, (HB 10-1013), ch. 399, p. 1915, § 46, effective June 10. **L. 2016:** (4)(d) amended, (HB 16-1422), ch. 351, p. 1433, § 9, effective June 10.

23-8-102. School districts, boards of cooperative services, and institute charter schools conducting career and technical education courses - eligibility for state moneys. (1)

An education provider of the state conducting a course of career and technical education approved pursuant to section 23-8-103 by the board is entitled to career and technical education program support from moneys appropriated for that purpose by the general assembly. The amount of career and technical education program support that an education provider is entitled to receive pursuant to the provisions of this article shall be computed as follows:

(a) The cost of providing the approved career and technical education programs of the education provider shall be computed in accordance with paragraph (c) of this subsection (1). The cost so computed shall be divided by the number of full-time equivalent students to be served by the programs, and the result shall be designated, for purposes of this article, as the education provider's career and technical education program cost per full-time equivalent student.

(b) As career and technical education program support, the state shall provide, to each education provider conducting an approved career and technical education program for each twelve-month period beginning July 1, eighty percent of the first one thousand two hundred fifty dollars, or part thereof, by which the education provider's approved career and technical education program cost per full-time equivalent student exceeds seventy percent of the education provider's per pupil revenues, for the school budget year during which the twelve-month period begins. In addition, if the education provider's approved career and technical education cost per full-time equivalent student exceeds seventy percent of its per pupil revenues by an additional amount in excess of one thousand two hundred fifty dollars, the state shall provide fifty percent of the additional amount.

(c) For the purpose of computing approved career and technical education program costs, the following shall be included:

(I) The cost of providing the services of instructional personnel for the time involved;

(II) The cost of services to be provided by another education agency or institution;

(III) The cost of necessary books and supplies; and

(IV) The cost of equipment approved for purchase by the board.

(V) Repealed.

(1.5) Any moneys that are transferred from the department of education to the board to be used by the board to provide career and technical education program support to an education provider pursuant to subsection (1) of this section, and which moneys are so used, shall not be considered a state grant for the purpose of calculating whether the board qualifies as an enterprise, as defined in section 24-77-102 (3)(b), C.R.S.

(2) To be eligible to receive the moneys appropriated pursuant to subsection (1) of this section, the education provider shall assume the obligation of paying the balance of the program costs.

(3) The provisions of this section shall not be construed to prevent an education provider from conducting any course in career and technical education with costs in excess of those for which state career and technical education program support moneys are approved by the board.

(4) Moneys made available under this article shall be distributed quarterly on the basis of the report of actual expenditures furnished to the board by participating education providers at the end of the previous fiscal year. As soon as practicable after July 1 of each year, beginning in 1971, each participating education provider shall file with the board a report of actual expenditures for all career and technical education programs for which the education provider is

eligible to receive moneys pursuant to the provisions of this article during the preceding twelve-month period.

(5) If the appropriations to implement subsections (1) to (4) of this section are less than the total amount required to pay the career and technical education program support for approved career and technical education courses, the board shall prorate the amount to be paid to each education provider in the same proportion that the appropriation bears to the total amount so required for distribution. Any unexpended balance of an appropriation shall revert to the general fund at the end of the fiscal year for which the appropriation is made.

(6) The provisions of this section shall not apply to the Colorado customized training program created in section 23-60-306. For the purposes of this section, the costs of such program shall not be included in computing approved career and technical education program costs, and trainees in the Colorado customized training program shall not be counted in computing the number of full-time equivalent students to be served by approved career and technical education programs. Nothing in this section shall preclude the use of school district career and technical education program sites as delivery sites for specific training programs funded by the Colorado customized training program.

(7) The provisions of this section shall not apply to the Colorado existing industry training program created pursuant to section 23-60-307. For the purposes of this section, the costs of such program shall not be included in computing approved career and technical education program costs, and trainees in the Colorado existing industry training program shall not be counted in computing the number of full-time equivalent students to be served by approved career and technical education programs. Nothing in this section shall preclude the use of school district career and technical education program sites as delivery sites for specific training programs funded by the Colorado existing industry training program.

Source: L. 70: p. 426, § 1. **C.R.S. 1963:** § 146-4-1. **L. 73:** p. 1315, §§ 8, 11. **L. 76:** (1)(b) R&RE, p. 572, § 1, effective July 1. **L. 84:** (6) added, p. 643, § 2, effective July 1. **L. 88:** (6) amended, p. 865, § 2, effective April 20; (1)(c)(V) repealed, p. 777, § 7, effective May 29; (1)(b) amended, p. 821, § 29, effective January 1, 1989. **L. 89:** (7) added, p. 1009, § 2, effective June 7. **L. 94:** (1)(b) amended, p. 822, § 48, effective April 27. **L. 2004:** (1) to (5) amended, p. 1646, § 55, effective July 1. **L. 2005:** IP(1), (1)(a), (1)(b), (2), (3), (4), and (5) amended, p. 436, § 12, effective April 29. **L. 2008:** Entire article amended, p. 308, § 1, effective August 5; (1), (1.5), (2), (3), (4), and (5) amended, p. 1413, § 69, effective August 5. **L. 2010:** (1)(b) amended, (HB 10-1013), ch. 399, p. 1916, § 47, effective June 10.

Cross references: For the creation and membership of the state board for community colleges and occupational education, see § 23-60-104; for reimbursement of transportation costs of vocational education, see article 51 of title 22; for replacement of state funds under this section by property tax revenues received under the "Public School Finance Act of 1994", see § 22-54-107.

23-8-103. Standards for eligibility for grants - rules. (1) The board shall not approve career and technical education program support to be provided under section 23-8-102 unless the courses of career and technical education conducted by an education provider meet the standards prescribed in subsection (2) of this section.

(2) Any course approved pursuant to subsection (1) of this section shall:

(a) Be designed to provide students with an entry-level occupational skill or prepare students for further education, including but not limited to skills or preparation in the areas of visual arts, as defined in section 22-1-104.5 (1)(c), C.R.S., or performing arts, as defined in section 22-1-104.5 (1)(b), C.R.S.;

(b) (Deleted by amendment, L. 2008, p. 310, § 1, effective August 5, 2008.)

(c) Have a technical advisory committee that functions at the state, regional, or local level to assist education providers in planning and conducting their career and technical education curricula;

(d) Be conducted in facilities that are sufficiently equipped to permit adequate training and education; the facilities may be located within or outside the school district, or, in the case of a program conducted by a board of cooperative services, within or outside any of the school districts participating in the board of cooperative services, and they may be housed in buildings that are not owned or operated by an education provider; and

(e) Meet an employment potential that is found to exist by any survey of the board concerning economic opportunities.

(3) In approving career and technical education programs and career and technical education program support moneys under this article, the board shall attempt to avoid unnecessary duplication in either facilities or staffing for career and technical education in an education provider or within an area of this state; and, where feasible, sharing of facilities shall be required by the board.

(4) The board shall adopt such rules as may be necessary to administer the provisions of this article.

Source: L. 70: p. 427, § 1. **C.R.S. 1963:** § 146-4-2. **L. 2004:** (1), (2)(c), (2)(d), and (3) amended, p. 1648, § 56, effective July 1. **L. 2005:** (1), (2)(c), (2)(d), and (3) amended, p. 437, § 13, effective April 29. **L. 2008:** Entire article amended, p. 310, § 1, effective August 5; entire section amended, p. 1415, § 70, effective August 5. **L. 2010:** (2)(a) amended, (HB 10-1273), ch. 233, p. 1025, § 17, effective May 18.

Cross references: For the legislative declaration in the 2010 act amending subsection (2)(a), see section 1 of chapter 233, Session Laws of Colorado 2010.

23-8-104. Reports.

(1) (Deleted by amendment, L. 2008, p. 311, § 1, effective August 5, 2008.)

(2) Notwithstanding section 24-1-136 (11)(a)(I), on or before February 28, 2009, and on or before February 28 each year thereafter, the board shall submit a report to the joint budget committee and to the education committees of the house of representatives and the senate, or any successor committees, on the implementation and results of programs funded pursuant to this article 8, including:

(a) The types of programs funded;

(b) The numbers of students and full-time equivalent students served;

(c) The total cost and the full-time equivalent student cost;

(d) The placement of those students who completed the programs, including job placement and continuing education; and

(e) Other aspects of the programs that will enable the general assembly to evaluate the results, cost effectiveness, and viability of the approved programs and to determine whether or not this article should be extended.

Source: L. 70: p. 428, § 1. **C.R.S. 1963:** § 146-4-4. **L. 72:** p. 628, § 1. **L. 73:** p. 1315, § 9. **L. 96:** IP(2) amended, p. 1238, § 87, effective August 7. **L. 2008:** Entire article amended, p. 311, § 1, effective August 5. **L. 2017:** IP(2) amended, (HB 17-1251), ch. 253, p. 1059, § 8, effective August 9.

Cross references: For the legislative declaration contained in the 1996 act amending this section, see section 1 of chapter 237, Session Laws of Colorado 1996.

23-8-105. Change of name - authorization. The revisor of statutes is authorized, where appropriate, to change all references to "vocational education" in the Colorado Revised Statutes to "career and technical education".

Source: L. 2008: Entire article amended, p. 311, § 1, effective August 5.

ARTICLE 9

State Council on the Arts

23-9-101 to 23-9-107. (Repealed)

Source: L. 2006: Entire article repealed, p. 1659, § 4, effective July 1.

Editor's note: This article was numbered as §§ 3-18-9 through 3-18-16 in C.R.S. 1963. For amendments to this article prior to its repeal in 2006, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. The provisions of this article were relocated to article 48.8 of title 24. For the location of specific provisions, see the editor's notes following those sections that were relocated to article 48.8.

ARTICLE 10

Termination of Employment - Faculty Members

23-10-101 to 23-10-301. (Repealed)

Editor's note: (1) This article was added in 1975. For amendments to this article prior to its repeal in 1988, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

(2) Section 23-10-301 provided for the repeal of this article, effective May 1, 1988. (See L. 87, p. 851.)

Cross references: For present provisions concerning termination of employment of faculty members at certain state-supported institutions of higher education, see § 23-5-117.

ARTICLE 11

Colorado Advanced Technology Institute

23-11-101 to 23-11-107. (Repealed)

Source: L. 99: Entire article repealed, p. 876, § 1, effective July 1.

Editor's note: (1) This article was added in 1983. For amendments to this article prior to its repeal in 1999, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

(2) Sections 23-11-104 and 23-11-105 were relocated to article 1 of this title and renumbered as §§ 23-1-106.5 and 23-1-106.7, respectively.

(3) Section 23-11-104.5 as enacted by House Bill 99-1102 was relocated to article 32 of title 24 and renumbered as § 24-32-3001.

ARTICLE 11.5

Technology Learning Grant
and Revolving Loan Program

23-11.5-101 to 23-11.5-107. (Repealed)

Editor's note: (1) This article was added in 1996. For amendments to this article prior to its repeal in 2003, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

(2) Section 23-11.5-107 provided for the repeal of this article, effective April 4, 2003. (See L. 2003, p. 5.)

ARTICLE 12

Reorganization of Governance
of Higher Education

23-12-101 to 23-12-103. (Repealed)

Editor's note: (1) This article was added in 1984 and was not amended prior to its repeal in 1985. For the text of this article prior to 1985, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

(2) Section 23-12-103 provided for the repeal of this article, effective July 1, 1985. (See L. 84, p. 635.)

ARTICLE 13

Higher Education
Statewide Expectations and Goals
and Quality Indicator System

23-13-101 to 23-13-108. (Repealed)

Source: L. 2011: Entire article repealed, (SB 11-052), ch. 232, p. 999, § 5, effective May 27.

Editor's note: This article was added in 1985, repealed and reenacted in 1996, and repealed in 2011. For amendments to this article prior to 2011, consult the 2010 Colorado Revised Statutes and the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

Cross references: For the legislative declaration in the 2011 act repealing this article, see section 1 of chapter 232, Session Laws of Colorado 2011.

ARTICLE 15

Colorado Educational and Cultural
Facilities Authority

23-15-101. Short title. This article shall be known and may be cited as the "Colorado Educational and Cultural Facilities Authority Act".

Source: L. 81: Entire article added, p. 1096, § 1, effective July 1. **L. 98:** Entire section amended, p. 601, § 1, effective May 4.

23-15-102. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) It is the intent of the general assembly to create the Colorado educational and cultural facilities authority to lend money to educational institutions and cultural institutions; to authorize the authority to acquire, construct, reconstruct, repair, alter, improve, extend, own, lease, and dispose of properties to the end that the authority may be able to promote the welfare of the people of this state; to authorize the authority to administer the Colorado education savings program; to permit the bonds or certificates of participation of the authority and the bonds or certificates of participation of other issuers to be designated as Colorado education savings bonds or certificates; and to vest such authority with powers to enable such authority to accomplish such purposes. It is not the intent of the general assembly to authorize the authority to operate any such educational or cultural facility.

(b) It is important that educational facilities and cultural facilities are made readily available by networks and organizations of educational institutions and cultural institutions regardless of whether such networks and organizations are located within the state of Colorado or have facilities located within or outside the state of Colorado; and

(c) It is a benefit to the people of the state of Colorado to serve multistate educational institutions and cultural institutions since education-related and cultural-related employment opportunities in this state will be created as a result thereof.

(2) This article shall be liberally construed to accomplish the intentions expressed in this section.

Source: L. 81: Entire article added, p. 1096, § 1, effective July 1. **L. 88:** (1) amended, p. 849, § 1, effective April 20. **L. 89:** (1) amended, p. 986, § 1, effective April 8; (1) amended, p. 982, § 1, effective April 12. **L. 98:** (1) amended, p. 601, § 1, effective May 4. **L. 2000:** (1) amended, p. 403, § 1, effective April 13.

Editor's note: Amendments to subsection (1) in Senate Bill 89-206 and House Bill 89-1049 were harmonized.

23-15-103. Definitions. As used in this article, unless the context otherwise requires:

(1) "Authority" means the Colorado educational and cultural facilities authority created by this article.

(2) "Board" means the board of directors of the authority.

(3) "Bond", "note", "bond anticipation note", "certificate of participation", or "other obligation" means any bond, note, certificate of participation in annually renewable leases, debenture, interim certificate, or other evidence of financial indebtedness issued by the authority pursuant to this article or issued by another issuer pursuant to other statutory authority, including refunding bonds.

(4) "Bond resolution" means the resolution authorizing the issuance of, or providing terms and conditions related to, bonds issued under the provisions of this article and includes any trust agreement, trust indenture, indenture of mortgage, or deed of trust providing terms and conditions for such bonds.

(5) "Commission" means the Colorado commission on higher education.

(6) "Costs", as applied to facilities financed in whole or in part under the provisions of this article, means and includes the sum total of all reasonable or necessary costs incidental to the acquisition, construction, reconstruction, repair, alteration, equipment, enlargement, improvement, and extension of such facilities and the acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interest acquired, necessary, used for, or useful for or in connection with a facility and all other undertakings which the authority deems reasonable or necessary for the development of a facility, including without limitation the cost of studies and surveys, of land title and mortgage guaranty policies, of plans, specifications, and architectural and engineering services, of legal, accounting, organization, marketing, or other special services, of financing, acquisition, demolition, construction, equipment, and site development of new and rehabilitated buildings, of rehabilitation, reconstruction, repair, or remodeling of existing buildings, and of all other necessary and incidental expenses, including working capital, an initial bond, and interest reserve funds,

together with interest on bonds issued to finance such facilities until a date not more than six months subsequent to the estimated date of completion.

(6.3) (a) "Cultural institution" means any governmental, quasi-governmental, or nonprofit institution that engages in cultural, intellectual, scientific, educational, or artistic enrichment. "Cultural institution" includes, without limitation, any aquarium, botanical society, educational society, historical society, library, museum, gallery, performing arts association or society, nonprofit sports association, committee, or governing body, scientific society, natural history society or organization, zoological society, society for western history and western culture, sponsor of housing facilities that serve the cultural needs of their residents, and any private nonprofit foundation, nonprofit association, or other entity that is organized principally for the support and benefit of any of the foregoing.

(b) "Cultural institution" also includes any governmental, quasi-governmental, or nonprofit institution, corporation, association, or organization that, through one or more affiliates, directly or indirectly engages in cultural, intellectual, scientific, educational, or artistic enrichment in this state or outside this state if:

(I) Such institution, corporation, association, or organization, or an affiliate of such an entity, is engaged in a financing or refinancing on behalf of a facility within this state or outside of this state; and

(II) Such institution, corporation, association, or organization, or an affiliate of such an entity, operates a cultural facility within this state.

(c) (Deleted by amendment, L. 2003, p. 2055, § 1, effective May 22, 2003.)

(6.5) "Deep discount" means any obligation for which the original purchase price is substantially less than the par amount paid upon maturity.

(7) (Deleted by amendment, L. 2006, p. 1496, § 31, effective June 1, 2006.)

(8) (a) "Educational institution" means any governmental, quasi-governmental, or nonprofit educational institution operating in this state that:

(I) Provides an educational program for which it awards a bachelor's degree; or

(II) Provides not less than a two-year program which is acceptable for full credit towards such a degree; or

(III) Provides not less than a six-month program of training to prepare students for gainful employment; or

(IV) Provides not less than a six-month program of training to develop, improve, or enhance the occupational skills of persons in their current positions of employment or of persons seeking employment in a new or different occupation; or

(V) Provides an educational program pursuant to a charter from a school district in accordance with applicable laws; or

(VI) Provides an educational program to the residents of the state; or

(VII) Provides or finances, directly or indirectly through one or more affiliates, an educational program or educational services in this state or outside this state; or

(VIII) Is any public school district; or

(IX) Provides an educational program pursuant to a contract with the state charter school institute in accordance with applicable laws.

(b) (Deleted by amendment, L. 2004, p. 1518, § 1, effective May 28, 2004.)

(c) "Educational institution" includes any private foundation, nonprofit association, or any other entity which is organized principally for the support and benefit of any educational

institution defined in paragraph (a) of this subsection (8) and includes but is not limited to the Auraria higher education center. Any reference in this article to "educational institution supported in whole or in part by state funds" includes but is not limited to the Auraria higher education center.

(8.5) (a) (I) (A) "Facility", in the case of a participating educational institution, means any structure or building suitable for use as a housing facility, an instructional facility, an administration building, a research facility, a laboratory, a maintenance, storage, or utility facility, an auditorium, a dining hall, a food service and preparation facility, a mental or physical health care facility, a recreational facility, or a student center facility or any other structure or facility required or useful for the operation of an educational institution, including, but not limited to: Offices, parking lots and garages, and other supporting service structures; any equipment, furnishings, and appurtenances necessary or useful in the operation of a participating educational institution; and the acquisition, preparation, and development of all real and personal property necessary or convenient as a site or sites for any such structure or facility.

(B) "Facility", in the case of a participating educational institution, also means any structure or building described in sub-subparagraph (A) of this subparagraph (I) that is located within the state or outside the state and that is operated or financed by an educational institution if such institution operating or financing such structure or building, or an affiliate of such institution, operates or finances an educational facility within this state.

(II) (A) "Facility", in the case of a cultural institution, means any property that is suitable for the particular purposes of a cultural institution, including, without limitation, any such property suitable for use as or in connection with the operation of any one or more of the following: An administrative facility, an aquarium, an assembly hall, an auditorium, a botanical garden, an exhibition or performance hall or structure, a gallery, a greenhouse, a library, a museum, a scientific laboratory, a housing facility that serves the cultural needs of its residents and is being financed as part of a multistate program of financing educational or cultural facilities under this article, a theater, or a zoological facility; and also including, without limitation, the books, works of art or music, and the animal, plant, or aquatic life or other items contained therein for display, exhibition, or performance. The term "facility" includes any other structure or facility required or useful for the operation of a cultural institution including, but not limited to, offices, parking lots and garages, and other supporting service structures; any equipment, furnishings, and appurtenances necessary or useful in the operation of a cultural institution; and the acquisition, preparation, and development of all real and personal property necessary or convenient as a site or sites for any such structure or facility. The term "facility" also includes buildings on the national register of historic places which are owned and operated by nonprofit entities.

(B) "Facility", in the case of a cultural institution, also means any property described in sub-subparagraph (A) of this subparagraph (II) that is located within the state or outside the state and that is operated or financed by a cultural institution if such institution operating or financing such property, or an affiliate of such institution, also operates or finances a cultural facility within this state.

(b) "Facility" does not include such items as food, fuel, supplies, or other items which are customarily considered as current operating expenses or charges.

(9) "Refinancing of outstanding obligations" means liquidation, with the proceeds of bonds or notes issued by the authority, of any indebtedness of a participating educational

institution or cultural institution incurred prior to, on, or after July 1, 1981, to finance or aid in financing a lawful purpose of such institution not financed pursuant to this article which would constitute a facility had it been undertaken and financed by the authority. The term also means consolidation of such indebtedness with indebtedness of the authority incurred for a facility related to the purpose for which the indebtedness of such institution was initially incurred.

(10) "Revenues" means, with respect to facilities, the rents, fees, charges, interest, principal repayments, and other income received or to be received by the authority from any source on account of such facilities.

(11) "Zero-coupon" means any obligation, as defined in subsection (3) of this section, which is payable in one payment on a fixed date.

Source: L. 81: Entire article added, p. 1096, § 1, effective July 1. **L. 83:** (8)(a)(III) amended and (8)(c) added, p. 804, § 1, effective May 25. **L. 85:** (8)(a)(III) and (8)(c) amended and (8)(a)(IV) added, p. 786, § 1, effective April 12. **L. 88:** (11) added, p. 849, § 2, effective April 20. **L. 89:** (6.3) added and (7)(a) and (9) amended, p. 986, § 2, effective April 8; (3) and (11) amended and (6.5) added, p. 982, § 2, effective April 12. **L. 98:** (1), (7)(a)(I), (8), and (9) amended, p. 601, § 3, effective May 4. **L. 2000:** (6.3), (7)(a), and IP (8)(a) amended and (8)(a)(VII) added, p. 404, § 2, effective April 13. **L. 2002:** (8)(a)(VIII) added, p. 1744, § 16, effective June 7. **L. 2003:** (6.3)(c), (7)(b), and (8)(b) amended, p. 2055, § 1, effective May 22. **L. 2004:** (6.3)(a), (7)(a)(II)(A), and (8)(b) amended, p. 1518, § 1, effective May 28; (8)(a)(VIII) amended and (8)(a)(IX) added, p. 1648, § 57, effective July 1. **L. 2006:** (7) amended and (8.5) added, p. 1496, § 31, effective June 1. **L. 2008:** (8)(a)(VIII) amended, p. 1066, § 11, effective May 22.

23-15-104. Authority - creation - board - organization. (1) (a) There is hereby created an independent public body politic and corporate to be known as the Colorado educational and cultural facilities authority. Said authority is constituted a public instrumentality, and its exercise of the powers conferred by this article shall be deemed and held to be the performance of an essential public function. The authority shall be a body corporate and a political subdivision of the state and shall not be an agency of state government and shall not be subject to administrative direction by any department, commission, board, or agency of the state.

(b) The legal effects of any statute heretofore designating the Colorado educational and cultural facilities authority by any other name, or property rights heretofore incurred under any other name, shall not be impaired.

(2) The governing body of the authority shall be a board of directors, which shall consist of seven members to be appointed by the governor, with the consent of the senate. Such members shall be residents of the state. No more than four of the members shall be of the same political party. Except as provided in this subsection (2), the members of the board first appointed shall serve for terms to be designated by the governor, expiring on June 30 of each year beginning in 1982 and ending in 1988. The governor, with the consent of the senate, may appoint the members of the board of directors of an existing authority created under state law as the board of directors of the authority, in which case the terms of such directors shall be the same as their existing terms on the board of such other authority. Persons holding office on June 15, 1987, are subject to the provisions of section 24-1-137, C.R.S. Thereafter upon the expiration of the term of any member, his successor shall be appointed for a term of four years. Each member

shall serve until his resignation or, in the case of a member whose term has expired, until his successor has been appointed and has qualified. Any member shall be eligible for reappointment. The governor shall fill any vacancy by appointment for the remainder of an unexpired term. Any member appointed by the governor when the general assembly is not in regular session, whether appointed for an unexpired term or for a full term, shall be deemed to be duly appointed and qualified until the appointment of such member is approved or rejected by the senate. Such appointment shall be submitted to the senate for its approval or rejection during the next regular session of the general assembly following the appointment.

(3) (a) Any member of the board may be removed by the governor for misfeasance, malfeasance, willful neglect of duty, or other cause, after notice and a public hearing, unless such notice and hearing is expressly waived in writing.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (3), a member shall be removed by the governor if such member fails, for reasons other than temporary mental or physical disability or illness, to attend three regular meetings of the board during any twelve-month period without the board having entered upon its minutes an approval for any of such absences.

Source: L. 81: Entire article added, p. 1098, § 1, effective July 1. **L. 83:** (2) amended, p. 804, § 2, effective May 25. **L. 87:** (2) amended, p. 907, § 15, effective June 15. **L. 98:** (1) amended, p. 605, § 5, effective May 4.

Cross references: For limitation on issuance of private activity bonds, see part 17 of article 32 of title 24; for the provisions that designate the Colorado postsecondary educational facilities authority as a "special purpose authority" for the purposes of section 20 of article X of the Colorado constitution, see § 24-77-102 (15).

23-15-105. Organizational meeting - chairman - executive director - surety bond - conflict of interest. (1) A member of the board, designated by the governor, shall call and convene the initial organizational meeting of the board and shall serve as its chairman pro tempore. At such meeting, appropriate bylaws shall be presented for adoption. The bylaws may provide for the election or appointment of officers, the delegation of certain powers and duties, and such other matters as the authority deems proper. At such meeting and annually thereafter, the board shall elect one of its members as chairman and one as vice-chairman. It shall appoint an executive director and, if desired, an associate executive director, who shall not be members of the board and who shall serve at its pleasure. They shall receive such compensation for their services as shall be fixed by the board.

(2) The executive director, the associate executive director, or any other person designated by the board shall keep a record of the proceedings thereof and shall be custodian of all books, documents, and papers filed with the board, the minute books or journal thereof, and its official seal. Said executive director, associate executive director, or other person may cause copies of all minutes and other records and documents of the board to be made and may give certificates under the official seal of the authority to the effect that such copies are true copies, and all persons dealing with the authority may rely on such certificates.

(3) The board may delegate, by resolution, to one or more of its members or to its executive director or associate executive director such powers and duties as it may deem proper.

(4) Before the issuance of any bonds under this article, the executive director and associate executive director shall each execute a surety bond in the penal sum of one hundred thousand dollars, and each member of the board shall execute a surety bond in the penal sum of fifty thousand dollars, or, in lieu thereof, the chairman of the board shall execute a blanket bond covering each member, the executive director, the associate executive director, and the employees or other officers of the authority, each surety bond to be conditioned upon the faithful performance of the duties of the office or offices covered, to be executed by a surety authorized to transact business in this state as surety. The cost of each such bond shall be paid by the authority.

(5) Notwithstanding any other law to the contrary, it shall not constitute a conflict of interest for a trustee, director, officer, or employee of any educational institution, financial institution, investment banking firm, brokerage firm, commercial bank or trust company, architectural firm, or other firm, person, or corporation to serve as a member of the board; except that such trustee, director, officer, or employee shall disclose such interest to the board and may abstain from deliberation, action, and voting by the board in each instance where the business affiliation of any such trustee, director, officer, or employee is involved.

Source: L. 81: Entire article added, p. 1099, § 1, effective July 1. **L. 98:** (5) amended, p. 605, § 6, effective May 4.

23-15-106. Meetings of board - quorum - expenses. (1) Four members of the board shall constitute a quorum for the purpose of conducting business and exercising its powers. Action may be taken by the board upon the affirmative vote of at least four of its members. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the board.

(2) Each meeting of the board for any purpose whatsoever shall be open to the public. Notice of meetings shall be as provided in the bylaws of the authority. Resolutions need not be published or posted, but resolutions and all proceedings and other acts of the board shall be a public record.

(3) Members of the board shall receive no compensation for their services but shall be entitled to the necessary expenses, including traveling and lodging expenses, incurred in the discharge of their official duties. Any payments for compensation and expenses shall be paid from funds of the authority.

Source: L. 81: Entire article added, p. 1100, § 1, effective July 1.

23-15-107. General powers of the authority. (1) In addition to any other powers granted to the authority by this article, the authority shall have the following powers:

(a) To have perpetual existence and succession as a body politic and corporate;

(b) To adopt and from time to time amend or repeal bylaws for the regulation of its affairs and the conduct of its business, consistent with the provisions of this article;

(c) To sue and be sued;

(d) To have and to use a seal and to alter the same at pleasure;

(e) To maintain an office at such place or places as it may designate;

(f) To determine, in accordance with the provisions of this article, the location and character of any facility to be financed under the provisions of this article and to acquire, construct, reconstruct, renovate, improve, alter, replace, maintain, repair, operate, and lease such facility as lessee or lessor; to enter into contracts for any and all of such purposes and for the management and operation of a facility; and to designate a participating educational institution or cultural institution as its agent to determine the location and character of a facility undertaken by such participating institution under the provisions of this article and, as agent of the authority, to acquire, construct, reconstruct, renovate, replace, alter, improve, maintain, repair, operate, lease as lessee or lessor, and regulate the same and to enter into contracts for any and all of such purposes including contracts for the management and operation of such facility;

(g) To lease to a participating institution of postsecondary education or cultural institution any or all of the facilities upon such terms and conditions as the authority shall deem proper, including, but not limited to, renewable, one-year leases with institutions of postsecondary education supported in whole or in part by state funds if authorized pursuant to section 23-1-106 or section 24-82-709, C.R.S., or a lease-purchase agreement authorized pursuant to sections 24-82-102 (1)(b) and 24-82-801, C.R.S.; to charge and collect rent therefor and to terminate any such lease upon the failure of the lessee to comply with any of the obligations thereof; and to include in any such lease, if desired, provisions that the lessee thereof shall have options to renew the term of the lease for such period or periods, at such rent, and upon such terms or conditions as shall be determined by the authority or to purchase any or all of the facilities or to include, if desired, provisions that, upon payment of all of the indebtedness incurred by the authority for the financing of such facilities, the authority will convey any or all of the facilities to the lessee or lessees thereof with or without consideration;

(h) To borrow money and to issue bonds, notes, bond anticipation notes, or other obligations for any of its corporate purposes and to fund or refund the same, all as provided for in this article;

(i) To establish rules and regulations, and to designate a participating educational institution or cultural institution as its agent to establish such rules and regulations, for the use of the facilities undertaken or operated by such participating institution and to employ or contract for consulting engineers, architects, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employees and agents as may be necessary in its judgment and to fix their compensation;

(j) To receive and accept from the federal government or any other public agency loans, grants, or contributions for or in aid of the construction of facilities or any portion thereof, or for equipping the same, and to receive and accept grants, gifts, or other contributions from any source, but only for the purposes for which they were loaned, contributed, or granted;

(k) To mortgage or pledge all or any portion of the facilities and the site or sites thereof, whether then owned or thereafter acquired, for the benefit of the holders of bonds issued to finance such facilities or any portion thereof;

(l) To make mortgage loans or other secured or unsecured loans to any participating educational institution or cultural institution for the cost of the facilities in accordance with an agreement between the authority and such participating institution; but no such loan shall exceed the total cost of such facilities as determined by such participating institution and approved by the authority;

(m) To make mortgage loans or other secured or unsecured loans to a participating educational institution or cultural institution; to refund outstanding obligations, mortgages, or advances issued, made, or given by such participating institution for the cost of its facilities, including the issuance of bonds and the making of loans to a participating educational institution or cultural institution; or to refinance outstanding obligations and indebtedness incurred for facilities when the authority finds that such financing is in the public interest and alleviates the financial hardship upon the participating educational institution or cultural institution or is in connection with other financing by the authority for such participating institution;

(n) To obtain or aid in obtaining, from any department or agency of the United States or of this state or any private company, any insurance or guarantee as to, or of, or for the payment or repayment of the interest or principal, or both the interest and principal, or any part of either or both on any loan, lease, or obligation or any instrument evidencing or securing the same made or entered into pursuant to the provisions of this article and, notwithstanding any other provisions of this article, to enter into any agreement, contract, or other instrument whatsoever with respect to any such insurance or guarantee, to accept payment in such manner and form as provided therein in the event of default by a participating educational institution or cultural institution, and to assign any such insurance or guarantee as security for the authority's bonds;

(o) To charge to and equitably apportion among participating educational institutions or cultural institutions the administrative costs and expenses of the authority incurred in the exercise of the powers granted and the duties conferred by this article;

(p) To make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this article;

(q) To do all other things necessary and convenient to carry out the purposes of this article;

(r) To make mortgage loans or other secured or unsecured loans to any person for the costs of a facility which will be made available for use by an educational institution or a cultural institution, if the governing body of such institution has resolved that the use of such facility will be in the best interests of such institution; but no such loan shall exceed the total cost of said facility as determined by said institution and approved by the authority;

(s) To refund or refinance, through the issuance of bonds and the making of loans, any outstanding obligations, mortgages, indebtednesses, or advances issued, made, or given by a person for the cost of facilities which will be made available for use by an educational institution or a cultural institution when the governing board of such institution finds that the use of said facility is in the best interests of said institution;

(t) To administer the Colorado education savings program pursuant to the provisions of section 23-15-110.5;

(u) To designate bonds or certificates of participation of the authority as Colorado education savings bonds or certificates pursuant to the provisions of section 23-15-110.5;

(v) To designate as Colorado education savings bonds or certificates the bonds or certificates of participation of issuers other than the authority if the issuer has applied for such designation and the authority has determined that such instruments satisfy the criteria established in section 23-15-110.5 (2).

(2) The authority shall not have the power to operate a facility as a business other than as a lessee or lessor.

(3) No institution of postsecondary education supported in whole or in part by state funds shall contract or otherwise agree with the authority to issue bonds on its behalf unless all approvals required by law, including but not limited to approvals required pursuant to section 23-1-106 and section 24-82-709, C.R.S., have been obtained.

(4) Repealed.

(5) No mortgage loan, other secured or unsecured loan, or financing, refinancing, refunding, or other financial obligation incurred pursuant to the terms of this article for the benefit of a charter school as described in section 23-15-103 (8)(a)(V), shall obligate, directly or indirectly, the school district that granted the charter to the charter school unless:

(a) The express written consent of the school district is obtained; and

(b) The authority obtains a written opinion of legal counsel that the obligation of the school district is legally permissible under the Colorado constitution and all applicable laws.

Source: L. 81: Entire article added, p. 1100, § 1, effective July 1. **L. 83:** (1)(r) and (1)(s) added and (3) amended, p. 805, §§ 3, 4, effective May 25. **L. 84:** (3) amended, p. 636, § 1, effective April 5. **L. 85:** (1)(g) and (2) amended, p. 786, § 2, effective April 12. **L. 89:** (1)(f), (1)(g), (1)(i), (1)(l) to (1)(o), (1)(r), (1)(s), (2), and (3) amended and (4) added, pp. 988, 990, §§ 3, 4, effective April 8; (1)(t) to (1)(v) added, p. 983, § 3, effective April 12. **L. 92:** (4) repealed, p. 585, § 1, effective March 19. **L. 98:** (1)(f), (1)(i), (1)(l) to (1)(o), (1)(r), and (1)(s) amended and (5) added, p. 603, § 4, effective May 4. **L. 2003:** (1)(g) amended, p. 1377, § 6, effective April 28. **L. 2009:** (1)(g) amended, (HB 09-1218), ch. 132, p. 574, § 9, effective July 1.

Cross references: For the legislative declaration contained in the 2003 act amending subsection (1)(g), see section 1 of chapter 190, Session Laws of Colorado 2003.

23-15-108. Acquisition of property. The authority, directly or by or through a participating educational institution or cultural institution as its agent, may acquire by purchase, lease, gift, devise, or other means such lands, structures, real or personal property, rights-of-way, franchises, easements, and other interests in lands, including lands lying under water and riparian rights which are located within or without the state, as it may deem necessary or convenient for the construction, acquisition, or operation of facilities, upon such terms as may be considered by the authority to be reasonable, and may take title thereto in the name of the authority or in the name of such participating educational institution or cultural institution as its agent.

Source: L. 81: Entire article added, p. 1102, § 1, effective July 1. **L. 89:** Entire section amended, p. 990, § 5, effective April 8. **L. 98:** Entire section amended, p. 605, § 7, effective May 4.

23-15-109. Notes. The authority may issue from time to time its negotiable notes for any corporate purpose, including the payment of all or any part of the cost of any facility, and may renew from time to time any notes by the issuance of new notes, whether the notes to be renewed have or have not matured. The authority may issue notes partly to renew notes or to discharge other obligations then outstanding and partly for some other purpose. The notes may be authorized, sold, executed, and delivered in the same manner as bonds. Any resolution or resolutions authorizing notes of the authority or any issue thereof may contain any provisions

which the authority is authorized to include in any resolution or resolutions authorizing bonds of the authority or any issue thereof, and the authority may include in any notes any terms, covenants, or conditions which it is authorized to include in any bonds. All such notes shall be payable from the proceeds of bonds or renewal notes or from the revenues of the authority or other moneys available therefor and not otherwise pledged, subject only to any contractual rights of the holders of any of its notes or other obligations then outstanding.

Source: L. 81: Entire article added, p. 1102, § 1, effective July 1.

23-15-110. Bonds. (1) The authority may issue from time to time its bonds in such principal amounts as the authority shall determine for the purpose of financing all or a part of the cost of any facilities authorized by this article or for the refinancing of outstanding obligations. In anticipation of the sale of such bonds, the authority may issue bond anticipation notes and may renew the same from time to time. Such notes shall be paid from any revenues of the authority or other moneys available therefor and not otherwise pledged or from the proceeds of the sale of the bonds of the authority in anticipation of which they were issued. The notes shall be issued in the same manner as bonds. Such notes and the resolution or resolutions authorizing them may contain any provisions, conditions, or limitations which a bond resolution of the authority may contain.

(2) The bonds may be issued as serial bonds, as term bonds, or as a combination of both types. All bonds issued by the authority shall be payable solely out of the revenues and receipts derived from the leasing, mortgaging, or sale by the authority of the facilities concerned or of any part thereof as designated in the resolutions of the authority under which the bonds are authorized to be issued or as designated in a trust indenture authorized by the authority, which trust indenture shall name a bank or trust company in Colorado, or outside of Colorado if it is determined by the authority to be in the best interests of the financing, such determination to be conclusive, as trustee, or out of other moneys available therefor and not otherwise pledged. Such bonds may be executed and delivered by the authority at such times, may be in such form and denominations and include such terms and maturities, may be in fully registered form or in bearer form registerable either as to principal or interest or both, may bear such conversion privileges, may be payable in such installments and at such time or times not exceeding forty years from the date thereof, may be payable at such place or places whether within or without the state of Colorado, may bear interest at such rate or rates per annum as shall be determined by the authority or as may be determined from time to time by a designated agent of the authority in accordance with specified standards and procedures and without regard to any interest rate limitation appearing in any other law, may be evidenced in such manner, may be executed by such officers of the authority, including the use of one or more facsimile signatures so long as at least one manual signature appears on the bonds, which manual signature may be either that of an officer of the authority or that of an officer of the trustee authenticating the same, may be in such form of coupon bonds having attached thereto interest coupons bearing the facsimile signature of an authorized officer of the authority, and may contain such provisions not inconsistent with this article as shall be provided in the resolutions of the authority under which the bonds are authorized to be issued or as is provided in a trust indenture authorized by the authority. Notwithstanding anything in this subsection (2) to the contrary, in the case of short-term notes or other obligations maturing not later than one year from the date of issuance

thereof, the board may authorize the executive director, associate executive director, or any officer of the board to fix principal amounts, maturity dates, interest rates, and purchase prices of any particular issue of such short-term notes or obligations, subject to such limitations as to maximum term, maximum principal amount outstanding, and maximum net effective interest rates as the board shall prescribe by resolution, and such authorization shall remain effective for the period of time designated in the initial resolution regardless of whether the composition of the board changes in the interim unless sooner rescinded by the board.

(3) If deemed advisable by the authority, there may be retained in the resolutions or the trust indenture under which any bonds of the authority are authorized to be issued an option to redeem all or any part thereof as may be specified in such resolutions or in such trust indenture, at such price or prices, after such notice or notices, and on such terms and conditions as may be set forth in such resolutions or in such trust indenture and as may be briefly recited on the face of the bonds; but nothing in this article shall be construed to confer on the authority the right or option to redeem any bonds except as may be provided in the resolutions or in such trust indenture under which they are issued.

(4) The bonds or notes of the authority may be sold at public or private sale for such price or prices, in such manner, and at such times as may be determined by the authority, and the authority may pay all expenses, premiums, and commissions which it may deem necessary or advantageous in connection with the issuance thereof. The power to fix the date of sale of bonds and notes, to receive bids or proposals, to award and sell bonds and notes, and to take all other necessary action to sell and deliver bonds and notes may be delegated to the executive director of the authority by resolution of the authority. Pending preparation of the definitive bonds, the authority may issue interim receipts or certificates to be exchanged for such definitive bonds.

(5) (a) Issuance by the authority of one or more series of bonds for one or more purposes shall not preclude it from issuing other bonds in connection with the same facilities or any other facilities or for any other purpose under this article, but the resolutions or trust indenture under which any subsequent bonds may be issued shall recognize the terms and provisions of any prior pledge or mortgage made for any prior issue of bonds and the terms upon which such additional bonds may be issued and secured. Any outstanding bonds of the authority may, at any time and from time to time, be refunded or advance refunded by the authority by the issuance of its bonds for such purpose and in such principal amount as may be determined by the authority, which may include interest accrued or to accrue thereon with or without giving effect to investment income thereon and other expenses necessary to be paid in connection therewith. If deemed advisable by the authority, such bonds may be refunded or advance refunded for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions, or enlargements of a facility or any portion thereof.

(b) Any such refunding may be effected whether the bonds to be refunded have then matured or will mature thereafter either by sale of the refunding bonds and the application of the proceeds thereof for the payment of the bonds to be refunded thereby or by the exchange of the refunding bonds for the bonds to be refunded thereby with the consent of the holders of the bonds to be so refunded, regardless of whether or not the bonds to be refunded were issued in connection with the same facilities or separate facilities or for any other purpose under this article and regardless of whether or not the bonds proposed to be refunded are payable on the same date or different dates or are due serially or otherwise. The proceeds of any such bonds issued for the purpose of refunding outstanding bonds may be applied, in the discretion of the

authority, to the purchase or retirement at maturity or redemption of such outstanding bonds either on their earliest or any subsequent redemption date or upon the purchase or at the maturity thereof and, pending such application, may be placed in escrow to be applied to such purchase or retirement at maturity or redemption on such date as may be determined by the authority. Any such escrowed proceeds, pending such use, may be invested or deposited in securities or depositories meeting the requirements established in part 6 of article 75 of title 24, C.R.S., maturing at such time or times as are appropriate to assure the prompt payment as to principal, interest, and redemption premium, if any, of the outstanding bonds to be so refunded. The interest, income, and profit, if any, earned or realized on any such investment may also be applied, in the discretion of the authority, to the payment of the outstanding bonds or notes to be so refunded or to the payment of principal and interest on the refunding bonds or for any other purpose under this article. After the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and interest, income, and profits, if any, earned or realized on the investments thereof may be returned to the authority for use by it in any lawful manner. The portion of the proceeds of any such bonds issued for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions, or enlargements of a facility may be invested or deposited in securities or depositories meeting the requirements established in part 6 of article 75 of title 24, C.R.S., maturing not later than the time or times when such proceeds will be needed for the purpose of paying all or any part of such cost. The interest, income, and profits, if any, earned or realized on such investment may be applied to the payment of all or any part of such cost or may be used by the authority in any lawful manner. All such bonds shall be subject to the provisions of this article in the same manner and to the same extent as other bonds issued pursuant to this article.

Source: L. 81: Entire article added, p. 1103, § 1, effective July 1. **L. 84:** (2) amended, p. 636, § 2, effective April 5. **L. 89:** (5)(b) amended, p. 1109, § 14, effective July 1.

23-15-110.5. Colorado education savings program. (1) There is hereby established the Colorado education savings program which shall be administered by the authority and which shall include, but need not be limited to, components concerning bonds and certificates, education, financial incentives, and alternative payment plans. In furtherance of the Colorado education savings program and in addition to any powers, duties, and responsibilities enumerated in this article, the authority may:

(a) Designate the bonds or certificates of participation of the authority as Colorado education savings bonds or certificates;

(b) Designate the bonds or certificates of participation of issuers other than the authority as Colorado education savings bonds or certificates if the issuer of such instruments applies for such designation and if such instruments satisfy the criteria established in subsection (2) of this section.

(2) Bonds or certificates of participation may be designated as Colorado education savings bonds or certificates pursuant to subsection (1) of this section if such instruments satisfy the following criteria:

(a) The bonds or certificates are structured and are to be marketed statewide by the underwriters in such a manner as to attract a broad range of investors in the retail Colorado bond

market, including, but not limited to, parents, grandparents, or others who are interested in planning for the college education of their children;

(b) The interest on the bonds or certificates is exempt from Colorado income taxation;

(c) The bonds or certificates are issued by a state or local governmental entity, agency, institution, subdivision, district, or financing authority on its own behalf or on behalf of a nonprofit organization which is exempt from federal taxation pursuant to section 501 (c)(3) of the "Internal Revenue Code of 1986", as amended, or on behalf of a nonprofit corporation which is organized principally for the support and benefit of such state or local governmental entity, agency, institution, subdivision, district, financing authority, or nonprofit corporation;

(d) The bonds or certificates, at the time such instruments are designated as Colorado education savings bonds or certificates, are rated in one of the two highest rating categories of such instruments by one or more nationally recognized organizations which regularly rate such obligations;

(e) The bonds or certificates are either zero-coupon, deep discount, or comparable instruments and the maturation dates of such instruments are structured to the extent possible both to accommodate the financing needs of the issuer or the entity on whose behalf the instruments are being issued and to fulfill the needs of individuals planning on using the proceeds of such instruments for education purposes.

(3) The authority shall collaborate with the Colorado commission on higher education on the development of educational materials designed to inform parents and others concerning the importance of accumulating the financial resources necessary to pay for a child's college education and the options available to accomplish that accumulation of resources, including the option of investing in Colorado education savings bonds or certificates.

(4) The authority shall evaluate the feasibility of:

(a) Payment of financial incentives to holders of Colorado education savings bonds or certificates if, at maturity, the proceeds of such bonds or certificates are applied to expenses incurred for education in the state of Colorado;

(b) Staggered or periodic forms of payment for Colorado education savings bonds or certificates, including, but not limited to, payroll deduction plans;

(c) Matching employer-employee purchase plans for Colorado education savings bonds or certificates.

(5) No bond, certificate, or other financial instrument sold, traded, conveyed, or otherwise transferred in the state shall bear the designation, logo, trade name, or trademark of a Colorado education savings bond or certificate, nor shall any such bond or financial instrument be called, described, marketed, or otherwise be made to appear to a reasonable person to be a Colorado education savings bond or certificate unless such bond or financial instrument has been so designated pursuant to this section.

Source: L. 88: Entire section added, p. 849, § 3, effective April 20. **L. 89:** Entire section R&RE, p. 983, § 4, effective April 12. **L. 98:** (2)(e) and (4)(a) amended, p. 606, § 8, effective May 4.

23-15-111. Negotiability of bonds. All bonds and the interest coupons applicable thereto are hereby declared and shall be construed to be negotiable instruments.

Source: L. 81: Entire article added, p. 1105, § 1, effective July 1.

23-15-112. Security for bonds and notes. (1) The principal of and interest on any bonds or notes issued by the authority may be secured by a pledge of or security interest in the revenues, rentals, and receipts out of which the same may be made payable or from other moneys available therefor and not otherwise pledged or used as security and may be secured by a trust indenture, mortgage, or deed of trust (including assignment of leases or other contract rights of the authority thereunder) covering all or any part of the facilities from which the revenues, rentals, or receipts so pledged or used as security may be derived, including any enlargements of and additions to any such facility thereafter made. The resolution under which the bonds are authorized to be issued and any such trust indenture, mortgage, or deed of trust may contain any agreements and provisions which shall be a part of the contract with the holders of the bonds or notes to be authorized as to:

(a) The pledging or providing of a security interest in all or any part of the revenues of a facility or any revenue-producing contract or contracts made by the authority with any individual, partnership, corporation, or association or any other body, public or private, to secure the payment of the bonds or notes or of any particular issue of bonds, subject to such agreements with noteholders or bondholders as may then exist;

(b) The maintenance of properties covered thereby;

(c) The fixing and collection of mortgage payments, rents, fees, and other charges and the amounts to be raised in each year thereby and the use and disposition of the revenues;

(d) The setting aside, creating, and maintaining of special and reserve funds and sinking funds and the use and disposition of the revenues;

(e) The limitations on the right of the authority or its agent to restrict and regulate the use of the facilities;

(f) The limitations on the purpose to which the proceeds of sale of any issue of bonds or notes then or thereafter to be issued may be applied and the pledging or providing of a security interest in such proceeds to secure the payment of the bonds or notes or any issue of the bonds or notes;

(g) The limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding bonds;

(h) The procedure, if any, by which the terms of any contract with bondholders or noteholders may be amended or abrogated and the total amount of bonds or notes consented to by the holders thereof and the manner in which such consent may be given;

(i) The limitations on the amount of moneys derived from a facility to be expended for operating, administrative, or other expenses of the authority;

(j) The defining of the acts or omissions to act constituting a default in the duties of the authority to holders of its obligations and the providing of rights and remedies to such holders in the event of a default;

(k) The mortgaging of a facility and the site thereof for the purpose of securing the bondholders or noteholders;

(l) Such other additional covenants, agreements, and provisions as are judged advisable or necessary by the authority for the security of the holders of such bonds or notes.

(2) Any pledge made by the authority shall be valid and binding at the time the pledge is made and thereafter until satisfied. The revenues, moneys, or property so pledged and thereafter

received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of such pledge shall be valid and binding as against all parties having claims of any kind in tort or contract or in any other form against the authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded. Each pledge, agreement, lease, indenture, mortgage, and deed of trust made for the benefit or security of any of the bonds of the authority shall continue to be effective until the principal of and interest on the bonds for the benefit of which the same were made has been fully paid or provision for such payment has been duly made. In the event of default in such payment or in any agreements of the authority made as a part of the contract under which the bonds were issued, whether contained in the resolutions authorizing the bonds or in any trust indenture, mortgage, or deed of trust executed as security therefor, said payment or agreement may be enforced by suit, action in the nature of mandamus, appointment of a receiver in equity, foreclosure of any mortgage or deed of trust, or any one or more of said remedies.

(3) In addition to the provisions of subsections (1) and (2) of this section, bonds of the authority may be secured by a pooling of leases, loans, or mortgages whereby the authority may assign its rights as lessor, lender, or mortgagee and pledge rents, loan payments, or mortgage payments under two or more leases, loans, or mortgages, with two or more participating educational institutions or cultural institutions as lessees, borrowers, or mortgagors, respectively, upon such terms as may be provided for in the resolutions of the authority or as may be provided for in a trust indenture or mortgage or deed of trust authorized by the authority.

Source: L. 81: Entire article added, p. 1105, § 1, effective July 1. **L. 89:** (3) amended, p. 990, § 6, effective April 8. **L. 98:** (3) amended, p. 606, § 9, effective May 4.

23-15-113. Personal liability. Neither the members of the authority nor any person executing the bonds or notes shall be liable personally on bonds or notes or be subject to any personal liability or accountability by reason of the issuance thereof.

Source: L. 81: Entire article added, p. 1107, § 1, effective July 1.

23-15-114. Purchase. The authority may purchase its bonds or notes out of any funds available therefor. The authority may hold, pledge, cancel, or resell such bonds or notes, subject to and in accordance with agreements with bondholders or noteholders.

Source: L. 81: Entire article added, p. 1107, § 1, effective July 1.

23-15-115. Procedure before expenditure of proceeds. (1) Notwithstanding any other provisions of this article, the authority may not undertake any facility authorized by this article unless, prior to the expenditure of proceeds, the board finds that:

(a) Such facility will enable or assist an educational institution or a cultural institution to fulfill its obligation to provide facilities; and

(b) In the case of an educational institution, such facility has been reviewed and approved by the commission if such approval is required pursuant to section 23-1-106.

Source: L. 81: Entire article added, p. 1107, § 1, effective July 1. **L. 84:** Entire section amended, p. 637, § 3, effective April 5. **L. 89:** (1)(a) and (1)(b) amended, p. 991, § 7, effective April 8. **L. 98:** Entire section amended, p. 606, § 10, effective May 4.

23-15-116. Trust agreement to secure bonds. In the discretion of the authority, any bonds issued pursuant to this article may be secured by a trust agreement between the authority and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company in Colorado. Such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign the revenues to be received or the proceeds of any contract or contracts pledged and may convey or mortgage the facilities or any portion thereof. Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable, proper, and not in violation of law, including particularly such provisions as have been specifically authorized to be included in any resolution or resolutions of the authority authorizing bonds thereof. Any bank or trust company incorporated under the laws of this state which may act as depository of the proceeds of bonds or of revenues or other moneys may furnish such indemnifying bonds or pledge such securities as may be required by the authority. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee or trustees and may restrict the individual right of action by bondholders. In addition, any such trust agreement or resolution may contain such other provisions as the authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out such trust agreement or resolution may be treated as a part of the cost of the operation of a facility.

Source: L. 81: Entire article added, p. 1107, § 1, effective July 1.

23-15-117. Payment of bonds - nonliability of state. Bonds and notes issued by the authority shall not constitute or become an indebtedness, a debt, or a liability of the state, the general assembly, or any county, city, city and county, town, school district, or other political subdivision of the state or of any other political subdivision or body corporate and politic within the state, and neither the state, the general assembly, nor any county, city, city and county, town, school district, or other political subdivision of the state shall be liable thereon; nor shall such bonds or notes constitute the giving, pledging, or loaning of the faith and credit of the state, the general assembly, or any county, city, city and county, town, school district, or other political subdivision of the state or of any other political subdivision or body corporate and politic within the state, but such bonds or notes shall be payable solely from the funds provided for in this article. Unless by specific pledge in an act of issuance as authorized by law, the issuance of bonds or notes under the provisions of this article shall not obligate, directly, indirectly, or contingently, the state or any subdivision thereof nor empower the authority to levy or collect any form of taxes or assessments therefor or to create any indebtedness payable out of taxes or assessments therefor or make any appropriation for their payment, and such appropriation or levy is prohibited. Nothing in this section shall prevent or be construed to prevent the authority from pledging its full faith and credit or the full faith and credit of a participating educational institution or cultural institution to the payment of bonds or notes authorized pursuant to this article. Nothing in this article shall be construed to authorize the authority to create a debt of the state within the meaning of the constitution or statutes of Colorado or to authorize the authority

to levy or collect taxes or assessments; and all bonds issued by the authority pursuant to the provisions of this article are payable and shall state that they are payable solely from the funds pledged for their payment in accordance with the resolution authorizing their issuance or with any trust indenture, mortgage, or deed of trust executed as security therefor and are not a debt or liability of the state of Colorado. Unless by specific pledge in an act of issuance as authorized by law, the state shall not in any event be liable for the payment of the principal of or interest on any bonds of the authority or for the performance of any pledge, mortgage, obligation, or agreement of any kind whatsoever which may be undertaken by the authority. No breach of any such pledge, mortgage, obligation, or agreement shall otherwise impose any pecuniary liability upon the state or any charge upon its general credit or against its taxing power.

Source: L. 81: Entire article added, p. 1108, § 1, effective July 1. **L. 89:** Entire section amended, p. 991, § 8, effective April 8. **L. 98:** Entire section amended, p. 607, § 11, effective May 4. **L. 2008:** Entire section amended, p. 1066, § 12, effective May 22.

23-15-118. Exemption from taxation and securities law. The authority is hereby declared to be a public instrumentality of the state, performing a public function for the benefit of the people of the state for the improvement of their welfare and educational and cultural opportunities. Accordingly, the income or other revenues of the authority, all properties at any time owned by the authority, any bonds, notes, or other obligations issued pursuant to this article and the transfer thereof and the income therefrom (including any profit made on the sale thereof), and all mortgages, leases, trust indentures, and other documents issued in connection therewith shall be exempt at all times from all taxation and assessments in the state of Colorado. Bonds issued by the authority shall also be exempt from the "Colorado Securities Act", article 51 of title 11, C.R.S.

Source: L. 81: Entire article added, p. 1108, § 1, effective July 1. **L. 89:** Entire section amended, p. 992, § 9, effective April 8. **L. 90:** Entire section amended, p. 740, § 5, effective July 1. **L. 98:** Entire section amended, p. 607, § 12, effective May 4.

23-15-119. Rents and charges. A sufficient amount of the revenues derived with respect to a facility, except such part of such revenues as may be necessary to pay the cost of maintenance, repair, and operation and to provide reserves and for renewals, replacements, extensions, enlargements, and improvements provided for in the resolution authorizing the issuance of any bonds or notes of the authority or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or trust agreement in a sinking or other similar fund which is hereby pledged to and charged with the payment of the principal of and the interest on such bonds or notes as the same become due and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding at the time the pledge is made and thereafter until satisfied, and the rates, rents, fees, charges, and other revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort or contract or in any other form against the authority, irrespective of whether such parties have notice thereof. Neither the bond resolution,

any trust agreement, any other agreement, nor any lease by which a pledge is created need be filed or recorded except in the records of the authority. The use and disposition of moneys to the credit of such sinking or other similar fund shall be subject to the resolution authorizing the issuance of such bonds or notes or to such trust agreement. Except as may be otherwise provided in such resolution or such trust agreement, such sinking or other similar fund may be a fund for all such bonds or notes issued to finance facilities at a particular educational institution or cultural institution without distinction or priority of one over another; except that the authority in any such resolution or trust agreement may provide that such sinking or other similar fund shall be the fund for a particular facility at an educational institution or a cultural institution and for the bonds issued to finance a particular facility and, additionally, may permit and provide for the issuance of bonds having a lien with respect to the security authorized which is subordinate to other bonds of the authority, and, in such case, the authority may create separate sinking or other similar funds with respect to such subordinate lien bonds.

Source: L. 81: Entire article added, p. 1109, § 1, effective July 1. **L. 89:** Entire section amended, p. 992, § 10, effective April 8. **L. 98:** Entire section amended, p. 608, § 13, effective May 4.

23-15-120. Fees. (1) All expenses of the authority incurred in carrying out the provisions of this article shall be payable solely from funds provided pursuant to this article, and no liability shall be incurred by the authority beyond the moneys which are provided pursuant to this article; except that, for the purposes of meeting the necessary expenses of initial organization and operation until such date as the authority derives moneys from funds provided pursuant to this article, the authority may borrow such moneys as may be required for the necessary expenses of organization and operation. Such borrowed moneys shall be repaid within a reasonable time after the authority receives funds provided pursuant to this article.

(2) Nothing in this article shall be construed to imply mandatory participation by an educational institution or a cultural institution. An initial planning service fee in an amount determined by the authority shall be paid to the authority by each participating educational institution or cultural institution that applies for financial assistance to provide for its facilities. Such initial planning service fees shall be included in the cost of the facilities to be financed and shall not be refundable by the authority, whether or not any such application is approved or, if approved, whether or not such financial assistance is accomplished. In addition to such initial fee, an annual planning service fee shall be paid to the authority by each participating educational institution or cultural institution in an amount determined by the authority. Such fees shall be paid on said dates or in such installments as may be satisfactory to the authority. Such fees may be used for:

(a) Necessary expenses to determine the need for facilities;

(b) Necessary administrative expenses; and

(c) Reserves for anticipated future expenses.

(3) In addition, the authority may retain, for a negotiated fee, the services of any other public or private person, firm, partnership, association, or corporation for the furnishing of services and data for use by the authority in determining the need and location of any such facilities for which application is being made or for such other services or surveys as the authority deems necessary to carry out the purposes of this article.

(4) The authority may charge a reasonable fee to cover expenses incurred by the authority in connection with the review of an application by an issuer other than the authority for designation of bonds or certificates as Colorado education savings bonds or certificates pursuant to section 23-15-110.5. Such fee may also be used to cover a portion of the cost to the authority of administering the program.

Source: L. 81: Entire article added, p. 1109, § 1, effective July 1. **L. 89:** IP(2) amended, p. 993, § 11, effective April 8; (4) added, p. 984, § 5, effective April 12. **L. 98:** IP(2) amended, p. 608, § 14, effective May 4.

23-15-121. Conveyance of title - release of lien. When the principal of and interest on bonds issued by the authority to finance the cost of facilities or to refinance the outstanding indebtedness of one or more participating educational institutions or cultural institutions, including any refunding bonds issued to refund and refinance such bonds, have been fully paid and retired or when adequate provision has been made to fully pay and retire the same and when all other conditions of the resolution, the lease, the trust indenture, and the mortgage, deed of trust, or other form of security arrangement, if any, authorizing and securing the same have been satisfied, the authority shall promptly do all things and execute such deeds, conveyances, and other documents as are necessary and required to release the lien of such mortgage, deed of trust, or other form of security arrangement in accordance with the provisions thereof and to convey its right, title, and interest in such facilities so financed, and any other facilities leased or mortgaged or subject to a deed of trust or any other form of security arrangement to secure the bonds, to such participating educational institution or cultural institution.

Source: L. 81: Entire article added, p. 1110, § 1, effective July 1. **L. 89:** Entire section amended, p. 993, § 12, effective April 8. **L. 98:** Entire section amended, p. 609, § 15, effective May 4.

23-15-122. Investment of funds. The authority may invest the proceeds from the sale of a series of bonds or any funds related to the series in such securities and other investments, whether or not any such investment or reinvestment is authorized under any other law of this state, as may be provided in the proceedings under which the series of bonds are authorized to be issued, including but not limited to the following: Bonds or other obligations of the United States; bonds or other obligations, the payment of the principal and interest of which is unconditionally guaranteed by the United States; obligations issued or guaranteed as to principal and interest by any agency or person controlled or supervised by and acting as an instrumentality of the United States pursuant to authority granted by the congress of the United States; obligations issued or guaranteed by any state of the United States or any political subdivision of any such state; prime commercial paper; prime finance company paper; bankers' acceptances drawn on and accepted by commercial banks; repurchase agreements fully secured by obligations issued or guaranteed as to principal and interest by the United States or by any person controlled or supervised by and acting as an instrumentality of the United States pursuant to authority granted by the congress of the United States; or certificates of deposit or time deposits issued by commercial banks or savings and loan associations that are insured by the federal deposit insurance corporation or its successor. The authority may invest any other funds

in the securities as provided in this section and with such maturities as the authority shall determine if such maturities are on a date or dates prior to the time that, in the judgment of the authority, the funds so invested will be required for expenditure. The express judgment of the authority as to the time that any funds will be required for expenditure or be redeemable is final and conclusive.

Source: L. 81: Entire article added, p. 1110, § 1, effective July 1. **L. 83:** Entire section R&RE, p. 805, § 5, effective May 25. **L. 2004:** Entire section amended, p. 153, § 66, effective July 1.

23-15-123. Proceeds as trust funds. All moneys received pursuant to this article, whether as proceeds from the sale of bonds, notes, or other obligations or as revenues or receipts, shall be deemed to be trust funds to be held and applied solely as provided in this article. Any officer, bank, or trust company with which such moneys are deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes of this article, subject to such regulations as this article and the resolution authorizing the bonds, notes, or other obligations of any issue or the trust agreement securing such obligations shall provide.

Source: L. 81: Entire article added, p. 1111, § 1, effective July 1.

23-15-124. Agreement of the state not to limit or alter rights of obligees. The state hereby pledges to and agrees with the holders of any bonds, notes, or other obligations issued pursuant to this article and with those parties who may enter into contracts with the authority pursuant to the provisions of this article that the state will not limit, alter, restrict, or impair the rights vested pursuant to this article in the authority to acquire, construct, reconstruct, maintain, and operate any facility or to establish, revise, charge, and collect rates, rents, fees, and other charges whenever it may be convenient or necessary to produce sufficient revenues to meet the expenses of maintenance and operation thereof and to fulfill the terms of any agreements made with the holders of bonds, notes, or other obligations authorized and issued pursuant to this article and with the parties who may enter into contracts with the authority pursuant to this article. The state further agrees that it will not in any way impair the rights or remedies of the holders of such bonds, notes, or other obligations of such parties until such bonds, notes, or other obligations, together with interest thereon, interest on any unpaid installment of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged and such contracts are fully performed on the part of the authority. Nothing in this article precludes such limitation or alteration if and when adequate provision is made by law for the protection of the holders of such bonds, notes, or other obligations of the authority or those entering into such contracts with the authority. The authority may include this pledge and undertaking for the state in such bonds, notes, or other obligations and in such contracts.

Source: L. 81: Entire article added, p. 1111, § 1, effective July 1.

23-15-125. Enforcement of rights of bondholders. Any holder of bonds issued pursuant to this article or a trustee under a trust agreement, trust indenture, indenture of

mortgage, or deed of trust entered into pursuant to this article, except to the extent that his rights are restricted by any bond resolution, may protect and enforce, by any suitable form of legal proceedings, any rights under the laws of this state or granted by the bond resolution. Such rights include the right to compel the performance of all duties of the authority required by this article or the bond resolution; to enjoin unlawful activities; and, in the event of default with respect to the payment of the principal of and premium, if any, and interest on any bond or in the performance of any covenant or agreement on the part of the authority in the bond resolution, to apply to a court having jurisdiction of the cause to appoint a receiver to administer and operate the facility, the revenues of which are pledged to the payment of the principal of and premium, if any, and interest on such bonds, with full power to pay, and to provide for the payment of the principal of and premium, if any, and interest on such bonds, with such powers, subject to the direction of the court, as are permitted by law and are accorded receivers in general equity cases, but excluding any power to pledge additional revenues of the authority to the payment of such principal, premium, and interest.

Source: L. 81: Entire article added, p. 1111, § 1, effective July 1.

23-15-126. Bonds eligible for investment. All banks, bankers, trust companies, savings and loan associations, investment companies, and insurance companies and associations and all executors, administrators, guardians, trustees, and other fiduciaries may legally invest any sinking funds, moneys, or other funds belonging to them or within their control in any bonds issued pursuant to this article. Public entities, as defined in section 24-75-601 (1), C.R.S., may invest public funds in such bonds only if said bonds satisfy the investment requirements established in part 6 of article 75 of title 24, C.R.S.

Source: L. 81: Entire article added, p. 1112, § 1, effective July 1. **L. 89:** Entire section amended, p. 1128, § 60, effective July 1.

23-15-127. Account of activities and receipts for expenditures - report - audit. The authority shall keep an accurate account of all its activities and of all its receipts and expenditures and shall annually, in the month of January, make a report thereof to its members and to the state auditor, such reports to be in a form prescribed by the state auditor. Also included in the report shall be any recommendations with reference to additional legislation or other action that may be necessary to carry out the purpose of the authority. The state auditor may investigate the affairs of the authority, may severally examine the properties and records of the authority, and may prescribe methods of accounting and the rendering of periodical reports in relation to facilities undertaken by the authority.

Source: L. 81: Entire article added, p. 1112, § 1, effective July 1. **L. 83:** Entire section amended, p. 806, § 6, effective May 25. **L. 96:** Entire section amended, p. 1239, § 92, effective August 7. **L. 99:** Entire section amended, p. 851, § 10, effective May 24.

Cross references: For the legislative declaration contained in the 1996 act amending this section, see section 1 of chapter 237, Session Laws of Colorado 1996.

23-15-128. Federal social security act. The authority may take such action as it deems appropriate to enable its employees to come within the provisions and obtain the benefits of the federal "Social Security Act", as amended.

Source: L. 81: Entire article added, p. 1112, § 1, effective July 1.

23-15-129. Powers of authority not restricted - law complete in itself. This article shall not be construed as a restriction or limitation upon any powers which the authority might otherwise have under any laws of this state but shall be construed as cumulative of any such powers. No proceedings, referendum, notice, or approval shall be required for the creation of the authority or the issuance of any bonds or any instrument as security therefor unless so provided in this article; but nothing in this article shall be construed to deprive the state and its political subdivisions of their respective police powers over properties of the authority or to impair any power thereover of any official or agency of the state and its political subdivisions which may be otherwise provided by law.

Source: L. 81: Entire article added, p. 1112, § 1, effective July 1.

23-15-130. Powers in addition to those granted by other laws. The powers conferred by this article are in addition and supplementary to, and the limitations imposed by this article do not affect the powers conferred by, any other law, except as provided in this article. Facilities may be acquired, purchased, constructed, reconstructed, improved, bettered, and extended, and bonds may be issued pursuant to this article for said purposes, notwithstanding that any other provision of law may provide for the acquisition, purchase, construction, reconstruction, improvement, betterment, and extensions of like facilities or the issuance of bonds for like purposes; and such bonds may be issued without regard to the requirements, restrictions, limitations, or other provisions contained in any other provision of law.

Source: L. 81: Entire article added, p. 1112, § 1, effective July 1.

23-15-131. Annual report. (Repealed)

Source: L. 81: Entire article added, p. 1113, § 1, effective July 1. **L. 83:** Entire section repealed, p. 806, § 7, effective May 25.

ARTICLE 16

Limitation on Athlete Agents

PART 1

CONTRACTS AND INTERVIEWS

23-16-101. Legislative declaration. The general assembly hereby finds that dishonest or unscrupulous practices by athlete agents who solicit representation of student athletes can cause

significant harm to student athletes and to the institutions of higher education for which they play. It is the general assembly's intent to protect the interests of student athletes and institutions of higher education by limiting the contacts between athlete agents and student athletes and by setting requirements for contracts entered into between athlete agents and student athletes.

Source: L. 96: Entire article added, p. 1487, § 1, effective July 1.

23-16-102. Definitions. As used in this part 1, unless the context otherwise requires:

(1) "Agent contract" means any contract or agreement in which a student athlete authorizes or empowers, or agrees to authorize or empower at some later date, an athlete agent to negotiate or solicit any professional sport services contract or marketing endorsement contract on behalf of the student athlete regardless of whether the athlete agent is entitled to compensation under the contract or agreement.

(2) "Athlete agent" means a person who, directly or indirectly, recruits or solicits a student athlete to enter into an agent contract, or who, for any type of financial gain, procures, offers, promises, or attempts to obtain employment or promotional fees or benefits for a student athlete with a professional sports team or as a professional athlete or with any promoter who markets or attempts to market the student athlete's athletic ability or athletic reputation.

(3) Repealed.

(4) "Governing board" means the governing body of a state-supported institution of higher education.

(5) "Institution" means any state-supported institution of higher education operating in this state and any nonpublic institution of higher education, as defined in section 23-3.7-102 (3), operating in this state.

(6) "Student athlete" means any individual who is enrolled as a student at an institution and has either submitted a written letter of intent to or is eligible to and does participate in any intercollegiate sporting event, contest, exhibition, or program.

Source: L. 96: Entire article added, p. 1487, § 1, effective July 1. **L. 2008:** IP amended, p. 1015, § 2, effective July 1. **L. 2010:** (3) repealed, (HB 10-1422), ch. 419, p. 2080, § 53, effective August 11.

23-16-103. Contact with student athletes prohibited. (Repealed)

Source: L. 96: Entire article added, p. 1488, § 1, effective July 1. **L. 2008:** Entire section repealed, p. 1015, § 3, effective July 1.

23-16-104. Agent contracts - contents - notice - termination. (1) In addition to the requirements specified in section 23-16-209 for contracts with athlete agents, any agent contract entered into between an athlete agent and a student athlete shall also include:

(a) and (b) (Deleted by amendment, L. 2008, p. 1015, § 4, effective July 1, 2008.)

(c) Any guarantees provided by the athlete agent to the student athlete;

(d) In addition to the warning required to be given to the student athlete as specified in section 23-16-209 (c), the following statement in at least ten-point type that is bold-faced, capitalized, underlined, or otherwise conspicuously set out from surrounding written material:

WARNING TO STUDENT ATHLETE:

DO NOT SIGN THIS CONTRACT UNTIL YOU HAVE READ IT OR IF IT CONTAINS BLANK SPACES. DO NOT SIGN THIS CONTRACT IF IT DOES NOT SPECIFY ALL OF THE GUARANTEES MADE TO YOU BY THE ATHLETE AGENT. IF YOU DECIDE THAT YOU DO NOT WISH TO PURCHASE THE SERVICES OF THE ATHLETE AGENT, YOU MAY CANCEL THIS CONTRACT BY NOTIFYING THE ATHLETE AGENT IN WRITING OF YOUR DESIRE TO CANCEL THE CONTRACT WITHIN FOURTEEN DAYS AFTER THE DATE ON WHICH YOU SIGN THIS CONTRACT.

(2) to (4) (Deleted by amendment, L. 2008, p. 1015, § 4, effective July 1, 2008.)

Source: L. 96: Entire article added, p. 1488, § 1, effective July 1. **L. 2008:** Entire section amended, p. 1015, § 4, effective July 1.

23-16-105. Exceptions - written materials - student-initiated contacts. (Repealed)

Source: L. 96: Entire article added, p. 1490, § 1, effective July 1. **L. 2008:** Entire section repealed, p. 1016, § 5, effective July 1.

23-16-106. Athlete agent interviews - scheduling - rules. [*Editor's note: This version of this section is effective until January 1, 2023.*] Each institution that participates in intercollegiate athletics may sponsor on-campus athlete agent interviews at which an athlete agent may interview student athletes to discuss the athlete agent's representation of the student athletes in the marketing of the student athletes' athletic ability or reputation. The governing board of the institution or the institution may adopt rules with regard to the scheduling of interview periods, the duration of each interview period, and locations on campus where interviews may be conducted.

23-16-106. Athlete agent interviews - scheduling - rules. [*Editor's note: This version of this section is effective January 1, 2023.*] Each institution that participates in intercollegiate athletics may sponsor on-campus athlete agent interviews at which an athlete agent may interview student athletes to discuss the athlete agent's representation of the student athletes in the marketing of the student athletes' athletic ability or reputation. The governing board of the institution or the institution may adopt rules with regard to the scheduling of interview periods, the duration of each interview period, and locations on campus where interviews may be conducted. Nothing in this section prohibits a student athlete and an athlete advisor, as defined in section 23-16-301 (1)(b), from meeting at a time and place other than an on-campus athlete agent interview that is sponsored by an institution pursuant to this section.

Source: L. 96: Entire article added, p. 1490, § 1, effective July 1. **L. 2020:** Entire section amended, (SB 20-123), ch. 35, p. 117, § 3, effective January 1, 2023.

Cross references: For the legislative declaration in SB 20-123, see section 1 of chapter 35, Session Laws of Colorado 2020.

23-16-107. Compliance coordinator - duties. (1) Each institution or governing board shall designate an individual to serve as compliance coordinator for the institution or for each institution under the governing board's management. The compliance coordinator shall ensure the compliance of the institution and its athletes and students with the provisions of this part 1 and the rules adopted by the governing board or institution.

(2) If an institution chooses to sponsor on-campus athlete agent interviews as provided in section 23-16-106, the compliance coordinator shall organize the athlete interview schedule. The compliance coordinator shall provide appropriate public notice of the interview period at least thirty days before the date the interview period is scheduled to begin. On receipt of a written request, the compliance coordinator shall provide an athlete agent with a copy of the rules adopted by the governing board or institution pursuant to section 23-16-106.

Source: L. 96: Entire article added, p. 1490, § 1, effective July 1. **L. 2008:** (1) amended, p. 1017, § 6, effective July 1.

23-16-108. Violations - penalties - civil suit. (Repealed)

Source: L. 96: Entire article added, p. 1490, § 1, effective July 1. **L. 2008:** Entire section repealed, p. 1017, § 7, effective July 1.

PART 2

UNIFORM ATHLETE AGENTS ACT

23-16-201. Short title. This part 2 may be cited as the "Uniform Athlete Agents Act".

Source: L. 2008: Entire part added, p. 1002, § 1, effective July 1.

23-16-202. Definitions. In this part 2:

(1) "Agency contract" means an agreement in which a student athlete authorizes a person to negotiate or solicit on behalf of the student athlete a professional-sports-services contract or an endorsement contract.

(2) "Athlete agent" means an individual who enters into an agency contract with a student athlete or, directly or indirectly, recruits or solicits a student athlete to enter into an agency contract. The term includes an individual who represents to the public that the individual is an athlete agent. The term does not include a spouse, parent, sibling, grandparent, or guardian of the student athlete or an individual acting solely on behalf of a professional sports team or professional sports organization.

(3) "Athletic director" means an individual responsible for administering the overall athletic program of an educational institution or, if an educational institution has separately administered athletic programs for male students and female students, the athletic program for males or the athletic program for females, as appropriate.

(4) "Contact" means a communication, direct or indirect, between an athlete agent and a student athlete, to recruit or solicit the student athlete to enter into an agency contract.

(5) Repealed.

(6) "Endorsement contract" means an agreement under which a student athlete is employed or receives consideration to use on behalf of the other party any value that the student athlete may have because of publicity, reputation, following, or fame obtained because of athletic ability or performance.

(7) "Intercollegiate sport" means a sport played at the collegiate level for which eligibility requirements for participation by a student athlete are established by a national association for the promotion or regulation of collegiate athletics.

(8) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, or government; a governmental subdivision, agency, or instrumentality; a public corporation; or any other legal or commercial entity.

(9) "Professional-sports-services contract" means an agreement under which an individual is employed, or agrees to render services, as a player on a professional sports team, with a professional sports organization, or as a professional athlete.

(10) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(11) Repealed.

(12) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(13) "Student athlete" means an individual who engages in, is eligible to engage in, or may be eligible in the future to engage in, any intercollegiate sport. If an individual is permanently ineligible to participate in a particular intercollegiate sport, the individual is not a student athlete for purposes of that sport.

Source: L. 2008: Entire part added, p. 1002, § 1, effective July 1. **L. 2010:** (5) and (11) repealed, (HB 10-1128), ch. 172, p. 617, § 17, effective April 29.

23-16-203. Service of process - subpoenas. (a) At all times while acting as an athlete agent in this state, a nonresident individual shall continuously maintain in this state a registered agent. The registered agent shall be:

(1) An individual who is eighteen years of age or older and whose primary residence or usual place of business is in this state;

(2) A domestic entity having a usual place of business in this state; or

(3) A foreign entity authorized to transact business or conduct activities in this state that has a usual place of business in this state.

(b) The registered agent of the nonresident individual is an agent of the individual authorized to receive service of any process, notice, or demand required or permitted by law to be served on the individual in any civil action in this state related to an individual acting as an athlete agent.

(c) If a nonresident individual acting as an athlete agent in this state who is required to maintain a registered agent pursuant to this part 2 has no registered agent, or if the registered agent is not located under its registered agent name at its registered agent address, or if the registered agent cannot with reasonable diligence be served, the nonresident individual acting as an athlete agent in this state may be served by registered mail or by certified mail, return receipt

requested, addressed to the nonresident athlete agent at his or her principal office address. Service is perfected under this subsection (c) at the earliest of:

(1) The date the nonresident athlete agent receives the process, notice, or demand;

(2) The date shown on the return receipt, if signed on behalf of the nonresident athlete agent; or

(3) Five days after mailing.

(d) This section does not prescribe the only means, or necessarily the required means, of serving a nonresident athlete agent in this state.

Source: L. 2008: Entire part added, p. 1004, § 1, effective July 1.

23-16-204. Athlete agents - registration required - void contracts. (Repealed)

Source: L. 2008: Entire part added, p. 1004, § 1, effective July 1. **L. 2010:** Entire section repealed, (HB 10-1128), ch. 172, p. 617, § 18, effective April 29.

23-16-205. Registration as athlete agent - form - requirements. (Repealed)

Source: L. 2008: Entire part added, p. 1005, § 1, effective July 1. **L. 2010:** Entire section repealed, (HB 10-1128), ch. 172, p. 618, § 19, effective April 29.

23-16-206. Certificate of registration - issuance or denial - renewal. (Repealed)

Source: L. 2008: Entire part added, p. 1006, § 1, effective July 1. **L. 2010:** Entire section repealed, (HB 10-1128), ch. 172, p. 619, § 20, effective April 29.

23-16-207. Suspension, revocation, or refusal to renew registration - disciplinary action against registration - cease-and-desist orders - immunity. (Repealed)

Source: L. 2008: Entire part added, p. 1007, § 1, effective July 1. **L. 2010:** Entire section repealed, (HB 10-1128), ch. 172, p. 620, § 21, effective April 29.

23-16-208. Registration and renewal fees. (Repealed)

Source: L. 2008: Entire part added, p. 1010, § 1, effective July 1. **L. 2010:** Entire section repealed, (HB 10-1128), ch. 172, p. 623, § 22, effective April 29.

23-16-209. Required form of contract. (a) An agency contract must be in a record, signed or otherwise authenticated by the parties.

(b) An agency contract must state or contain:

(1) The amount and method of calculating the consideration to be paid by the student athlete for services to be provided by the athlete agent under the contract and any other consideration the athlete agent has received or will receive from any other source for entering into the contract or for providing the services;

(2) The name of any person who will be compensated because the student athlete signed the agency contract;

(3) A description of any expenses that the student athlete agrees to reimburse;

(4) A description of the services to be provided to the student athlete;

(5) The duration of the contract;

(6) The date of execution; and

(7) The requirements for contracts with student athletes as specified in section 23-16-104.

(c) An agency contract must contain, in close proximity to the signature of the student athlete, a conspicuous notice in boldface type in capital letters stating:

WARNING TO STUDENT ATHLETE

IF YOU SIGN THIS CONTRACT:

(1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT ATHLETE IN YOUR SPORT;

(2) IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER ENTERING INTO THIS CONTRACT, BOTH YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR; AND

(3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.

(d) An agency contract that does not conform to this section is voidable by the student athlete. If a student athlete voids an agency contract, the student athlete is not required to pay any consideration under the contract or to return any consideration received from the athlete agent to induce the student athlete to enter into the contract.

(e) The athlete agent shall give a record of the signed or otherwise authenticated agency contract to the student athlete at the time of execution.

Source: L. 2008: Entire part added, p. 1010, § 1, effective July 1. **L. 2010:** (b)(2) amended, (HB 10-1128), ch. 172, p. 623, § 23, effective April 29.

23-16-210. Notice to educational institution. (a) Within seventy-two hours after entering into an agency contract or before the next scheduled athletic event in which the student athlete may participate, whichever occurs first, the athlete agent shall give notice in a record of the existence of the contract to the athletic director of the educational institution at which the student athlete is enrolled or the athlete agent has reasonable grounds to believe the student athlete intends to enroll.

(b) Within seventy-two hours after entering into an agency contract or before the next athletic event in which the student athlete may participate, whichever occurs first, the student athlete shall inform the athletic director of the educational institution at which the student athlete is enrolled that he or she has entered into an agency contract.

Source: L. 2008: Entire part added, p. 1012, § 1, effective July 1.

23-16-211. Student athlete's right to cancel. (a) A student athlete may cancel an agency contract by giving notice of the cancellation to the athlete agent in a record within fourteen days after the contract is signed.

(b) A student athlete may not waive the right to cancel an agency contract.

(c) If a student athlete cancels an agency contract, the student athlete is not required to pay any consideration under the contract or to return any consideration received from the athlete agent to induce the student athlete to enter into the contract.

Source: L. 2008: Entire part added, p. 1012, § 1, effective July 1.

23-16-212. Required records. (a) An athlete agent shall retain the following records for a period of five years:

(1) The name and address of each individual represented by the athlete agent;

(2) Any agency contract entered into by the athlete agent; and

(3) Any direct costs incurred by the athlete agent in the recruitment or solicitation of a student athlete to enter into an agency contract.

(b) Repealed.

Source: L. 2008: Entire part added, p. 1012, § 1, effective July 1. **L. 2010:** (b) repealed, (HB 10-1128), ch. 172, p. 623, § 24, effective April 29.

23-16-213. Prohibited conduct. (a) An athlete agent, with the intent to induce a student athlete to enter into an agency contract, may not:

(1) Give any materially false or misleading information or make a materially false promise or representation;

(2) Furnish anything of value to a student athlete before the student athlete enters into the agency contract; or

(3) Furnish anything of value to any individual other than the student athlete or another athlete agent.

(b) An athlete agent may not intentionally:

(1) (Deleted by amendment, L. 2010, (HB 10-1128), ch. 172, p. 623, § 25, effective April 29, 2010.)

(2) Refuse or fail to retain or permit inspection of the records required to be retained by section 23-16-212;

(3) and (4) (Deleted by amendment, L. 2010, (HB 10-1128), ch. 172, p. 623, § 25, effective April 29, 2010.)

(5) Predate or postdate an agency contract; or

(6) Fail to notify a student athlete before the student athlete signs or otherwise authenticates an agency contract for a particular sport that the signing or authentication may make the student athlete ineligible to participate as a student athlete in that sport.

Source: L. 2008: Entire part added, p. 1012, § 1, effective July 1. **L. 2010:** (a)(3), (b)(1), (b)(3), and (b)(4) amended, (HB 10-1128), ch. 172, p. 623, § 25, effective April 29.

23-16-214. Criminal penalties. An athlete agent who violates section 23-16-213 is guilty of a class 2 misdemeanor, as provided in section 18-1.3-501, C.R.S., for a first offense and is guilty of a class 6 felony, as provided in section 18-1.3-401, C.R.S., for a second or subsequent offense.

Source: L. 2008: Entire part added, p. 1013, § 1, effective July 1.

23-16-215. Civil remedies - temporary restraining orders - injunctions. (a) An educational institution has a right of action against an athlete agent or a former student athlete for damages caused by a violation of this part 2. In an action under this section, the court may award to the prevailing party costs and reasonable attorney fees.

(b) Damages of an educational institution under subsection (a) of this section include losses and expenses incurred because, as a result of the conduct of an athlete agent or former student athlete, the educational institution was injured by a violation of this part 2 or was penalized, disqualified, or suspended from participation in athletics by a national association for the promotion and regulation of athletics, by an athletic conference, or by reasonable self-imposed disciplinary action taken to mitigate sanctions likely to be imposed by such an organization.

(c) A right of action under this section does not accrue until the educational institution discovers or by the exercise of reasonable diligence would have discovered the violation by the athlete agent or former student athlete.

(d) Any liability of the athlete agent or the former student athlete under this section is several and not joint.

(e) This part 2 does not restrict rights, remedies, or defenses of any person under law or equity.

(f) The attorney general or the district attorney of the judicial district in which the educational institution is located, on receipt of a complaint or on his or her initiative, may investigate any alleged violation of this part 2. Following an investigation, if the attorney general or district attorney has reasonable cause to believe that any individual has violated or is violating any provision of this part 2, the attorney general or district attorney may bring an action to obtain a temporary restraining order, preliminary injunction, or permanent injunction to restrain or prevent the violation. If the attorney general or district attorney shows, by a preponderance of the evidence, that an individual has violated or is violating any provision of this part 2, the court may issue a temporary restraining order, preliminary injunction, or permanent injunction to restrain or prevent the violation. No action may be brought by the attorney general or the district attorney under this section more than four years after the occurrence of the violation.

Source: L. 2008: Entire part added, p. 1013, § 1, effective July 1.

23-16-216. Civil penalty. On motion of the attorney general or the district attorney, the court may impose a civil penalty of not more than twenty-five thousand dollars for a violation of this part 2. Moneys collected under this section shall be transmitted to the state treasurer and credited to the general fund.

Source: L. 2008: Entire part added, p. 1014, § 1, effective July 1.

23-16-217. Uniformity of application and construction. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Source: L. 2008: Entire part added, p. 1014, § 1, effective July 1.

23-16-218. Electronic signatures in global and national commerce act. The provisions of this part 2 governing the legal effect, validity, or enforceability of electronic records or signatures, and of contracts formed or performed with the use of such records or signatures, conform to the requirements of section 102 of the "Electronic Signatures in Global and National Commerce Act", Pub.L. 106-229, 114 Stat. 464 (2000), and supersede, modify, and limit the "Electronic Signatures in Global and National Commerce Act".

Source: L. 2008: Entire part added, p. 1014, § 1, effective July 1.

23-16-219. Severability. If any provision of this part 2 or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this part 2 that can be given effect without the invalid provision or application, and to this end, the provisions of this part 2 are severable.

Source: L. 2008: Entire part added, p. 1014, § 1, effective July 1.

23-16-220. Rules. (Repealed)

Source: L. 2008: Entire part added, p. 1014, § 1, effective July 1. **L. 2010:** Entire section repealed, (HB 10-1128), ch. 172, p. 624, § 26, effective April 29.

23-16-221. Repeal of part. (Repealed)

Source: L. 2008: Entire part added, p. 1014, § 1, effective July 1. **L. 2010:** Entire section repealed, (HB 10-1128), ch. 172, p. 624, § 27, effective April 29.

PART 3

COMPENSATION AND REPRESENTATION OF STUDENT ATHLETES

Cross references: For the legislative declaration in SB 20-123, see section 1 of chapter 35, Session Laws of Colorado 2020.

23-16-301. Compensation and representation of student athletes at institutions of higher education - prohibited acts - contracts - definitions. [*Editor's note: This section is effective January 1, 2023.*] (1) As used in this part 3, unless the context otherwise requires:

(a) "Advisory contract" means an agreement in which a student athlete authorizes a person to negotiate or solicit, on behalf of the student athlete, compensation from the use of the student athlete's name, image, or likeness. The term:

(I) Does not include a professional-sports-services contract, as defined in section 23-16-202 (9); and

(II) Includes an endorsement contract, as defined in section 23-16-202 (6), if the endorsement contract provides for a student athlete to receive compensation from the use of the student's name, image, or likeness.

(b) "Athlete advisor" means a person who enters into an advisory contract with a student athlete or, directly or indirectly, recruits or solicits a student athlete to enter into an advisory contract. The term includes an individual who represents to the public that the individual is an athlete advisor. The term does not include a spouse, parent, sibling, grandparent, or guardian of a student athlete.

(c) "Athletic association" means an athletic association, conference, or other group or organization with authority over intercollegiate athletics. The term includes the National Collegiate Athletic Association or any successor organization.

(d) "Compensation":

(I) Means money or other remuneration or thing of value given to a student athlete in exchange for the use of the student athlete's name, image, or likeness; and

(II) Does not include a scholarship from the institution at which a student athlete is enrolled that provides the student athlete all or a portion of the cost of attendance at that institution.

(e) "Institution" means a public or private institution of higher education in Colorado.

(f) "Student" means an individual who is enrolled at an institution.

(g) "Student athlete" means a student who competes in intercollegiate athletics for an institution at which the student is enrolled.

(h) "Team contract" means a contract between an institution and another entity or between an intercollegiate athletic team of an institution and another entity, which contract relates to the activities of an athletic team of the institution.

(2) (a) Except as may be required by the rules or requirements of an athletic association of which an institution is a member, an institution shall not uphold any rule, requirement, standard, or other limitation that prevents a student athlete of the institution from earning compensation from the use of the student athlete's name, image, or likeness. A student athlete's earning of such compensation does not affect the student athlete's scholarship eligibility.

(b) An athletic association shall not:

(I) Prevent a student athlete from earning compensation from the use of the student athlete's name, image, or likeness; or

(II) Prevent an institution from participating in intercollegiate athletics because a student athlete receives compensation from the use of the student athlete's name, image, or likeness.

(c) Neither an institution nor an athletic association shall:

(I) Provide compensation to a current or prospective student athlete;

(II) Provide remuneration to a prospective student athlete for the prospective student athlete's athletic ability or performance or potential athletic ability or performance; or

(III) Prevent a student athlete from obtaining professional representation in relation to contracts or legal matters, including representation provided by an athlete advisor and legal representation provided by an attorney.

(3) (a) A student athlete shall not enter into a contract providing compensation to the student athlete if the contract conflicts with a team contract of the team for which the student athlete competes.

(b) A student athlete who enters into a contract providing compensation to the student athlete in exchange for the use of the student athlete's name, image, or likeness shall disclose the contract to the athletic director of the student athlete's institution within seventy-two hours after the student athlete enters into the contract or before the next scheduled athletic event in which the student athlete may participate, whichever occurs first.

(c) An institution asserting a conflict described in subsection (3)(a) of this section shall disclose to the student athlete or to the student athlete's professional or legal representation the relevant contractual provisions that are in conflict.

(d) A team contract of an institution's athletic program entered into, modified, or renewed on or after January 1, 2023, may not prohibit a student athlete from using the student athlete's name, image, or likeness for a commercial purpose when the student athlete is not engaged in official team activities.

(4) Any person providing legal representation to a student athlete must be a licensed attorney.

(5) For the purposes of this section, an institution shall not revoke a student athlete's scholarship because the student athlete receives compensation or obtains professional or legal representation as described in this section.

(6) (a) A policy of an institution or an athletic association that does not comport with this part 3 is void and unenforceable.

(b) A student athlete who is aggrieved by an action taken by an institution or an athletic association in violation of this part 3 may bring an action for injunctive relief.

Source: L. 2020: Entire part added, (SB 20-123), ch. 35, p. 114, § 2, effective January 1, 2023.

ARTICLE 17

Colorado High Technology
Scholarship Program

23-17-101 to 23-17-106. (Repealed)

Source: L. 2010: Entire article repealed, (HB 10-1256), ch. 133, p. 440, § 1, effective August 11.

Editor's note: This article was added in 2000. For amendments to this article prior to its repeal in 2010, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

ARTICLE 18

College Opportunity Fund and
Higher Education Funding

Cross references: For the legislative declaration contained in the 2004 act enacting this article, see section 1 of chapter 215, Session Laws of Colorado 2004.

PART 1

GENERAL PROVISIONS

23-18-101. Short title. Parts 1 and 2 of this article shall be known and may be cited as the "College Opportunity Fund Act".

Source: L. 2004: Entire article added, p. 703, § 2, effective July 1. **L. 2014:** Entire section amended, (HB 14-1319), ch. 169, p. 614, § 11, effective May 9.

23-18-102. Definitions. As used in parts 1 and 2 of this article 18, unless the context otherwise requires:

(1) "College opportunity fund" or "fund" means the college opportunity fund created in section 23-18-202.

(2) "College opportunity fund program" or "program" means the college opportunity fund program created in the department of higher education pursuant to section 23-18-201 (1).

(3) "Commission" means the Colorado commission on higher education established pursuant to section 23-1-102.

(4) "Department" means the Colorado department of higher education established pursuant to section 24-1-114, C.R.S.

(5) (a) "Eligible undergraduate student" means:

(I) A student who is enrolled at a state institution of higher education and who is classified as an in-state student for tuition purposes;

(I.5) A student who is enrolled at a state institution of higher education as part of a pathways in technology early college high school that is approved as provided in article 35.3 of title 22, C.R.S., and who is classified as an in-state student for tuition purposes; or

(II) A student who is enrolled at a participating private institution of higher education and who:

(A) Is classified as an in-state student for tuition purposes;

(B) Is a graduate of a Colorado high school or has successfully completed a nonpublic home-based educational program as provided in section 22-33-104.5, C.R.S.;

(C) Demonstrates financial need through the student's eligibility for the federal Pell grant, or its successor program;

(C.5) Is not pursuing a professional degree in theology; and

(D) Meets any other eligibility requirements established by the commission.

(b) (Deleted by amendment, L. 2005, p. 1011, § 1, effective June 2, 2005.)

(c) Notwithstanding the provisions of paragraph (a) of this subsection (5), a student shall not be considered an "eligible undergraduate student" during the first year the student attends a Colorado institution of higher education if the student receives status as an in-state student for tuition purposes pursuant to section 23-7-111.

(6) "Governing board" means the governing body of a state institution of higher education.

(7) "Institution of higher education" means a participating private institution of higher education or a state institution of higher education.

(8) "Participating private institution of higher education" means a private institution of higher education that enters into a performance contract with the department pursuant to section 23-18-201 (2) and agrees to participate in the program.

(9) "Private institution of higher education" means a not-for-profit college or university that maintains its primary place of business in the state of Colorado, that offers general baccalaureate degrees in arts and sciences, and that is institutionally accredited on the basis of an on-site review in Colorado by one of the six nationally recognized regional accrediting associations or by an accrediting agency determined by the commission to be appropriate to its educational purposes and programs.

(9.5) "Professional degree in theology" means a certificate signifying a person's graduation from a degree program that is:

(a) Devotional in nature or designed to induce religious faith; and

(b) Offered by an institution as preparation for a career in the clergy.

(10) (a) "State institution of higher education" means a public postsecondary institution that is governed by:

(I) The board of governors of the Colorado state university system;

(II) The board of regents of the university of Colorado;

(III) The board of trustees of the Colorado school of mines;

(IV) The board of trustees of the university of northern Colorado;

(V) The board of trustees of Adams state university;

(VI) The board of trustees of Western Colorado university;

(VII) The board of trustees of Colorado Mesa university;

(VIII) The board of trustees for Fort Lewis college;

(IX) The board of trustees for Metropolitan state university of Denver; or

(X) The state board for community colleges and occupational education.

(b) "State institution of higher education" does not include a local district college that is part of a local college district organized pursuant to article 71 of this title, which districts shall continue to be eligible for direct grant funding from the general assembly pursuant to section 23-71-301.

(11) "Stipend" means the amount of money per credit hour specified pursuant to section 23-18-202 (2)(b) held in trust for and paid on behalf of an eligible undergraduate student pursuant to section 23-18-202 (5). "Stipend" shall also include payment on behalf of an eligible undergraduate student for a part of a credit hour.

(12) **[*Editor's note: This version of subsection (12) is effective until July 1, 2021.*]** "Student's share of in-state tuition" means, except as provided in section 23-18-303 (8), the amount of total in-state tuition, less any amount paid on behalf of the student as a stipend.

(12) [***Editor's note: This version of subsection (12) is effective July 1, 2021.***] "Student's share of in-state tuition" means the amount of total in-state tuition, less any amount paid on behalf of the student as a stipend.

(13) "Total in-state tuition" means the total amount of tuition that is paid to a state institution of higher education by or on behalf of a student who is eligible to pay in-state tuition, including but not limited to the amount of the stipend paid on behalf of the student.

Source: L. 2004: Entire article added, p. 703, § 2, effective July 1. **L. 2005:** (5)(b) and (11) amended, p. 1011, § 1, effective June 2. **L. 2009:** (5)(a)(II)(C) and (9) amended and (5)(a)(II)(C.5) and (9.5) added, (HB 09-1267), ch. 348, p. 1825, §§ 8, 9, effective June 1; (5)(c) added, (HB 09-1063), ch. 228, p. 1040, § 3, effective August 5. **L. 2011:** (10)(a)(VII) amended, (SB 11-265), ch. 292, p. 1368, § 24, effective August 10. **L. 2012:** (10)(a)(V) amended, (HB 12-1080), ch. 189, p. 760, § 19, effective May 19; (10)(a)(IX) amended, (SB 12-148), ch. 125, p. 427, § 15, effective July 1; (10)(a)(VI) amended, (HB 12-1331), ch. 254, p. 1271, § 18, effective August 1. **L. 2014:** IP and (12) amended, (HB 14-1319), ch. 169, pp. 614, 611, §§ 12, 5, effective May 9. **L. 2015:** (5)(a)(I) amended and (5)(a)(I.5) added, (HB 15-1270), ch. 195, p. 658, § 5, effective August 5. **L. 2017:** IP and (8) amended, (SB 17-297), ch. 210, p. 819, § 12, effective May 18. **L. 2019:** (10)(a)(VI) amended, (HB 19-1178), ch. 400, p. 3547, § 18, effective July 1. **L. 2020:** (12) amended, (HB 20-1366), ch. 181, p. 834, § 11, effective July 1, 2021.

Cross references: For the legislative declaration contained in the 2009 act amending subsections (5)(a)(II)(C) and (9) and adding subsections (5)(a)(II)(C.5) and (9.5), see section 1 of chapter 348, Session Laws of Colorado 2009. For the legislative declaration contained in the 2009 act adding subsection (5)(c), see section 1 of chapter 228, Session Laws of Colorado 2009. For the legislative declaration in the 2011 act amending subsection (10)(a)(VII), see section 1 of chapter 292, Session Laws of Colorado 2011. For the legislative declaration in the 2012 act amending subsection (10)(a)(IX), see section 1 of chapter 125, Session Laws of Colorado 2012.

PART 2

COLLEGE OPPORTUNITY FUND PROGRAM

23-18-201. College opportunity fund program - creation - eligibility - guidelines. (1) There is created in the department of higher education the college opportunity fund program, which is administered by the Colorado student loan program. On and after July 1, 2015, the Colorado student loan program may enter into an agreement with the department or another state entity to administer all or part of the college opportunity fund program. The college opportunity fund, created in section 23-18-202, is a trust fund for the benefit of eligible undergraduate students. It consists of a stipend for each undergraduate student in Colorado who applies for the stipend and who is admitted and registers to attend a state or participating private institution of higher education and is determined to be eligible by the Colorado student loan program to receive a stipend. An eligible undergraduate student may use the stipend for undergraduate courses and graduate-level courses that apply toward the student's undergraduate degree that are taken at a state or participating private institution of higher education at a fixed rate per credit hour, set annually by the general assembly.

(2) A student of a private institution of higher education shall be a beneficiary of the college opportunity fund and eligible to participate in the college opportunity fund program only if the private institution of higher education that the student attends has agreed to participate in the program by establishing a performance contract with the department. The performance contract shall specify the performance goals the institution shall achieve during the period that it operates under the performance contract. The department shall include each participating private institution of higher education and its students who participate in the college opportunity fund program in the student unit reporting data system, in order to enable the students of the participating private institution of higher education to participate in the program. The participating private institution of higher education shall reimburse the department for the actual expenses associated with including the institution in the student unit reporting data system.

(3) The Colorado student loan program, in consultation with the governing boards, shall adopt the necessary policies for the implementation of this part 2, which at a minimum shall include procedures for requesting funds for the program which adhere to commission budget guidelines and the annual budgeting cycle of the executive and legislative branches.

(4) The Colorado student loan program shall direct all state and participating private institutions of higher education to require resident undergraduate students to apply for the program. If a student is classified as an in-state student for tuition purposes at a state institution of higher education and does not apply for the program or is not eligible for the program, the student shall be responsible for paying the student's total in-state tuition amount.

Source: L. 2004: Entire article added, p. 706, § 2, effective July 1. **L. 2005:** (1) amended, p. 1011, § 2, effective June 2. **L. 2017:** (1) amended, (HB 17-1131), ch. 29, p. 84, § 1, effective March 8; (2) amended, (SB 17-297), ch. 210, p. 819, § 13, May 18.

23-18-202. College opportunity fund - appropriations - payment of stipends - reimbursement - report. (1) (a) Beginning with the state fiscal year commencing July 1, 2005, and for each state fiscal year thereafter, the general assembly shall make an annual appropriation, in trust for eligible undergraduate students, to the college opportunity fund, which is hereby established as a trust fund account with the Colorado student loan program. Except as provided in paragraph (c) of this subsection (1), moneys appropriated to the college opportunity fund are for the sole purpose of disbursement on behalf of eligible undergraduate students in accordance with this part 2 and are not for the general operation or any other function of the Colorado student loan program. Any unexpended and unencumbered moneys remaining in the college opportunity fund at the end of a fiscal year are the property of the trust fund and shall remain in the fund and shall not be credited or transferred to the general fund or any other fund.

(b) (I) The Colorado student loan program shall administer and disburse the funds in the college opportunity fund on behalf of eligible undergraduate students as provided in this part 2. Each institution of higher education may be required to pay an implementation fee and an ongoing disbursement fee, the amounts of which shall be determined by the Colorado student loan program but shall not exceed the actual cost of the implementation and ongoing disbursement; except that the fees may be required only if the department or the federal government takes action, including adopting rules, regulatory changes, or programmatic changes, that negatively affects the financial condition of the Colorado student loan program.

(II) Repealed.

(c) **[*Editor's note: This version of subsection (1)(c) is effective until July 1, 2021.*]** If there are moneys remaining in the college opportunity fund or if there are insufficient moneys in the college opportunity fund after the final census date of the last academic term of each state fiscal year, as determined in accordance with this section, the department may transfer up to ten percent of the annual total governing board appropriation for the institution between the cash spending authority for the governing board to expend stipends received on behalf of eligible undergraduate students and a fee-for-service contract for the governing board entered into pursuant to sections 23-1-109.7, 23-18-303, and 23-18-304 (1).

(c) **[*Editor's note: This version of subsection (1)(c) is effective July 1, 2021.*]** If there is money remaining in the college opportunity fund or if there is insufficient money in the college opportunity fund after the final census date of the last academic term of each state fiscal year, as determined in accordance with this section, the department may transfer up to ten percent of the annual total governing board appropriation for the institution between the cash spending authority for the governing board to expend stipends received on behalf of eligible undergraduate students and a fee-for-service contract for the governing board entered into pursuant to sections 23-1-109.7, 23-18-303.5, and 23-18-304 (1).

(2) (a) (I) For the state fiscal year commencing July 1, 2005, and for each state fiscal year thereafter, the commission, in consultation with the governing boards and participating private institutions, shall annually estimate the number of undergraduate full-time equivalent students who are eligible for stipends under this part 2 at each state institution of higher education and each participating private institution of higher education. The commission shall annually report the numbers by February 15 to the governor and to the joint budget committee of the general assembly for inclusion in the annual general appropriations act.

(II) The general assembly reviewed the reporting requirements to the general assembly in subparagraph (I) of this paragraph (a) during the 2008 regular session and continued the requirements.

(b) (I) For the state fiscal year commencing July 1, 2005, and for state fiscal years thereafter, for an eligible undergraduate student attending a state institution of higher education, the specified amount of the stipend per credit hour is an amount set annually by the general assembly, which in no case shall exceed the student's total in-state tuition. The value of the per credit hour stipend is the same for each eligible undergraduate student, regardless of the state institution of higher education that the student attends. The student is responsible for paying the student's share of total in-state tuition, if any.

(II) If the student is enrolled in a pathways in technology early college high school pursuant to article 35.3 of title 22, the p-tech school is responsible for paying the student's share of total in-state tuition, if any.

(III) Repealed.

(c) Notwithstanding section 24-1-136 (11)(a)(I), the commission shall forward to the general assembly and governor, by November 1 of each year, a list of institutions eligible to receive stipends on behalf of eligible undergraduate students under the program. The commission shall annually request that the general assembly adjust the amount appropriated to the Colorado student loan program for the stipends, which amount may reflect inflation and enrollment growth in the state institutions of higher education.

(d) Beginning with the state fiscal year commencing July 1, 2006, the commission, in consultation with the governing boards and any participating private institutions of higher

education, shall review annually the amount of the stipend per credit hour established pursuant to subsection (2)(b) of this section. Following the review, and notwithstanding section 24-1-136 (11)(a)(I), the commission, in consultation with the governing boards and participating private institutions, shall annually make recommendations regarding possible adjustments to the amount of the stipend per credit hour to the governor, and the joint budget committee of the general assembly for consideration in preparing the annual general appropriations act.

(e) An eligible undergraduate student who attends a participating private institution of higher education may receive financial assistance under this part 2 in the amount of fifty percent of the stipend amount.

(3) (a) For the state fiscal year commencing July 1, 2005, and for each state fiscal year thereafter, the general assembly shall appropriate spending authority to each governing board for the funds estimated to be received by an institution, under the direction and control of the governing board, as stipends, consistent with the provisions of section 23-1-104. The spending authority for the stipends estimated to be received shall be calculated by multiplying the amount of the applicable per-credit-hour stipend by the number of eligible student credit hours that are estimated to be attributable to each state institution of higher education under the direction and control of the governing board.

(b) (I) The tuition increases from which the general assembly derived the total cash spending authority for each governing board shall be noted in a footnote in the annual general appropriations act.

(II) Repealed.

(c) Repealed.

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

(b) If moneys in the college opportunity fund in any fiscal year are not sufficient to pay the rate per credit hour established pursuant to paragraph (b) of subsection (2) of this section, then the Colorado student loan program shall reduce the amount of the stipend per credit hour for all students to match the available funds, subject to joint budget committee approval. This paragraph (b) shall not be construed to limit the department's ability to request an adjustment to, or the general assembly's ability to adjust, the amount of the stipend during the budget process.

(5) (a) (I) After an undergraduate student has applied for the program, been approved for the program, and enrolled in a state or participating private institution of higher education, the institution shall request that the Colorado student loan program make a stipend payment from the college opportunity fund to the institution on behalf of the eligible undergraduate student. A payment by the Colorado student loan program to an institution of higher education from the college opportunity fund shall not be subject to the assessment of a transaction fee pursuant to section 24-36-120, C.R.S. The stipend payment shall be paid to the institution upon receipt by the institution of the eligible undergraduate student's authorization. The amount of the stipend paid on behalf of an eligible undergraduate student shall be applied against the student's total in-state tuition.

(II) Notwithstanding any provision of subparagraph (I) of this paragraph (a) to the contrary, an institution, with a student's permission, may apply for the program on the student's behalf using the information in the student's admission application after the student has been enrolled in the institution.

(b) The stipend paid by the Colorado student loan program on behalf of the eligible undergraduate student shall note on the student's receipt of payment from the state or private institution of higher education that the moneys came from the college opportunity fund.

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

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

(B) For credit hours initiated on or after July 1, 2006, an eligible undergraduate student may receive stipend payments for developmental education courses, as defined in section 23-1-113 (11)(b), and courses taken pursuant to the "Concurrent Enrollment Programs Act", article 35 of title 22. For a student who enrolls in a course at an institution of higher education pursuant to the "Concurrent Enrollment Programs Act", article 35 of title 22, the student loan division in the department shall record the student's uniquely identifying student number before submitting a stipend payment on behalf of the student. Stipend payments received for the developmental education courses specified in this subsection (5)(c)(I)(B) do not apply to the lifetime limitation of one hundred forty-five credit hours.

(II) For an eligible undergraduate student who is enrolled as a continuing student at a state institution of higher education or a participating private institution of higher education as of July 1, 2005, the commission shall determine the number of credit hours for which the student may receive a stipend from the college opportunity fund, based on the number of credit hours the eligible undergraduate student has earned.

(III) For an eligible undergraduate student who has completed one or more college courses while enrolled in high school pursuant to the "Concurrent Enrollment Programs Act", article 35 of title 22, or while designated by the department of education as an ASCENT program participant pursuant to section 22-35-108, or while enrolled in a pathways in technology early college high school pursuant to article 35.3 of title 22, all college-level credit hours earned by the student while so enrolled count against the lifetime limitation described in subsection (5)(c)(I) of this section; except that credit hours earned from enrollment in a developmental education course, as defined in section 23-1-113 (11)(b), do not count against the lifetime limitation.

(d) (I) An eligible undergraduate student and an institution of higher education shall not receive the payment of a stipend on behalf of an eligible undergraduate student for:

(A) to (C) Repealed.

(D) International baccalaureate courses;

(E) Advanced placement courses;

(F) Off-campus, extended campus, or continuing education classes that are not supported by state general fund money, except as approved by the commission, and, on or after July 1, 2007, except for classes or programs offered by an institution of higher education that an eligible

undergraduate student who is a member of the armed forces or a dependent of a member of the armed forces attends for credit on a military base; or

(G) Classes offered by an institution of higher education that was established after July 1, 2007.

(II) and (III) Repealed.

(e) Notwithstanding the lifetime-credit-hour limitation established pursuant to paragraph (c) of this subsection (5), an eligible undergraduate student may apply to the commission for a waiver of the limitation. The commission may grant a waiver of the lifetime-credit-hour limitation if it finds:

(I) That extenuating circumstances exist related to the student's health or physical ability to complete the degree program within the lifetime-credit-hour limit;

(II) That the degree program, as approved by the commission, requires more than one hundred twenty hours to complete;

(III) That, while the eligible undergraduate student was enrolled in a specific degree program, the commission approved and the institution implemented an alteration of degree requirements or standards for the specific degree; or

(IV) That requiring the eligible undergraduate student to pay the full amount of total in-state tuition for credit hours that exceed the limitation would cause a substantial economic hardship on the student and the student's family.

(f) Notwithstanding the lifetime-credit-hour limitation established pursuant to paragraph (c) of this subsection (5) and in addition to the provisions of paragraph (e) of this subsection (5), a state institution of higher education may annually grant a one-year waiver of the lifetime-credit-hour limitation for up to five percent of the eligible undergraduate students enrolled in the state institution of higher education. In granting the waivers under this paragraph (f), the state institution of higher education shall, upon request, grant a waiver to an eligible undergraduate student for courses taken pursuant to the "Concurrent Enrollment Programs Act", article 35 of title 22, C.R.S., or for courses taken while enrolled in a pathways in technology early college high school pursuant to article 35.3 of title 22, C.R.S. For any remaining portion of the institution's five percent of eligible undergraduate students who may receive waivers, the institution shall give priority to students who are seeking job retraining.

(6) If an eligible undergraduate student enrolls in a class for which the state or participating private institution of higher education receives a stipend payment pursuant to subsection (5) of this section and the eligible undergraduate student subsequently withdraws from the class on or prior to the final date on which the institution permits a student to withdraw without the payment of any amount of tuition, the institution shall reimburse the college opportunity fund for the proportional amount of the stipend received that conforms to the governing board's refund policy for the class from which the student withdrew. The credits for which the stipend is refunded shall not count against the eligible undergraduate student's lifetime-credit-hour limitation established pursuant to paragraph (c) of subsection (5) of this section.

(7) It is the intent of the general assembly that the amount of a stipend received by a state institution of higher education on behalf of an eligible undergraduate student pursuant to this part 2 shall not constitute a grant from the state of Colorado pursuant to section 20 (2)(d) of article X of the state constitution.

(8) It is the intent of the general assembly that nothing in this article preclude the general assembly at a future time from including a local district college that is part of a local college district organized pursuant to article 71 of this title in the college opportunity fund program.

(9) **[*Editor's note: This version of subsection (9) is effective until July 1, 2021.*]** It is the intent of the general assembly that the college opportunity fund and fee-for-service contracts authorized pursuant to section 23-18-303 be fully funded for enrollment growth.

(9) **[*Editor's note: This version of subsection (9) is effective July 1, 2021.*]** It is the intent of the general assembly that the college opportunity fund and fee-for-service contracts authorized pursuant to section 23-18-303.5 be fully funded for enrollment growth.

Source: L. 2004: Entire article added, p. 706, § 2, effective July 1. **L. 2005:** (2)(a), (4), (5)(c), (5)(d), and (5)(f) amended and (9) added, p. 1012, § 3, effective June 2; (1)(b) amended, p. 1017, § 11, effective July 1, 2006. **L. 2006:** (1)(a) amended and (1)(c) added, p. 1280, § 1, effective May 26; (5)(d)(I)(F) amended and (5)(d)(III) added, p. 1778, § 2, effective June 6. **L. 2008:** (3)(a) amended, p. 274, § 2, effective March 31; (1)(b)(I) amended, p. 208, § 9, effective August 5; (2)(a) amended, p. 1268, § 3, effective August 5. **L. 2009:** (5)(d)(I)(E) and (5)(d)(I)(F) amended and (5)(d)(I)(G) added, (SB 09-086), ch. 14, p. 83, § 2, effective March 18; (5)(c)(I)(B) and (5)(f) amended and (5)(c)(III) added, (HB 09-1319), ch. 286, p. 1321, § 11, effective May 21. **L. 2010:** (5)(a) amended, (SB 10-064), ch. 288, p. 1342, § 2, effective May 26; (3)(b) and (3)(c) amended, (SB 10-003), ch. 391, p. 1842, § 7, effective June 9. **L. 2012:** (5)(c)(I)(B) and (5)(c)(III) amended, (HB 12-1155), ch. 255, p. 1279, § 4, effective August 8. **L. 2014:** (1)(c) amended, (HB 14-1345), ch. 168, p. 596, § 1, effective May 9; (1)(c), (2)(c), and (9) amended, (HB 14-1319), ch. 169, p. 611, § 4, effective May 9. **L. 2015:** (2)(b), (5)(c)(III), and (5)(f) amended, (HB 15-1270), ch. 195, p. 658, § 6, effective August 5. **L. 2016:** (1)(c) amended, (HB 16-1350), ch. 133, p. 385, § 1, effective April 22. **L. 2017:** (2)(e) and (5)(d)(I)(F) amended, (SB 17-297), ch. 210, p. 820, § 14, effective May 18; (2)(c) and (2)(d) amended, (HB 17-1251), ch. 253, p. 1060, § 9, effective August 9. **L. 2018:** (2)(b) amended, (HB 18-1309), ch. 269, p. 1661, § 5, effective August 8. **L. 2019:** (5)(c)(I)(B) and (5)(c)(III) amended, (HB 19-1206), ch. 133, p. 604, § 16, effective April 25. **L. 2020:** (2)(b)(III) repealed, (HB 20-1418), ch. 197, p. 944, § 15, effective June 30; (1)(c) and (9) amended, (HB 20-1366), ch. 181, p. 834, § 12, effective July 1, 2021.

Editor's note: (1) Subsections (5)(d)(I)(A), (5)(d)(I)(B), (5)(d)(I)(C), and (5)(d)(II)(B) provided for the repeal of subsections (5)(d)(I)(A), (5)(d)(I)(B), (5)(d)(I)(C), and (5)(d)(II), respectively, effective July 1, 2006. (See L. 2005, p. 1012.)

(2) Subsection (1)(b)(II)(B) provided for the repeal of subsection (1)(b)(II), effective July 1, 2007. (See L. 2005, p. 1017.) Subsection (5)(d)(III)(B) provided for the repeal of subsection (5)(d)(III), effective July 1, 2007. (See L. 2006, p. 1778.)

(3) Subsection (1)(c) was amended in HB 14-1345, effective May 9, 2014. However, those amendments were superseded by the amendment to subsection (1)(c) by HB 14-1319, effective May 9, 2014.

(4) Subsections (3)(b)(II) and (3)(c)(II) provided for the repeal of subsections (3)(b)(II) and (3)(c), respectively, effective July 1, 2016. (See L. 2010, p. 1842.)

Cross references: For the legislative declaration in the 2010 act amending subsection (5)(a), see section 1 of chapter 288, Session Laws of Colorado 2010. For the legislative declaration in the 2010 act amending subsections (3)(b) and (3)(c), see section 1 of chapter 391, Session Laws of Colorado 2010. For the legislative declaration in HB 19-1206, see section 1 of chapter 133, Session Laws of Colorado 2019. For the legislative declaration in HB 20-1418, see section 1 of chapter 197, Session Laws of Colorado 2020.

23-18-203. College opportunity fund - data retention. (1) The commission, in cooperation with the state and participating private institutions of higher education, shall maintain a record of the number of credit hours for which each eligible undergraduate student receives a stipend from the college opportunity fund. The commission shall also maintain any confidential information concerning eligible undergraduate students participating in the program.

(2) The commission, in consultation with the governing boards, shall determine by policy when to forward to each state and participating private institution of higher education a report on the number of credit hours accumulated by each eligible undergraduate student against the lifetime-credit-hour limitation established pursuant to section 23-18-202 (5)(c). Each institution shall make the information on the number of credit hours accumulated against the limitations available to the student upon request.

Source: L. 2004: Entire article added, p. 711, § 2, effective July 1.

23-18-204. College opportunity fund - advertisement - disclosure. If an institution of higher education advertises, in the form of direct mail, print, radio, television, or via the internet, a student's ability to receive a stipend from the college opportunity fund, the institution of higher education shall include in the advertisement the total cost of attending the institution, including a student's total tuition cost plus applicable fees.

Source: L. 2004: Entire article added, p. 711, § 2, effective July 1.

23-18-205. College opportunity fund - information - notification. (1) It is the intent of the general assembly that the department and the commission inform students beginning in the eighth grade of the state's financial commitment to students to assist them in continuing their education by attending college and of the additional financial resources that may be available to the students in order to further their education.

(2) (a) The commission shall work with the department of education to notify annually eighth-grade students of the state's contribution to the college opportunity fund on behalf of resident students and the manner in which the students may receive additional information regarding financial resources for higher education including but not limited to the amount of the stipend and a student's ability to use specific websites to explore financial and academic options for preparing to enter college.

(b) The Colorado student loan program shall include information regarding the college opportunity fund on an internet website to assist students in planning financially and academically to attend an institution of higher education in Colorado including but not limited to the current value of the stipend.

(3) On and after July 1, 2005, if the department and the commission advertise and publicize a specific stipend dollar amount, the dollar amount may not exceed the amount most recently set by the joint budget committee or adopted by the general assembly, and the advertisement or publication materials shall note that the stipend amount is subject to change by the general assembly.

Source: L. 2004: Entire article added, p. 711, § 2, effective July 1. **L. 2005:** (3) added, p. 1018, § 14, effective June 2.

23-18-206. College opportunity fund - directive. The Colorado student loan program and the state treasurer, in consultation with the governing boards, shall cooperatively establish a disbursement schedule for stipends awarded pursuant to this part 2.

Source: L. 2004: Entire article added, p. 711, § 2, effective July 1.

23-18-207. College opportunity fund - legislative declaration - commission report. (1) The general assembly finds that:

(a) No other state has tried to change the funding of institutions of higher education from the institution to the student as provided for in this part 2;

(b) Because this part 2 creates a new and untried program, it is anticipated that during the early years of its implementation, there may be some unanticipated effects requiring additional statutory changes.

(2) (a) Beginning July 1, 2006, and continuing through July 1, 2009, the commission shall submit to the education committees of the senate and house of representatives and to the joint budget committee of the general assembly annual reports on the status of the program established pursuant to this part 2. The annual reports may include, but are not limited to, recommended statutory changes.

(b) On or before July 1, 2010, the commission shall submit a final report to the education committees of the senate and house of representatives and to the joint budget committee of the general assembly on the implementation of the program established pursuant to this part 2.

Source: L. 2004: Entire article added, p. 712, § 2, effective July 1.

23-18-208. Advance - cash-flow management. Notwithstanding any provision of section 24-75-203 (1), C.R.S., to the contrary, the Colorado student loan program may authorize and, upon such authorization, the state treasurer shall make an advance without interest from the college opportunity fund to a governing board to assist the governing board in managing its cash flow. An advance made pursuant to this section shall be repaid within the same state fiscal year in which the advance is made.

Source: L. 2005: Entire section added, p. 1014, § 4, effective June 2.

PART 3

HIGHER EDUCATION FUNDING

23-18-301. Legislative declaration. (1) The general assembly finds and declares that:

(a) Higher education is an economic engine for Colorado, helps to create an informed citizenry, and contributes significantly to Colorado's superior quality of life;

(b) In order to ensure the state's ongoing social, cultural, and economic vibrancy, funding for higher education should be based on the needs of the state, the people of Colorado, and the students;

(c) Colorado ranks highly in the United States in the percentage of its citizens between the ages of twenty-five and sixty-four with a college degree, largely due to the migration of college-educated adults from other states and countries;

(d) In order to ensure that Colorado students have access to a postsecondary education that will allow them to compete for jobs in Colorado's increasingly high-tech economy and the global economy, it is essential that Colorado make wise use of its investment in higher education to increase the number of Coloradans who have earned a high-quality postsecondary credential;

(e) It is important that the state of Colorado ensures that all Coloradans have access to affordable higher education, regardless of income, race, gender, age, or academic preparation, and that higher education services are available in all geographic areas of the state, including rural areas, historically underserved areas, and areas with low educational attainment;

(f) In particular, it is critical that the rate of postsecondary participation by low-income Coloradans and minorities, who are currently underrepresented, be increased at Colorado's institutions of higher education;

(f.5) As part of an affordable higher education, the Colorado commission on higher education should ensure that institutions provide realistic opportunities for students to shorten their time to degree, when appropriate, while also recognizing the challenges that some students face as they work or take care of and support their families while striving to avoid accumulating student debt; and

(g) Colorado's limited state resources must be used in a way that provides incentives for state institutions of higher education to achieve the policy goals adopted by the general assembly and identified in the Colorado commission on higher education's master plan.

(2) The general assembly further finds and declares that:

(a) In order for the general assembly to perform its duty to exercise oversight and ensure that tax dollars are being used to achieve stated policy goals, higher education must be funded in a manner that is transparent and understandable;

(b) These goals can be accomplished by the general assembly establishing performance funding metrics that are consistent, predictable, and focused on improved performance;

(c) With a consistent and predictable funding model for higher education, state institutions of higher education will be able to engage in long-term financial planning that will benefit students through more predictable tuition and fees; and

(d) If higher education is funded in a manner that is transparent and understandable, Coloradans, and especially Colorado taxpayers, will more easily understand the benefit realized from Colorado's investment in its higher education system.

Source: L. 2014: Entire part added, (HB 14-1319), ch. 169, p. 598, § 1, effective May 9. **L. 2020:** (1)(c), (1)(f), (1)(g), and (2)(b) amended and (1)(f.5) added, (HB 20-1366), ch. 181, p. 821, § 1, effective June 29.

23-18-302. Definitions - repeal. As used in this part 3, unless the context otherwise requires:

(1) "Applicable fiscal year" or "applicable state fiscal year" means the state fiscal year that commences July 1 after the conclusion of the regular legislative session. For example, during the 2015 regular legislative session, the "applicable fiscal year" means the 2015-16 fiscal year.

(2) "Area technical college" has the same meaning as provided in section 23-60-103 (1).

(3) "Commission" means the Colorado commission on higher education established pursuant to section 23-1-102.

(4) "Credential completion" means the calculation of student credential completion by a governing board based on equal weighting of the total resident student completions of postsecondary credentials in a given state fiscal year. The credential completion calculation includes:

(a) Only credentials recognized by the department and determined by commission policy for purposes of this subsection (4); and

(b) Equal weighting for a resident student who transfers out of an institution with a community college role and mission specified in statute, after accumulating at least eighteen credit hours at the institution in a two-year degree program.

(5) "Department" means the Colorado department of higher education established pursuant to section 24-1-114.

(6) "Local district college" means a local district college operating pursuant to article 71 of this title 23.

(7) "Master plan" means the master plan created pursuant to section 23-1-108.

(8) "One-hundred-fifty-percent-of-time graduation rate" means, for a four-year institution, the percentage of first-time, full-time, degree-seeking undergraduate students starting in the fall term and graduating within six years with a bachelor's degree from the same institution, and, for a two-year institution, the percentage of first-time, full-time, associate degree-seeking or undergraduate certificate-seeking students starting in the fall term and completing their declared program within one hundred fifty percent of the normal time to completion, as reported to the integrated postsecondary education data system maintained by the federal department of education. If the integrated postsecondary education data system does not include data for an institution or governing board for prior state fiscal years, the department shall use its available data, as reported by the governing board to the department through the student-unit record database, in place of the missing integrated postsecondary education data system data. The department shall ensure that the governing boards collect and report the data in a consistent manner. A student may be counted only once in a state fiscal year for purposes of this performance funding metric.

(9) "One-hundred-percent-of-time graduation rate" means, for a four-year institution, the percentage of first-time, full-time, degree-seeking undergraduate students starting in the fall term and graduating within four years with a bachelor's degree from the same institution, and, for a two-year institution, the percentage of first-time, full-time, associate degree-seeking or undergraduate certificate-seeking students starting in the fall term and completing their declared program within one hundred percent of the normal time to completion, as reported to the integrated postsecondary education data system maintained by the federal department of education. If the integrated postsecondary education data system does not include data for an

institution or governing board for prior state fiscal years, the department shall use its available data, as reported by the governing board to the department through the student-unit record database, in place of the missing integrated postsecondary education data system data. The department shall ensure that the governing boards collect and report the data in a consistent manner. A student may be counted only once in a state fiscal year for purposes of this performance funding metric.

(10) "Pell-eligible student" means an undergraduate student who qualifies for the federal Pell grant or for a grant through a successor program.

(11) "Preceding fiscal year" or "preceding state fiscal year" means the state fiscal year that ends immediately before the applicable fiscal year. For example, during the 2015 regular legislative session, the "preceding fiscal year" means the 2014-15 fiscal year.

(12) (a) "Resident first-generation undergraduate student" means a resident student who, until the age of eighteen, primarily resided with a single parent who does not, or with parents or guardians both of whom do not, possess a bachelor's degree, based on institutional reporting data described in subsection (12)(b) of this section.

(b) Each governing board shall collect and report to the department resident first-generation undergraduate student data based on student reporting as to primary residence until the age of eighteen and the educational attainment of the student's parents or guardians. Data collected must be reported in compliance with this subsection (12) not later than the census student data for the fall 2020 term and for each fall term thereafter. The department shall ensure that the governing boards collect and report the data in a consistent manner.

(13) "Resident first-generation undergraduate student population share" means the resident first-generation undergraduate student head count as a percentage of the overall resident student population head count from the fall enrollment census collected by the department.

(14) "Resident Pell-eligible student population share" means the resident Pell-eligible student head count as a percentage of the overall resident student population head count from the end-of-term fall enrollment collected by the department.

(15) "Resident student full-time equivalent enrollment" means the final state fiscal year count of resident undergraduate and graduate full-time equivalent students enrolled at a state institution of higher education, not including resident graduate students at the university of Colorado Anschutz medical campus and graduate students at the Colorado state university veterinary medicine campus.

(16) "Resident underrepresented minority student population share" means the total resident student head count of underrepresented minority students, as defined by the department, as a percentage of the overall resident student population head count from the end-of-term fall enrollment collected by the department.

(17) "Retention rate" means, for a four-year institution, the percentage of first-time, full-time undergraduate students starting in the fall term and returning for their second fall term at the same institution, and, for a two-year institution, the percentage of first-time, full-time associate degree-seeking or undergraduate certificate-seeking students starting in the fall term and either returning for or successfully completing their declared program by the second fall term at the same institution, as reported to the integrated postsecondary education data system maintained by the federal department of education. If the integrated postsecondary education data system does not include data for an institution or governing board for prior state fiscal years, the department shall use its available data, as reported by the governing board to the

department through the student-unit record database, in place of the missing integrated postsecondary education data system data. The department shall ensure that the governing boards collect and report the data in a consistent manner. A student may be counted only once in a state fiscal year for purposes of this performance funding metric.

(18) (a) "Role and mission share" means the percentage share of funding appropriated to each governing board of the total amount appropriated in the preceding state fiscal year pursuant to sections 23-18-202 and 23-18-303.5, excluding the amount appropriated pursuant to section 23-18-303.5 (3).

(b) (I) Notwithstanding the provisions of subsection (18)(a) of this section to the contrary, for the 2021-22 state fiscal year, the role and mission share is calculated as the percentage share of funding appropriated to each governing board of the total amount appropriated in the 2019-20 state fiscal year pursuant to sections 23-18-202 and 23-18-303.

(II) This subsection (18)(b) is repealed, effective July 1, 2022.

(19) "State institution of higher education" or "institution" has the same meaning as defined in section 23-18-102 (10).

(20) "Total governing board appropriation":

(a) For the applicable fiscal year or applicable state fiscal year, has the same meaning as the total state appropriation for the applicable fiscal year, as applied to a governing board.

(b) For the preceding fiscal year or preceding state fiscal year, has the same meaning as the total state appropriation for the preceding fiscal year, as applied to a governing board.

(21) (a) "Total state appropriation" means, for state fiscal years beginning before July 1, 2021:

(I) For the preceding fiscal year or preceding state fiscal year, the sum of:

(A) The total amount appropriated in the annual general appropriations act for the preceding fiscal year to the governing boards of the state institutions of higher education for fee-for-service contracts determined pursuant to section 23-18-303 and the amount of the appropriation to the college opportunity fund established in section 23-18-202 for student stipends. This amount is the amount as enacted during the legislative session in which the act was initially adopted, unless otherwise specified in a supplemental appropriations act.

(B) Appropriations pursuant to sections 23-18-202 and 23-18-303 that were included in acts other than the annual general appropriations act for the preceding fiscal year that were enacted during the same legislative session as the annual general appropriations act, unless the act otherwise specifies.

(II) For the applicable fiscal year or applicable state fiscal year, the total amount appropriated in the annual general appropriations act for the fiscal year to the governing boards of the state institutions of higher education for fee-for-service contracts determined pursuant to section 23-18-303 and the amount of the appropriation to the college opportunity fund established in section 23-18-202 for student stipends. This amount includes only the amounts enacted in the annual general appropriations act as initially enacted, unless a supplemental appropriations act or another act otherwise specifies. The total state appropriation for the applicable fiscal year excludes any out-year costs or savings from legislation adopted in previous years that the general assembly determines were not accounted for in the preceding fiscal year's appropriations.

(b) This subsection (21) is repealed, effective July 1, 2022.

(22) (a) "Total state appropriation" means, for state fiscal years beginning on or after July 1, 2021:

(I) For the preceding fiscal year or preceding state fiscal year, the sum of:

(A) The total amount appropriated in the annual general appropriations act for the preceding fiscal year to the governing boards of the state institutions of higher education for fee-for-service contracts determined pursuant to section 23-18-303.5, excluding amounts appropriated pursuant to section 23-18-303.5 (3), and the amount of the appropriation to the college opportunity fund established in section 23-18-202 for student stipends. This amount is the amount as enacted during the legislative session in which the act was initially adopted, unless otherwise specified in a supplemental appropriations act.

(B) Appropriations pursuant to sections 23-18-202 and 23-18-303.5, excluding amounts appropriated pursuant to section 23-18-303.5 (3), that were included in acts other than the annual general appropriations act for the preceding fiscal year that were enacted during the same legislative session as the annual general appropriations act, unless the act otherwise specifies.

(II) For the applicable fiscal year or applicable state fiscal year, the total amount appropriated in the annual general appropriations act for the fiscal year to the governing boards of the state institutions of higher education for fee-for-service contracts determined pursuant to section 23-18-303.5, excluding amounts appropriated pursuant to section 23-18-303.5 (2) and (3), and the amount of the appropriation to the college opportunity fund established in section 23-18-202 for student stipends. This amount includes only the amounts enacted in the annual general appropriations act as initially enacted, unless a supplemental appropriations act or another act otherwise specifies. The total state appropriation for the applicable fiscal year excludes any out-year costs or savings from legislation adopted in previous years that the general assembly determines were not accounted for in the preceding fiscal year's appropriations.

(b) (I) Notwithstanding the provisions of this subsection (22), for the 2021-22 state fiscal year, in calculating the percentage change in the total state appropriation for the applicable state fiscal year from the preceding state fiscal year, the total state appropriation for the preceding state fiscal year has the same meaning as set forth in subsection (21)(a) of this section.

(II) This subsection (22)(b) is repealed, effective July 1, 2022.

Source: L. 2014: Entire part added, (HB 14-1319), ch. 169, p. 599, § 1, effective May 9. **L. 2015:** (9) amended, (HB 15-1254), ch. 57, p. 136, § 1, effective March 30; (1), (9), and (10) amended and (1.5) and (7.5) added, (SB 15-237), ch. 129, p. 400, § 1, effective May 1. **L. 2016:** (1.5) amended, (HB 16-1082), ch. 58, p. 146, § 21, effective August 10. **L. 2020:** Entire section amended, (HB 20-1366), ch. 181, p. 822, § 2, effective June 29.

23-18-303. Fee-for-service contracts - authorization - performance funding - repeal. (1) For the 2015-16 state fiscal year through the 2020-21 state fiscal year, the governing board of a state institution of higher education may annually negotiate a fee-for-service contract with the department pursuant to this section for the delivery of higher education services by the institution for the benefit of the state and its residents. Specialty education programs, area technical colleges, and local district colleges are funded pursuant to the provisions of section 23-18-304.

(2) Each fee-for-service contract must include institutional role and mission funding as described in subsection (3) of this section and institutional performance funding as described in

subsection (4) of this section. It is the intent of the general assembly that the components of the fee-for-service contracts developed by the commission be fairly balanced between role and mission factors and performance metrics.

(3) **Role and mission funding.** The institutional role and mission component of the fee-for-service contract is based on the following factors, as determined by the commission pursuant to section 23-18-306:

(a) **Institutional mission.** Role and mission funding must include an amount for each governing board to offset the costs incurred in providing undergraduate programs at each institution. In establishing the components of this factor, the commission shall include, at a minimum:

(I) The selectivity of the institution;

(II) The number of campuses of the institution;

(III) The rural or urban location of the institution;

(IV) Low student enrollment at an institution or a campus of an institution that affects the ability of the institution or campus to meet operational costs;

(V) Undergraduate or certificate programs that have a high cost per student; and

(VI) Whether the institution conducts research.

(b) **Support services for Pell-eligible, first-generation, and underserved undergraduate students.** Role and mission funding must include an amount for each governing board to offset the costs incurred in providing additional support services to Pell-eligible undergraduate students enrolled in the institution. The amount of funding for support services for each Pell-eligible undergraduate student enrolled in the institution must be at least equal to ten percent of the amount of the college opportunity fund stipend, as set by the general assembly pursuant to section 23-18-202, for the applicable state fiscal year. The commission may include an amount for each governing board to offset the costs incurred in providing support services to first-generation undergraduate students enrolled in the institution after the commission establishes, in consultation with the institutions, a consistent definition and data collection method for identifying this student population. The commission may also include an amount for each governing board to offset the costs incurred in providing support services to undergraduate students who are identified as underserved after the commission establishes, in consultation with the institutions, a consistent definition and data collection method for identifying underserved students.

(c) **Graduate programs.** Role and mission funding must include an amount for each eligible governing board to offset the costs incurred in providing graduate programs at institutions that are authorized to provide graduate programs. In establishing the components of this factor, the commission shall include, at a minimum, an amount for each graduate student enrolled in an institution, which amount shall be based on the subject and level of the graduate program. In determining the amount of funding, the commission shall consider programs that have a high cost per student, including but not limited to programs in the fields of law, business, science, technology, engineering, and mathematics.

(d) **Remediation.** Role and mission funding must include an amount for each eligible governing board to offset the costs incurred in providing effective developmental education courses for students enrolled at an institution that is authorized to provide developmental education courses and the costs incurred in providing approved supplemental academic instruction pursuant to section 23-1-113 (1.5)(a)(II). In establishing the components of this

factor, the commission shall determine how to measure successful remediation, which measure may include a student's successful completion of a first-level college course in the area of remediation, including English or math. The commission may also include components relating to the speed of a student's remediation and the cost of remediation to the student.

(e) **Additional role and mission factors.** The commission may establish up to two additional factors relating to role and mission funding. The factors must be distinguishable from each other and from the factors described in paragraphs (a) to (d) of this subsection (3). The additional factors the commission may consider include, but need not be limited to, institution affordability, cost studies, technology transfer, and provision of career and technical programs.

(4) **Performance funding.** The institutional performance funding component of the fee-for-service contract is based on the following metrics, as determined by the commission pursuant to section 23-18-306:

(a) **Completion.** Performance funding must include an amount for each governing board for each certificate or degree awarded by the institution, and, for the governing board of an institution with a community college role and mission, an amount for each community college student who transfers from a community college to another institution after completion of a certain number of credit hours. The commission shall establish the amount awarded for each type of credential based on the subject and level of the credential and, for transfers from community colleges, and the amount awarded and, in consultation with the institutions, the number of credit hours to be completed prior to transfer. The commission shall increase the value of each credential earned by or transfer completed by a Pell-eligible undergraduate student and may increase the value of each credential earned or transfer completed by a first-generation or underserved undergraduate student if the commission implements increased funding for these student populations pursuant to paragraph (b) of subsection (3) of this section.

(b) **Retention.** Performance funding must include an amount for each governing board based on the number of students enrolled in an institution who make academic progress by completing thirty credit hours, sixty credit hours, or ninety credit hours. In establishing the components of this metric, the commission may include a component related to an increase in the institution's retention rate. A community college that receives a completion incentive for a transferring student is not eligible for a retention bonus for that student in the same year.

(c) **Additional performance metrics.** The commission may establish up to four additional performance funding metrics that reflect and support the policy goals adopted by the commission in the master plan. The metrics must be distinguishable from each other and from the metrics described in paragraphs (a) and (b) of this subsection (4). The additional performance metrics the commission may consider include, but need not be limited to, workforce placement, closing the achievement gap, limiting student loan debt, and controlling institutional administrative costs.

(5) The board of trustees of the Colorado school of mines may study and recommend to the general assembly a different funding structure, including but not limited to a special purpose authority as defined in section 24-77-102 (15), C.R.S., that strengthens the institution and its specialized educational programs while ensuring academic quality and continued opportunities for resident students who meet the admissions criteria of the institution.

(6) Notwithstanding any provision of this section to the contrary, each fee-for-service contract negotiated pursuant to this section is subject to the provisions of section 23-18-305.

(7) It is the intent of the general assembly that a state institution of higher education that enters into a fee-for-service contract that includes developmental education courses shall not charge a student more per credit hour for a developmental education course than the student would pay per credit hour for a general education course.

(8) (a) Notwithstanding any provision of law to the contrary, an institution may use funding provided pursuant to this section as financial assistance for in-state students to reduce the student's share of in-state tuition, as defined in section 23-18-102.

(b) For an institution that uses funding received pursuant to this section to provide financial assistance for in-state students, "student's share of in-state tuition", for purposes of parts 1 and 2 of this article, has the same meaning as set forth in section 23-18-102, less the amount of any financial assistance awarded to the student pursuant to paragraph (a) of this subsection (8).

(9) This section is repealed, effective July 1, 2021.

Source: L. 2014: Entire part added, (HB 14-1319), ch. 169, p. 600, § 1, effective May 9. **L. 2016:** (1) amended, (HB 16-1082), ch. 58, p. 146, § 22, effective August 10. **L. 2019:** (3)(d) and (7) amended, (HB 19-1206), ch. 133, p. 605, § 17, effective April 25. **L. 2020:** (1) amended and (9) added, (HB 20-1366), ch. 181, p. 827, § 3, effective June 29.

Cross references: For the legislative declaration in HB 19-1206, see section 1 of chapter 133, Session Laws of Colorado 2019.

23-18-303.5. Fee-for-service contracts - authorization - performance funding - repeal. (1) (a) For the 2021-22 state fiscal year and each state fiscal year thereafter, the governing board of a state institution of higher education may annually negotiate a fee-for-service contract with the department pursuant to this section for the delivery of higher education services by the institution for the benefit of the state and its residents. Specialty education programs, area technical colleges, and local district colleges are funded pursuant to the provisions of section 23-18-304.

(b) Each governing board's annual fee-for-service contract includes the amount of funding appropriated to the governing board pursuant to this section, plus any amount appropriated to the governing board pursuant to sections 23-18-304 and 23-18-308, minus the amount of funding appropriated to the governing board for college opportunity fund stipends pursuant to section 23-18-202.

(2) **Ongoing additional funding.** Prior to calculating performance funding recommendations pursuant to subsection (4) of this section, the commission, in conjunction with the department and in collaboration with the governing boards, may recommend an additional amount of funding pursuant to this subsection (2) for an institution, which amount is ongoing base funding for the receiving institution and is included in the calculation of funding pursuant to this part 3 in subsequent state fiscal years. The commission may recommend an additional amount of funding for the following purposes:

(a) To increase appropriations over the previous state fiscal year in order to make progress toward master plan goals, which may include addressing base funding disparities or funding priorities not addressed through the performance funding metrics. The commission shall focus its recommendations on broad institutional, systemwide, or state policy goals.

(b) (I) To recognize an institution's additional costs related to or associated with educating and providing services to resident first-generation undergraduate students.

(II) If the commission recommends additional funding for an institution or institutions pursuant to this subsection (2)(b), funding is calculated for an institution by dividing the institution's resident first-generation undergraduate student head count, based on the most recent census data collected by the department pursuant to section 23-18-302 (12)(b), by the institution's overall resident undergraduate student population head count from the fall census, and then multiplying the quotient by the institution's resident first-generation undergraduate student head count, resulting in the institution's "calibrated first-generation undergraduate student head count". An institution's percentage share of additional funding pursuant to this subsection (2)(b) is then determined by dividing the institution's calibrated first-generation undergraduate student head count by the sum of the calibrated first-generation undergraduate student head counts for all institutions that receive additional funding pursuant to this subsection (2)(b).

(3) **Temporary additional funding.** After calculating funding recommendations pursuant to subsections (2) and (4) of this section, the commission, in conjunction with the department and in collaboration with the governing boards, may recommend an additional amount of temporary funding pursuant to this subsection (3) for an institution for purposes of making progress toward goals identified in the systemwide master planning process set forth in section 23-1-108 or other areas as identified by the commission. Additional funding received pursuant to this subsection (3) must be allocated for a specific period of time, is not ongoing base funding, and is not included in the calculation of funding pursuant to this part 3 in subsequent state fiscal years or in the calculation of the total state appropriation made pursuant to this part 3.

(4) **Performance funding metrics.** (a) After calculating funding recommendations pursuant to subsection (2) of this section, the commission, in conjunction with the department and in collaboration with the governing boards, shall calculate performance funding for each governing board based on the rate of change over time in the performance of the institutions overseen by the governing board on the performance funding metrics specified in subsection (4)(b) of this section. The recommendation for performance funding may reflect a change in the total state appropriation, less the amount appropriated pursuant to subsection (3) of this section, from the preceding state fiscal year.

(b) The performance funding metrics include:

(I) Resident student full-time equivalent enrollment;

(II) Credential completion;

(III) Resident Pell-eligible student population share;

(IV) Resident underrepresented minority student population share;

(V) Retention rate;

(VI) One-hundred-percent-of-time graduation rate;

(VII) One-hundred-fifty-percent-of-time graduation rate; and

(VIII) Resident first-generation undergraduate student population share.

(c) (I) Beginning with the 2021-22 state fiscal year, in preparing budget recommendations, the commission, in conjunction with the department and in collaboration with the governing boards, may annually identify the portion of total performance funding that is allocated to each performance funding metric specified in subsection (4)(b) of this section.

(II) For the 2021-22 state fiscal year and each state fiscal year thereafter, the joint budget committee, after considering the commission's budget recommendations, shall determine the portion of total performance funding for the applicable state fiscal year that is allocated to each performance funding metric specified in subsection (4)(b) of this section. Each governing board's share of the funding allocated for each performance funding metric is determined using the calculation set forth in subsection (5) of this section.

(5) **Performance funding calculation.** (a) The amount of performance funding that a governing board receives for each performance funding metric specified in subsection (4)(b) of this section is based on the rate of change over time in the performance of the institutions overseen by the governing board on the performance funding metric. The rate of change for each performance funding metric is calculated annually for a governing board by dividing the average of the four most recent years of actual data reported by the governing board for the metric by the average of the three oldest of the four years of actual data reported by the governing board for the metric. The rate of change for the performance funding metric is then multiplied by each governing board's role and mission share, resulting in the "governing board role and mission adjusted share" for the performance funding metric. The total of the governing board role and mission adjusted shares for all governing boards is the "total role and mission adjusted share" for the performance funding metric. Each governing board's allocation for the performance funding metric is then determined by dividing the governing board's role and mission adjusted share for the performance funding metric by the total role and mission adjusted share for the performance funding metric, ensuring that the total amount of funding distributed through the performance funding metric does not exceed the amount of funding allocated for the performance funding metric.

(b) (I) Notwithstanding the provisions of subsection (5)(a) of this section to the contrary, for purposes of appropriations for the 2021-22 through 2024-25 state fiscal years, an institution's rate of change in performance for purposes of the performance funding metric specified in subsection (4)(b)(VIII) of this section is based on the percentage change in the first-generation student head count from one year to the next using the institution's definition of a first-generation student, so long as the definition is consistent for both state fiscal years used in the calculation. The department shall calculate each institution's rate of change in performance for the performance funding metric specified in subsection (4)(b)(VIII) of this section using:

(A) The most recent two years of available, actual end-of-fall-term enrollment data reported by the governing board to the department; and

(B) The lesser of the actual year-to-year percentage change in the first-generation student head count or two and one-half percent.

(II) For each of the state fiscal years 2021-22 through 2024-25, the commission may recommend, and the joint budget committee may adopt, a change to the two and one-half percent limitation on the rate of change specified in subsection (5)(b)(I)(B) of this section.

(III) This subsection (5)(b) is repealed, effective July 1, 2025.

(6) The amount of any change in funding appropriated to a governing board for the state fiscal year pursuant to subsection (2) or (3) of this section is not included in calculating the percentage change in the total state appropriation for the applicable state fiscal year for purposes of section 23-18-304.

(7) When requesting or determining a change in performance funding pursuant to subsection (4) of this section and tuition spending authority for governing boards, the department

and the joint budget committee shall consider, at a minimum, cost increases to base funding at all institutions, including those related to common policies annually submitted in the governor's November 1 budget request and adopted by the joint budget committee, and the commission's master plan goals.

(8) The board of trustees of the Colorado school of mines may study and recommend to the general assembly a different funding structure, including but not limited to a special purpose authority as defined in section 24-77-102 (15), that strengthens the institution and its specialized educational programs while ensuring academic quality and continued opportunities for resident students who meet the admissions criteria of the institution.

(9) Nothing in this part 3 precludes a governing board, local district college, or area technical college from making a funding request to the commission.

Source: L. 2020: Entire section added, (HB 20-1366), ch. 181, p. 827, § 4, effective June 29.

23-18-304. Funding for specialty education programs - area technical colleges - local district colleges - repeal. (1) (a) (I) For the 2015-16 state fiscal year and each fiscal year thereafter, the board of regents of the university of Colorado may annually negotiate a fee-for-service contract with the department for the delivery of specialty education services provided by the health sciences center campus of the university of Colorado, established pursuant to section 23-20-101. For the 2015-16 state fiscal year and each fiscal year thereafter, the board of governors of the Colorado state university system may annually negotiate fee-for-service contracts with the department for the delivery of specialty education services pursuant to part 3 and parts 5 to 8 of article 31 of this title, and the veterinary medicine program at Colorado state university, established pursuant to section 23-31-101. The amount of each fee-for-service contract negotiated pursuant to this section must be equal to the amount of the fee-for-service contract for the campus, service, or program for the preceding state fiscal year, increased or decreased by a percentage equal to the percentage change in the total state appropriation for the applicable state fiscal year from the total state appropriation for the preceding state fiscal year.

(II) Notwithstanding the provisions of subparagraph (I) of this paragraph (a) to the contrary, the fee-for-service contract for the health sciences center campus of the university of Colorado and the veterinary medicine program at Colorado state university may increase by a percentage that is greater than the percentage change in the total state appropriation for the applicable fiscal year from the total state appropriation for the preceding state fiscal year and may decrease by a percentage that is less than the percentage change in the total state appropriation for the applicable fiscal year from the total state appropriation for the preceding state fiscal year. In determining the amount of the fee-for-service contracts, the department shall take into account the fact that the health sciences center campus at the university of Colorado and the veterinary medicine program at Colorado state university are high-cost, low-enrollment programs.

(b) If, upon the recommendation of the commission and the department, the joint budget committee determines that an educational program that is not included in paragraph (a) of this subsection (1) should receive funding as a specialty education program pursuant to this section, the joint budget committee may introduce legislation that designates the program as a specialty education program funded pursuant to this section.

(c) (I) Specialty education services provided by the health sciences center campus at the university of Colorado as authorized by subsection (1)(a) of this section include care provided by the faculty of the health sciences center campus at the university of Colorado that are eligible for payment pursuant to section 25.5-4-401.

(II) (A) Notwithstanding the provisions of subsection (1)(a)(I) of this section for the 2019-20 and 2020-21 state fiscal years, the appropriations to the university of Colorado for fee-for-service contracts for the services provided pursuant to subsection (1)(c)(I) of this section are reduced by the amount of the federal participation received that exceeds fifty percent pursuant to the federal"Families First Coronavirus Response Act", Pub.L. 116-127, or any amendment thereto.

(B) This subsection (1)(c)(II) is repealed, effective December 31, 2021.

(2) (a) Except as provided in subsection (2)(b) of this section, for the 2015-16 state fiscal year and each fiscal year thereafter, the direct grants made to eligible area technical colleges pursuant to part 3 of article 71 of this title 23 for a state fiscal year must be equal to the amount of the grants made in the preceding state fiscal year, increased or decreased by a percentage equal to the percentage change in the total state appropriation for the applicable state fiscal year from the total state appropriation for the preceding state fiscal year.

(b) The commission may recommend as part of its budget request that:

(I) Direct grants to area technical colleges increase by a percentage that is greater than the percentage change in the total state appropriation for the preceding state fiscal year or decrease by a percentage that is less than the percentage change in the total state appropriation for the applicable fiscal year from the total state appropriation for the preceding state fiscal year; and

(II) In addition to the amount received pursuant to subsection (2)(a) or (2)(b)(I) of this section, one or more area technical colleges receive additional money for grants pursuant to section 23-71-304.

(3) (a) Except as provided in paragraph (b) of this subsection (3), for the 2015-16 state fiscal year and each fiscal year thereafter, the amount of the direct grant made to Colorado mountain college and the amount of the direct grant made to Aims community college, as provided in part 3 of article 71 of this title, for a state fiscal year must be equal to the amount of the direct grant made to each institution in the preceding state fiscal year, increased or decreased by a percentage equal to the percentage change in the total state appropriation for the applicable state fiscal year from the total state appropriation for the preceding state fiscal year.

(b) The commission may recommend as part of its budget request for Colorado mountain college and Aims community college that the direct grant to either or both institutions increase by a percentage that is greater than the percentage change in the total state appropriation for the preceding state fiscal year or decrease by a percentage that is less than the percentage change in the total state appropriation for the applicable fiscal year from the total state appropriation for the preceding state fiscal year.

(c) **[*Editor's note: This version of subsection (3)(c) is effective until July 1, 2021.*]** Colorado mountain college may elect to participate in the funding provisions specified in section 23-18-303 in lieu of the funding provisions specified in paragraphs (a) and (b) of this subsection (3). Colorado mountain college must notify the commission by August 1 of its intention to participate in the funding provisions specified in section 23-18-303 for the following state fiscal year. If Colorado mountain college elects to participate in the funding provisions of section 23-

18-303, the department shall apply the funding provisions of section 23-18-303 to Colorado mountain college in the same manner as they are applied to all other institutions, and Colorado mountain college must receive levels of funding that are comparable to the funding received by the governing boards in accordance with the provisions of section 23-18-303.

(c) **[*Editor's note: This version of subsection (3)(c) is effective July 1, 2021.*]** Colorado mountain college may elect to participate in the funding provisions specified in section 23-18-303.5 in lieu of the funding provisions specified in subsections (3)(a) and (3)(b) of this section. Colorado mountain college must notify the commission by August 1 of its intention to participate in the funding provisions specified in section 23-18-303.5 for the following state fiscal year. If Colorado mountain college elects to participate in the funding provisions of section 23-18-303.5, the department shall apply the funding provisions of section 23-18-303.5 to Colorado mountain college in the same manner as they are applied to all other institutions, and Colorado mountain college must receive levels of funding that are comparable to the funding received by the governing boards in accordance with the provisions of section 23-18-303.5.

(4) The governing boards of institutions with specialty education programs, the area technical colleges, the local district colleges, and the commission are encouraged to develop funding models that include specific performance metrics to ensure that these programs and institutions are meeting the policy goals established by the general assembly and adopted by the commission in its master plan.

Source: L. 2014: Entire part added, (HB 14-1319), ch. 169, p. 604, § 1, effective May 9. **L. 2015:** (3)(a) and (3)(b) amended, (HB 15-1224), ch. 94, p. 267, § 2, effective April 10. **L. 2016:** (1)(c) added, (HB 16-1408), ch. 153, p. 461, § 3, effective July 1; (2)(a), (2)(b), and (4) amended, (HB 16-1082), ch. 58, p. 146, § 23, effective August 10. **L. 2017:** (2)(b) and (3)(b) amended, (SB 17-297), ch. 210, p. 820, § 15, effective May 18. **L. 2019:** (2) amended, (SB 19-097), ch. 115, p. 490, § 3, effective April 16. **L. 2020:** (1)(c) amended, (HB 20-1385), ch. 173, p. 797, § 4, effective June 29; (3)(c) amended, (HB 20-1366), ch. 181, p. 834, § 13, effective July 1, 2021.

Cross references: For the legislative declaration in SB 19-097, see section 1 of chapter 115, Session Laws of Colorado 2019.

23-18-305. Total appropriations - adjustments - fiscal emergency - resolution - financial hardship - repeal. (1) (a) For the 2015-16 state fiscal year through the 2019-20 state fiscal year, the total governing board appropriation for a governing board for the applicable fiscal year shall not change from the total governing board appropriation for the preceding fiscal year by a percentage that is more than five percentage points less than or five percentage points greater than the percentage change in the total state appropriation from the preceding fiscal year. Notwithstanding any provision of this part 3 to the contrary, the general assembly in the annual general appropriations bill shall adjust the total governing board appropriation for each governing board as necessary to comply with this section.

(b) Beginning with the 2020-21 state fiscal year, in any fiscal year that the department determines that it is appropriate to adjust total governing board appropriations as provided in paragraph (a) of this subsection (1), the department may recommend that the joint budget

committee adjust the total governing board appropriations for each governing board as necessary to comply with the provisions of paragraph (a) of this subsection (1).

(2) (a) Except as provided in paragraph (b) of this subsection (2), for the 2015-16 state fiscal year and each fiscal year thereafter, the total annual appropriation in trust for eligible undergraduate students to the college opportunity fund pursuant to section 23-18-202 must be an amount equal to at least fifty-two and five-tenths percent of the total state appropriation for the applicable state fiscal year; except that the percentage may be less than fifty-two and five-tenths percent as a result of adjustments for actual enrollment made pursuant to section 23-18-202 (1)(c).

(b) (I) If, due to an economic downturn, the department and the commission determine that complying with the college opportunity fund stipend allocation requirement set forth in paragraph (a) of this subsection (2) results in an undue burden to the institutions, the department may submit an additional budget request that does not comply with the college opportunity fund stipend allocation requirement. To approve the department's budget request waiving the college opportunity fund stipend allocation requirement, the general assembly must adopt a joint resolution by simple majority in both chambers that declares a fiscal emergency.

(II) The college opportunity fund stipend allocation requirement set forth in paragraph (a) of this subsection (2) does not apply in any state fiscal year for which the revenue estimate prepared by the legislative council staff in March of the fiscal year prior to the next fiscal year indicates that there are excess state revenues of at least fifty million dollars that are required to be refunded pursuant to section 20 of article X of the state constitution.

(3) If after applying the college opportunity fund stipend allocation requirement set forth in paragraph (a) of subsection (2) of this section and the fee-for-service provisions of section 23-18-303 the department determines that this has resulted in financial instability for and the potential closure of an institution, the department may recommend to the joint budget committee that the institution be treated as a specialty education program pursuant to the provisions of section 23-18-304. The joint budget committee may introduce legislation designating the institution as a specialty education program subject to the provisions of section 23-18-304 and exempting the institution from any provisions of this part 3 for a specified period of time. An institution that receives an exemption pursuant to this subsection (3) shall, in consultation with the department and the commission, submit a plan for achieving financial stability to the joint budget committee and to the education committees of the house of representatives and of the senate, or any successor committees.

(4) and (5) Repealed.

(6) This section is repealed, effective July 1, 2021.

Source: L. 2014: Entire part added, (HB 14-1319), ch. 169, p. 605, § 1, effective May 9. **L. 2015:** (1)(a) amended, (SB 15-237), ch. 129, p. 402, § 2, effective May 1. **L. 2017:** (4) repealed, (SB 17-297), ch. 210, p. 821, § 16, effective May 18. **L. 2018:** (5) added, (SB 18-262), ch. 294, p. 1801, § 1, effective May 29. **L. 2020:** (6) added, (HB 20-1366), ch. 181, p. 831, § 5, effective June 29.

Editor's note: Subsection (5)(c) provided for the repeal of subsection (5), effective June 30, 2020. (See L. 2018, p. 1801.)

23-18-306. Duties and powers of the commission - budget provisions - periodic review of funding formula - report. (1) (a) For the 2021-22 state fiscal year and each state fiscal year thereafter, the department and commission shall submit a budget request by November 1 of each year that includes:

(I) A detailed description of requests for additional ongoing and temporary funding pursuant to section 23-18-303.5 (2) and (3) and recommendations for additional funding, if any; and

(II) Recommendations for:

(A) Changes in the amount of performance funding pursuant to section 23-18-303.5 (4), if any;

(B) The percentage allocation of performance funding among the performance funding metrics specified in section 23-18-303.5 (4)(b);

(C) Additional funding for fee-for-service contracts pursuant to section 23-18-304, if any; and

(D) Tuition spending authority for the state institutions of higher education.

(b) The department's and commission's budget must include:

(I) A detailed calculation of the funding recommended for each governing board, local district college, and area technical college pursuant to sections 23-18-303.5, 23-18-304, and 23-18-308, as applicable; and

(II) A document, developed in collaboration with the governing boards, local district colleges, and area technical colleges, that identifies the annual change in funding received by all institutions pursuant to section 23-18-303.5 (2) and clearly and separately identifies the annual change in funding allocated to each governing board, local district college, and area technical college pursuant to section 23-18-304.

(c) The department and commission shall comply with the requirements of this part 3 in submitting their budget request pursuant to the budget procedures specified in part 3 of article 37 of title 24.

(2) (a) Commencing in 2026 and every five years thereafter, the commission shall review the funding formula established pursuant to this part 3 and by November 1, 2026, and by November 1 every five years thereafter, submit a report to the governor, the joint budget committee of the general assembly, and the education committees of the senate and the house of representatives, or any successor committees, containing proposed changes to the funding formula and any recommendations for legislative changes.

(b) In conducting the review required by subsection (2)(a) of this section, the commission and the department may:

(I) Convene one or more meetings with interested parties to discuss the existing funding model and to learn of issues raised by the interested parties;

(II) Conduct an analysis of the issues identified by interested parties and possible solutions;

(III) Engage directly with the institutions to strive for consensus among the institutions on any proposed changes; and

(IV) If applicable, develop a set of changes to recommend to the governor and committees of the general assembly as described in subsection (2)(a) of this section.

(c) Notwithstanding the provisions of section 24-1-136 (11)(a)(I), the reporting requirement required in this subsection (2) continues indefinitely.

(3) The commission shall adopt any policies or procedures necessary for the uniform application and implementation of this part 3.

(4) The commission, in conjunction with the department and in collaboration with the governing boards, shall identify and make recommendations concerning ways to better measure the success of students who are pursuing a credential or degree and who are not included in the first-time, full-time student cohort. On or before July 1, 2022, the commission shall submit its recommendations to the joint budget committee, which may include a recommendation for a statutory change to the calculation of one of the graduation rate performance funding metrics specified in section 23-18-303.5 (4)(b).

Source: L. 2014: Entire part added, (HB 14-1319), ch. 169, p. 607, § 1, effective May 9. **L. 2019:** (4) amended, (5) repealed, and (5.5) added, (SB 19-095), ch. 79, p. 286, § 1, effective April 4. **L. 2020:** Entire section R&RE, (HB 20-1366), ch. 181, p. 831, § 6, effective June 29.

23-18-307. Budget provisions - reporting - repeal. (1) As part of the department's 2014 presentation to the legislative committees of reference pursuant to section 2-7-203, C.R.S., the department shall report its progress in implementing this part 3 and shall provide a draft of the factors and metrics, with their weights, that the commission is considering pursuant to section 23-18-306.

(2) (a) By November 1, 2014, the department and the commission shall submit a budget request that includes the total amount of funding requested for higher education for the 2015-16 state fiscal year and a draft of the factors and metrics, with their weights, that the commission is considering pursuant to section 23-18-306 but that does not include the specific allocation to each governing board.

(b) By January 15, 2015, the department and the commission shall submit an updated budget request that includes:

(I) A detailed description of the fee-for-service contract role and mission funding factors and the performance funding metrics and the values assigned to each factor and metric; and

(II) The fee-for-service contract provisions of section 23-18-303 as applied to each institution, including details of the funding requested for each institution for each role and mission funding factor and each performance funding metric.

(3) For the 2016-17 state fiscal year through the 2020-21 state fiscal year, the department and the commission shall submit a budget request by November 1 of each year that includes:

(a) A detailed description of the fee-for-service contract role and mission funding factors and the performance funding metrics and the values assigned to each factor and metric; and

(b) The fee-for-service contract provisions of section 23-18-303 as applied to each institution, including details of the funding requested for each institution for each role and mission funding factor and each performance funding metric.

(4) In developing the annual general appropriations bill, the joint budget committee shall follow the provisions of section 23-18-303 in calculating the amounts of fee-for-service contracts, including the role and mission funding factors and performance funding metrics as determined by the commission, but may apply different weights to the factors and metrics than the values determined by the commission. If the joint budget committee alters the value of a

factor or metric, the new value shall be applied to the determination of all fee-for-service contracts pursuant to section 23-18-303.

(5) This section is repealed, effective July 1, 2021.

Source: L. 2014: Entire part added, (HB 14-1319), ch. 169, p. 609, § 1, effective May 9. **L. 2020:** IP(3) amended and (5) added, (HB 20-1366), ch. 181, p. 833, § 8, effective June 29.

23-18-308. Fee-for-service contracts - limited purpose. (1) Subject to available appropriations, the department shall enter into fee-for-service contracts for the following purposes:

(a) The creation of career pathways for students pursuant to sections 23-60-109 and 24-46.3-104;

(b) The inclusive higher education pilot program pursuant to section 23-75-104;

(c) Cybersecurity and distributed ledger technologies, such as blockchains, as set forth in sections 24-33.5-1904 and 24-33.5-1905;

(d) Repealed.

(e) The food systems advisory council pursuant to part 11 of article 31 of this title 23;

(f) Providing services to maximize concurrent enrollment across the community college system as provided in section 23-60-202.7; and

(g) Repealed.

(2) Notwithstanding any provision of this part 3 to the contrary, the amount of a fee-for-service contract entered into pursuant to this section is not included in the calculation of "total state appropriation" or "total governing board appropriation" made pursuant to this part 3.

Source: L. 2015: Entire section added, (HB 15-1274), ch. 196, p. 665, § 4, effective August 5. **L. 2016:** Entire section R&RE, (SB 16-189), ch. 210, p. 765, § 44, effective June 6; entire section amended, (SB 16-196), ch. 226, p. 865, § 3, effective June 6. **L. 2018:** (1) amended, (SB 18-086), ch. 319, p. 1919, § 7, effective May 30. **L. 2019:** (1)(b) and (1)(c) amended and (1)(d) added, (HB 19-1294), ch. 318, p. 2963, § 3, effective May 28; (1)(b) and (1)(c) amended and (1)(e) added, (HB 19-1202), ch. 403, p. 3573, § 4, effective May 31; (1)(b) and (1)(c) amended and (1)(g) added, (HB 19-1264), ch. 420, p. 3680, § 10, effective June 30; (1)(b) and (1)(c) amended and (1)(f) added, (SB 19-176), ch. 244, p. 2389, § 10, effective August 2.

Editor's note: (1) Subsection (1)(d)(II) provided for the repeal of subsection (1)(d), effective July 1, 2020. (See L. 2019, p. 2963.)

(2) Subsection (1)(g) provided for the repeal of subsection (1)(g), effective June 30, 2020. (See L. 2019, p. 3680.)

ARTICLE 19

Nursing Faculty Fellowship Program

23-19-101 to 23-19-104. (Repealed)

Source: L. 2011: Entire article repealed, (HB 11-1281), ch. 180, p. 688, § 10, effective May 19.

Editor's note: This article was added in 2006 and was not amended prior to its repeal in 2011. For the text of this article prior to 2011, consult the 2010 Colorado Revised Statutes.

ARTICLE 19.3

Prosecution Fellowship Program

Cross references: For the legislative declaration in SB 14-174, see section 1 of chapter 232, Session Laws of Colorado 2014.

23-19.3-101. Definitions. As used in this article, unless the context otherwise requires:

(1) "Committee" means the prosecution fellowship committee established in section 23-19.3-102 (2).

(2) "Department" means the Colorado department of higher education.

(3) "Program" means the prosecution fellowship program created pursuant to section 23-19.3-102 (1).

Source: L. 2014: Entire article added, (SB 14-174), ch. 232, p. 859, § 2, effective August 6.

23-19.3-102. Prosecution fellowship program - creation - committee - administration - conditions. (1) (a) There is created the prosecution fellowship program in the department to provide moneys to the Colorado district attorneys' council to fund fellowships for persons who have recently graduated from a law school in Colorado and allow them to pursue careers as prosecutors in rural Colorado. The general assembly may appropriate moneys to the department for distribution to the Colorado district attorneys' council to implement the provisions of this article.

(b) The program will match law school graduates for one-year fellowships with rural district attorneys' offices throughout Colorado. The initial fellowships will be awarded in fiscal year 2015-16. The program may fund the salary and benefits for up to six fellows each year. The fellows are independent contractors and not employees of the Colorado district attorneys' council. The program is limited to law school graduates from the university of Colorado school of law and the university of Denver Sturm college of law. Each law school shall contribute an equal amount toward twenty percent of the cost of the fellowship salaries if the school wants its students to be considered for the fellowship program.

(c) The program must provide the fellows with a five-day training practicum. The Colorado district attorneys' council shall develop and present the practicum.

(2) (a) There is created the prosecution fellowship committee, which shall select the recipients of the fellowships and the fellowship locations. The committee is comprised of seven members, which include:

(I) The executive director of the Colorado district attorneys' council, who shall serve as the chair of the committee;

(II) The dean of the university of Colorado school of law;

(III) The dean of the university of Denver Sturm college of law; and

(IV) Four elected district attorneys or their designees appointed by the executive director of the Colorado district attorneys' council.

(b) The committee shall develop a fellow and district attorneys' offices application process and determine the selection criteria for fellows and district attorneys' office locations.

(c) The committee shall meet at least once a year, and the meeting shall be set by the chair of the committee.

(d) The members of the committee shall serve without compensation.

(e) The committee shall review applications received by the program, select up to six fellows for the particular fiscal year plus any back-up candidates as determined necessary by the committee, and select up to six district attorneys' office locations for placement of fellows each year. After selecting the fellows and the district attorneys' office locations, the committee shall match the fellows with a particular district attorney's office.

(3) In the event that the fellow who is receiving a fellowship leaves the position, the Colorado district attorneys' council shall allocate any remaining awarded program moneys to funding a new fellow, if the position is filled immediately, or to fund another fellowship. If the position is not filled immediately or another vacant position does not exist, the Colorado district attorneys' council shall return any unexpended program moneys to the department.

(4) By January 1, 2019, the Colorado district attorneys' council shall provide a report to the house of representatives and senate judiciary committees, or their successor committees, regarding the prosecution fellowship program. The report must include the following information regarding the placement of the fellows:

(a) For each fellow placed, whether the fellow obtained deputy district employment with the office where he or she was placed, with a different rural district attorney's office, or an urban district attorney's office;

(b) A quantification of the decrease in workload for the deputy district attorneys by having the fellow placed in the particular rural district attorney's office;

(c) Prosecutorial innovations and office improvements in the rural district attorneys' offices as the result of hosting fellows; and

(d) Any other information regarding the efficacy of the fellowship program.

Source: L. 2014: Entire article added, (SB 14-174), ch. 232, p. 859, § 2, effective August 6. **L. 2015:** (1)(b) and (2)(e) amended, (SB 15-043), ch. 70, p. 188, § 1, effective April 3.

ARTICLE 19.5

Colorado Higher Education Student
Suicide Prevention Act

23-19.5-101 to 23-19.5-105. (Repealed)

Editor's note: (1) This article was added in 2006. For amendments to this article prior to its repeal in 2010, consult the Colorado statutory research explanatory note and the table

itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

(2) Section 23-19.5-105 (2) provided for the repeal of this article, effective July 1, 2010. (See L. 2006, p. 1621.)

ARTICLE 19.7

Higher Education Competitive
Research Authority

23-19.7-101. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) During the peer review process for awarding federally sponsored research projects, the federal government often requires project applicants to provide state matching moneys or gives preference to applicants that demonstrate an ability to provide such moneys.

(b) Colorado, unlike many other states, does not have a dedicated source of matching moneys for federally sponsored research projects.

(c) Federal requirements and preferences for state matching moneys disadvantage Colorado public universities when competing against universities in other states that can access dedicated sources of state matching moneys.

(d) It is therefore necessary and appropriate for the state to provide a dedicated source of matching moneys that will allow Colorado public universities to compete on equal footing with out-of-state universities when applying for federally sponsored research projects and to create an authority to oversee the use of the matching moneys.

Source: L. 2007: Entire article added, p. 1599, § 1, effective May 31.

23-19.7-102. Higher education competitive research authority - creation - board of directors. (1) The higher education competitive research authority, referred to in this article as the "authority", is hereby created as a body corporate and a political subdivision of the state. The authority shall not be an agency of state government and, except as otherwise provided in this article, shall not be subject to administrative direction by any department, commission, board, bureau, or agency of the state.

(2) The powers of the authority shall be vested in a board of directors, referred to in this article as the "board". The board shall consist of one member appointed by the governor with the consent of the senate and the following four ex officio members: The president of the university of Colorado, the president of Colorado state university, the president of the Colorado school of mines, and the president of the university of northern Colorado. The term of the appointed member of the board shall be four years, and the appointed member shall be eligible for reappointment. The appointed member shall hold office until a successor has been appointed and the senate has confirmed the appointment. A vacancy in the seat of the appointed board member occurring other than by expiration of term shall be filled in the same manner as the original appointment, but for the unexpired term only. The appointed member may be removed from office by the governor for cause, after a public hearing, and may be suspended by the governor pending the completion of the hearing.

(3) The members of the board shall elect a chair and a vice-chair. The members of the board shall also elect a secretary and a treasurer, who need not be members of the board, and may elect the same person to serve as both secretary and treasurer. The powers of the board may be vested in the officers from time to time. Three members of the board shall constitute a quorum. A vacancy in the membership of the board shall not impair the right of a quorum of the members to exercise all powers and perform all duties of the board pursuant to section 23-19.7-103.

(4) Each member of the board not otherwise in full-time employment of the state shall receive per diem compensation in the amount of fifty dollars for each day actually and necessarily spent in the discharge of official duties, and all members shall receive traveling and other necessary expenses actually incurred in the performance of official duties.

Source: L. 2007: Entire article added, p. 1600, § 1, effective May 31.

23-19.7-103. Higher education competitive research authority - powers and duties. (1) Except as otherwise limited by this article, the authority, acting through the board, has the power:

(a) To have the duties, privileges, immunities, rights, liabilities, and disabilities of a body corporate and political subdivision of the state;

(b) To sue and be sued;

(c) To have an official seal and to alter the same at the board's pleasure;

(d) To make and alter bylaws for its organization and internal management and for the conduct of its affairs and business;

(e) To maintain an office at such place or places within the state as it may determine;

(f) To acquire, hold, use, and dispose of its moneys;

(g) To make and enter into all contracts, leases, and agreements that are necessary or incidental to the performance of its duties and the exercise of its powers under this article;

(h) To deposit any moneys of the authority in any banking institution within or outside the state;

(i) To fix the time and place or places at which its regular and special meetings are to be held;

(j) To accept gifts, grants, and donations; and

(k) To do all things necessary or convenient to carry out its purposes and exercise the powers granted in this article.

(2) The authority shall direct the allocation of moneys in the innovative higher education research fund created in section 23-19.7-104 to the extent required, as determined by the board, to provide matching funds for one or more proposals of public institutions of higher education in Colorado for federal research funding.

(3) Notwithstanding the provisions of section 24-1-136 (11)(a)(I), C.R.S., on or before March 1, 2008, and on or before March 1 of each year thereafter, the authority shall submit a report to the education committees of the house of representatives and the senate, or any successor committees, that describes the research projects that received funding under this article during the preceding calendar year. At a minimum, the report shall specify the following information with regard to each project:

(a) A description of the project, the principal persons or entities involved in the project, and the amount of funding allocated to each principal person or entity;

(b) The manner in which each principal person or entity applied the funding in connection with the project; and

(c) The results achieved by the project.

Source: L. 2007: Entire article added, p. 1600, § 1, effective May 31.

23-19.7-104. Innovative higher education research fund - funding. (1) There is hereby created in the state treasury the innovative higher education research fund, which shall consist of:

(a) Repealed.

(b) Any moneys that the general assembly may appropriate to the research fund;

(c) Any moneys received pursuant to section 23-19.7-103 (1)(j);

(d) Any money transferred pursuant to section 44-30-701 (2); and

(e) All income and interest derived from the deposit and investment of moneys in the research fund.

(2) Moneys in the research fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs associated with the implementation of this article. Unexpended and unencumbered moneys remaining in the research fund at the end of any fiscal year shall remain in the research fund and shall not be credited or transferred to the general fund or any other fund.

Source: L. 2007: Entire article added, p. 1602, § 1, effective May 31. **L. 2009:** Entire section amended, (SB 09-292), ch. 369, p. 1966, § 71, effective August 5. **L. 2010:** Entire section amended, (HB 10-1018), ch. 421, p. 2162, § 1, effective June 10. **L. 2011:** (1) amended, (SB 11-159), ch. 54, p. 143, § 3, effective March 25. **L. 2018:** (1)(d) amended, (SB 18-034), ch. 14, p. 244, § 27, effective October 1.

Editor's note: Subsection (1)(a) provided for the repeal of subsection (1)(a), effective July 1, 2014. (See L. 2011, p. 143.)

ARTICLE 19.9

Higher Education Federal Mineral Lease Revenues and
Higher Education Maintenance and Reserve Funds

23-19.9-101. Definitions. As used in this article, unless the context otherwise requires:

(1) "Federal mineral lease revenues" means all moneys, including any interest or income derived therefrom, payable to the state on or after July 1, 2008, pursuant to the provisions of the federal "Mineral Lands Leasing Act" of February 25, 1920, as amended.

(2) Repealed.

(3) "Revenues fund" means the higher education federal mineral lease revenues fund created in section 23-19.9-102 (1)(a).

Source: L. 2008: Entire article added, p. 2156, § 2, effective June 4. **L. 2016:** (2) repealed, (HB 16-1229), ch. 84, p. 236, § 2, effective April 14.

Cross references: For the federal "Mineral Leasing Act", also popularly known as the "Mineral Lands Leasing Act", see 30 U.S.C. sec. 181 et seq.

23-19.9-102. Higher education federal mineral lease revenues fund - higher education maintenance and reserve fund - creation - sources of revenues - use. (1) (a) The higher education federal mineral lease revenues fund is hereby created in the state treasury. For the 2008-09 fiscal year and for each succeeding fiscal year through the quarterly transfer for the quarter commencing on October 1 of the 2015-16 fiscal year, the lesser of the first fifty million dollars of the total amount of moneys required to be transferred to the revenues fund and the maintenance and reserve fund pursuant to section 34-63-102 (5.5), C.R.S., or all of such moneys shall be transferred to the revenues fund and the remainder of such moneys shall be transferred to the maintenance and reserve fund. For the quarterly transfers for the quarters commencing on January 1, 2016, and April 1, 2016, for the 2016-17 fiscal year and for each fiscal year thereafter, money shall be transferred to the revenues fund as required by section 34-63-102 (5.5), C.R.S. Interest and income derived from the deposit and investment of the revenues fund shall remain in the revenues fund and shall not be transferred to the general fund or any other fund at the end of any fiscal year. The state treasurer may invest the revenues fund in any investment in which the board of trustees of the public employees' retirement association may invest the funds of the association pursuant to section 24-51-206, C.R.S.

(a.5) On April 14, 2016, the treasurer shall transfer all money in the maintenance and reserve fund to the revenues fund.

(b) The general assembly may annually appropriate moneys in the revenues fund to the department of higher education for transfer to the state treasurer to directly pay for or pay the costs of financing capital construction projects at state-supported institutions of higher education that are included on a prioritized list of such projects specified in a joint resolution that has taken effect in accordance with section 39 of article V of the state constitution after being sponsored by the joint budget committee of the general assembly, approved by the general assembly, and presented to the governor pursuant to section 23-1-106.3 (1)(b), enacted by Senate Bill 08-233, enacted at the second regular session of the sixty-sixth general assembly. Money transferred to the treasurer is continuously appropriated to the treasurer for the purpose of making payments related to the capital construction projects. The general assembly may also appropriate moneys in the revenues fund to the department of education for distribution by the department, or any board or division within the department that the department may designate, to school districts for capital construction projects at area technical colleges, as defined in section 23-60-103 (1). In making such appropriations, the general assembly shall give priority consideration to capital construction projects at state-supported institutions of higher education that are located in communities that are substantially impacted by energy production or conversion activities, and the department, or any board or division within the department designated to distribute moneys appropriated to the department pursuant to this paragraph (b), shall give priority consideration to capital construction projects at area technical colleges that are located in such communities. Only capital construction projects that will be used exclusively or primarily for academic purposes shall be eligible for funding pursuant to this paragraph (b).

(c) Notwithstanding any other provision of this subsection (1) to the contrary, on May 5, 2010, the state treasurer shall deduct seven hundred fifty thousand dollars from the revenues fund and transfer such sum to the general fund.

(d) Notwithstanding any other provision of this subsection (1) to the contrary, on July 1, 2010, the state treasurer shall deduct seven million dollars from the revenues fund and transfer such sum to the general fund.

(2) Repealed.

Source: L. 2008: Entire article added, p. 2157, § 2, effective June 4; (2)(b) amended, p. 717, § 2, effective May 12. **L. 2009:** (2)(b)(III) added, (SB 09-208), ch. 149, p. 622, § 15, effective April 20; (2)(b)(II) amended, (SB 09-228), ch. 410, p. 2256, § 5, effective July 1. **L. 2010:** (2)(b)(IV) added, (HB 10-1327), ch. 135, p. 449, § 1, effective April 15; (1)(c) and (1)(d) added, (HB 10-1389), ch. 206, p. 897, § 8, effective May 5. **L. 2011:** (2)(b)(V) added, (SB 11-222), ch. 153, p. 532, § 1, effective May 5. **L. 2016:** (1)(a) amended, (1)(a.5) added, and (2)(b) repealed, (HB 16-1229), ch. 84, p. 237, § 3, effective April 14; (2)(a) repealed, (HB 16-1229), ch. 84, p. 237, § 3, effective April 15; (1)(b) amended, (HB 16-1229), ch. 84, p. 237, § 3, effective July 1; (1)(b) amended, (HB 16-1082), ch. 58, p. 147, § 24, effective August 10.

Editor's note: Amendments to subsection (1)(b) by HB 16-1229 and HB 16-1082 were harmonized.

State Universities and Colleges

Law reviews: For article, "Drug Testing of Student Athletes: Some Contract and Tort Implications", see 67 Den. U. L. Rev. 279 (1990).

ARTICLE 20

University of Colorado

Cross references: For the inclusion of the university of Colorado within the definition of institution for purposes of the public records law, see § 24-72-202 (1.5).

PART 1

UNIVERSITY OF COLORADO

23-20-101. University of Colorado - role and mission - all campuses. (1) The role and mission of the several campuses of the university of Colorado shall be as follows:

(a) The Boulder campus of the university of Colorado shall be a comprehensive graduate research university with selective admission standards. The Boulder campus of the university of Colorado shall offer a comprehensive array of undergraduate, master's, and doctoral degree programs. The Boulder campus of the university of Colorado has exclusive authority to offer graduate programs in law. The Colorado commission on higher education, in consultation with the board of regents, shall designate those graduate level programs that are the primary

responsibility of the Boulder campus of the university of Colorado. The university has the responsibility to provide on a statewide basis, utilizing when possible and appropriate the faculty and facilities of other educational institutions, those graduate level programs. The commission shall include in its funding recommendations a level of general fund support for these programs.

(b) The Denver campus of the university of Colorado shall be an urban comprehensive undergraduate and graduate research university with selective admission standards. The Denver campus shall offer baccalaureate, master's, and a limited number of doctoral degree programs, emphasizing those that serve the needs of the Denver metropolitan area. The Denver campus has statewide authority to offer graduate programs in public administration and exclusive authority in architecture and planning.

(c) The Colorado Springs campus of the university of Colorado shall be a comprehensive baccalaureate and specialized graduate research university with selective admission standards. The Colorado Springs campus shall offer liberal arts and sciences, business, engineering, health sciences, and teacher preparation undergraduate degree programs, and a selected number of master's and doctoral degree programs.

(d) The health sciences center campus of the university of Colorado shall offer specialized baccalaureate, first-professional, master's, and doctoral degree programs in health-related disciplines and professions. It shall be affiliated with the university of Colorado hospital and other health care facilities that offer settings for education, clinical practice, and basic and applied research. It shall have exclusive authority in medicine, dentistry, pharmacy, and physical therapy.

Source: G.L. § 2748. **G.S.** § 3438. **R.S. 08:** § 6933. **C.L.** § 7996. **CSA:** C. 169, § 1. **CRS 53:** § 124-2-1. **C.R.S. 1963:** § 124-2-1. **L. 85:** Entire section R&RE, p. 762, § 5, effective July 1. **L. 89:** (1)(b) amended, p. 1013, § 5, effective July 1. **L. 2003:** Entire section amended, p. 2593, § 1, effective July 1. **L. 2011:** (1)(c) amended, (SB 11-204), ch. 308, p. 1509, § 2, effective August 10.

23-20-102. Regents - election and term. (1) The university shall be governed by a board of nine regents, who shall be elected for terms of six years each as provided in this section.

(2) (a) At the general election held in 1974, and each six years thereafter, three regents shall be elected, one of whom shall be a qualified elector of, and elected by the qualified electors of, the first congressional district; one of whom shall be a qualified elector of, and elected by the qualified electors of, the fourth congressional district; and one of whom shall be a qualified elector of this state and elected at large by the qualified electors of this state.

(b) At the general election held in 1976, and each six years thereafter, three regents shall be elected, one of whom shall be a qualified elector of, and elected by the qualified electors of, the third congressional district; one of whom shall be a qualified elector of, and elected by the qualified electors of, the fifth congressional district; and one of whom shall be a qualified elector of this state and elected at large by the qualified electors of this state.

(c) (I) At the general election held in 1978, and each six years thereafter through the general election held in 1996, three regents shall be elected, one of whom shall be a resident of, and elected by the qualified electors of, the second congressional district, one of whom shall be a resident of, and elected by the qualified electors of, the sixth congressional district, and one of

whom shall be a qualified elector of this state and elected at large by the qualified electors of this state.

(II) At the general election held in 2002, and each six years thereafter, three regents shall be elected, one of whom shall be a resident of, and elected by the qualified electors of, the second congressional district, one of whom shall be a resident of, and elected by the qualified electors of, the sixth congressional district, and one of whom shall be a resident of, and elected by the qualified electors of, the seventh congressional district.

Source: G.L. § 2750. **G.S.** § 3441. **R.S. 08:** § 6937. **C.L.** § 8000. **CSA:** C. 169, § 5. **CRS 53:** § 124-2-5. **C.R.S. 1963:** § 124-2-5. **L. 73:** p. 1323, § 1. **L. 81:** (2)(c) amended, p. 1114, § 1, effective May 18. **L. 2001:** (2)(c) amended, p. 1083, § 1, effective August 8.

23-20-103. Oath or affirmation of regents. The members of the board of regents shall take an oath or affirmation in accordance with section 24-12-101.

Source: G.L. § 2751. **G.S.** § 3442. **R.S. 08:** § 6938. **C.L.** § 8001. **CSA:** C. 169, § 6. **CRS 53:** § 124-2-6. **C.R.S. 1963:** § 124-2-6. **L. 2018:** Entire section amended, (HB 18-1138), ch. 88, p. 694, § 9, effective August 8.

Cross references: For the legislative declaration in HB 18-1138, see section 1 of chapter 88, Session Laws of Colorado 2018.

23-20-104. Meetings - quorum. The meetings of the board of regents shall be held at such times and places as the board may appoint; but not less than two meetings per annum shall be held at the university. The president of the board may call special meetings where he deems it expedient, or special meetings may be called by any three members of the board. A majority of the regents shall constitute a quorum and be competent for the transaction of business.

Source: G.L. § 2755. **G.S.** § 3446. **R.S. 08:** § 6942. **C.L.** § 8004. **CSA:** C. 169, § 9. **CRS 53:** § 124-2-9. **C.R.S. 1963:** § 124-2-9.

23-20-105. Governor to fill vacancies. (1) The governor of the state shall fill all vacancies that may occur in the board of regents. The persons so appointed shall hold their offices until the next general election and until their successors are elected and duly qualified according to law.

(2) The governor shall appoint, effective July 1, 1973, three persons to fill vacancies on the board of regents which will exist as of said date by virtue of section 12 of article IX of the state constitution, one such appointment to be of a qualified elector of the state for a term expiring on the second Tuesday in January, 1975, one qualified elector of the state for a term expiring on the second Tuesday in January, 1977, and one qualified elector of the state for a term expiring on the second Tuesday in January, 1979. Their respective successors in office shall be elected from the state at large, as provided in section 23-20-102.

Source: G.L. § 2753. **G.S.** § 3444. **R.S. 08:** § 6940. **C.L.** § 8002. **CSA:** C. 169, § 7. **CRS 53:** § 124-2-7. **C.R.S. 1963:** § 124-2-7. **L. 73:** p. 1324, § 2.

23-20-106. President - election. The regents of the university shall elect a president of the university, who shall be an employee-at-will pursuant to section 24-19-104, C.R.S., and whose employment shall be subject to the restrictions imposed by article 19 of title 24, C.R.S. The president shall be the principal executive officer of the university and a member of the faculty thereof and shall carry out the policies and programs established by the board of regents.

Source: G.L. § 2754. **G.S.** § 3445. **R.S. 08:** § 6941. **C.L.** § 8003. **CSA:** C. 169, § 8. **CRS 53:** § 124-2-8. **C.R.S. 1963:** § 124-2-8. **L. 73:** p. 1324, § 3. **L. 96:** Entire section amended, p. 851, § 6, effective May 23.

23-20-107. President to report - contents. The president of the university shall make a report on the first day of September of each year to the board of regents. The report shall exhibit the condition and progress of the institution in its several departments, the different courses of study pursued therein, the branches taught, the means and methods of instruction adopted, the number of students with their names, classes, and residences, and such other matters as he may deem proper to communicate.

Source: G.L. § 2767. **G.S.** § 3458. **R.S. 08:** § 6954. **C.L.** § 8026. **CSA:** C. 169, § 29. **CRS 53:** § 124-2-28. **C.R.S. 1963:** § 124-2-18.

23-20-108. Secretary - duties. The board of regents shall elect a secretary, who shall hold the office during the pleasure of the board. The secretary shall record all the proceedings of the board of regents in a visual text format that may be transmitted electronically and carefully preserve all its books and papers. The secretary's books shall show how the permanent fund of the university has been invested; the amount of each kind of securities, if any, with the date thereof, and when due; the interest thereon, and when and where payable; the amount of each loan, if any, when made and payable to whom, how secured, at what rate of interest, and when and where payable. The secretary shall countersign and register all warrants and checks. The treasurer shall not pay a warrant or a check for money unless the same is drawn by the president and countersigned by the secretary.

Source: G.L. § 2760. **G.S.** § 3451. **R.S. 08:** § 6947. **C.L.** § 8009. **CSA:** C. 169, § 14. **CRS 53:** § 124-2-14. **C.R.S. 1963:** § 124-2-14. **L. 2009:** Entire section amended, (HB 09-1118), ch. 130, p. 560, § 1, effective August 5. **L. 2014:** Entire section amended, (HB 14-1391), ch. 328, p. 1448, § 1, effective June 5.

23-20-109. Treasurer - duties - bond. The board of regents shall elect a treasurer of the university, who shall hold his or her office at the pleasure of the board. The treasurer shall keep a true and faithful account of all money received and paid out by him or her and shall pay all warrants and checks as presented. The treasurer shall take an oath or affirmation in accordance with section 24-12-101. He or she shall also give a bond in the penal sum of not less than twenty-five thousand dollars, conditioned for the faithful discharge of his or her duties as treasurer, that he or she will at all times keep and render a true account of all money and other valuables received by him or her as treasurer and of the disposition he or she has made of the same, and that he or she will at all times be ready to discharge himself or herself of the trust and

to deliver up when required by said board all money, notes, bonds, and other valuables entrusted to him or her. The bond shall have two or more sureties and be approved as to its form and the sufficiency of its sureties by the board of regents, the attorney general, and the secretary of state, who shall endorse their approval on the same. The bond shall be filed in the office of the secretary of state.

Source: G.L. § 2761. **G.S.** § 3452. **R.S. 08:** § 6948. **C.L.** § 8010. **CSA:** C. 169, § 15. **CRS 53:** § 124-2-15. **C.R.S. 1963:** § 124-2-15. **L. 2014:** Entire section amended, (HB 14-1391), ch. 328, p. 1448, § 2, effective June 5. **L. 2018:** Entire section amended, (HB 18-1138), ch. 88, p. 694, § 10, effective August 8.

Cross references: For the legislative declaration in HB 18-1138, see section 1 of chapter 88, Session Laws of Colorado 2018.

23-20-110. Attorney general legal advisor. The attorney general of the state is the legal advisor of the president and board of regents of the university, and he or she shall institute and prosecute or defend all suits in behalf of the same.

Source: G.L. § 2773. **G.S.** § 3464. **R.S. 08:** § 6961. **C.L.** § 8032. **CSA:** C. 169, § 35. **CRS 53:** § 124-2-32. **C.R.S. 1963:** § 124-2-22. **L. 2016:** Entire section amended, (HB 16-1094), ch. 94, p. 270, § 24, effective August 10.

23-20-111. Supervisory powers of board. The board of regents has general supervision of the university and control and direction of all funds of and appropriations to the university.

Source: G.L. § 2756. **G.S.** § 3447. **R.S. 08:** § 6943. **C.L.** § 8005. **CSA:** C. 169, § 10. **CRS 53:** § 124-2-10. **C.R.S. 1963:** § 124-2-10. **L. 80:** Entire section amended, p. 570, § 1, effective March 17. **L. 2010:** Entire section amended, (SB 10-003), ch. 391, p. 1848, § 23, effective June 9.

Cross references: For the legislative declaration in the 2010 act amending this section, see section 1 of chapter 391, Session Laws of Colorado 2010.

23-20-112. General powers of the board - definitions. (1) 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 23-1-104 (1)(b)(I). It shall remove any officer connected with the university when in its judgment the good of the institution requires it.

(2) Repealed.

(3) (a) **[*Editor's note: This version of subsection (3)(a) is effective until July 1, 2021.*]** Notwithstanding any provision of law to the contrary, an institution governed by the board of regents may use funding provided pursuant to section 23-18-303 as financial assistance for in-state students to reduce the student's share of in-state tuition, as defined in section 23-18-102.

(3) (a) **[*Editor's note: This version of subsection (3)(a) is effective July 1, 2021.*]** Notwithstanding any provision of law to the contrary, an institution governed by the board of regents may use funding provided pursuant to section 23-18-303.5 as financial assistance for in-state students to reduce the student's share of in-state tuition, as defined in section 23-18-102.

(b) For purposes of parts 1 and 2 of article 18 of this title, for an institution governed by the board of regents, "student's share of in-state tuition" has the same meaning as set forth in section 23-18-102 less the amount of any financial assistance awarded to the student pursuant to paragraph (a) of this subsection (3).

Source: G.L. § 2757. **G.S.** § 3448. **R.S. 08:** § 6944. **C.L.** § 8006. **CSA:** C. 169, § 11. **CRS 53:** § 124-2-11. **C.R.S. 1963:** § 124-2-11. **L. 70:** p. 357, § 10. **L. 93:** Entire section amended, p. 1519, § 25, effective June 6. **L. 2008:** Entire section amended, p. 118, § 3, effective March 19. **L. 2010:** Entire section amended, (SB 10-003), ch. 391, p. 1842, § 8, effective June 9. **L. 2014:** (3) added, (HB 14-1319), ch. 169, p. 612, § 6, effective May 9. **L. 2020:** (3)(a) amended, (HB 20-1366), ch. 181, p. 835, § 14, effective July 1, 2021.

Editor's note: Subsection (2)(b) provided for the repeal of subsection (2), effective July 1, 2016. (See L. 2010, p. 1842.)

Cross references: For the legislative declaration in the 2010 act amending this section, see section 1 of chapter 391, Session Laws of Colorado 2010.

23-20-113. Board to fix salaries. The board of regents shall determine the compensation of the secretary and the treasurer of the university, and the regents are ineligible to the office of treasurer.

Source: G.L. § 2762. **G.S.** § 3453. **R.S. 08:** § 6949. **C.L.** § 8011. **CSA:** C. 169, § 16. **CRS 53:** § 124-2-16. **C.R.S. 1963:** § 124-2-16.

23-20-114. Employment of medical personnel. (1) The board of regents of the university of Colorado has authority to employ medical personnel who are not citizens of the United States at the university of Colorado health sciences center, the university of Colorado psychiatric hospital, and the medical division of the graduate school of the university of Colorado. Medical personnel who are not citizens of the United States are exempt from the licensure requirements of the "Colorado Medical Practice Act", article 240 of title 12, with respect to services performed in the course of such employment, but such personnel shall first comply with all other requirements of said act, which includes the taking and passing of examinations approved by the Colorado medical board and by the National Board of Medical Examiners, the National Board of Examiners for Osteopathic Physicians and Surgeons, or the Federation of State Medical Boards, or their successor organizations, on subjects relating to the basic sciences as provided by law within three months after the date of employment unless such examinations are not required by section 12-240-110 (1)(b). Such exemptions from licensure or provisions in this section provided for such personnel who are not citizens of the United States shall continue only during the minimum period of time within which the particular individual can become a citizen according to the laws of the United States and the regulations of the

immigration and naturalization service of the United States, department of justice, or any successor agency, or such additional time as may be granted by such boards. The exemptions in this section are limited to services performed in the course of employment with the university of Colorado as limited in this section and shall terminate when such employment terminates.

(2) (a) The board of regents may arrange for the billing, collection, and disbursement for professional services rendered by physicians and other faculty members of the health sciences schools through a nonprofit corporation or through a contractual arrangement with a profit or nonprofit corporation or through such other mechanism as may be authorized by the board of regents. Any mechanism employed under the authority of this subsection (2) shall be self-supporting. Any such mechanism shall allow for contracting with the board of regents or the state of Colorado for reimbursement of physician services provided for the medically indigent.

(b) The fees collected under this subsection (2) shall be used for the remuneration and support of the professional, research, and educational activities of the members of the faculty of the health sciences schools and shall also be used for the administrative costs of such activities, in accordance with rules to be adopted by the board of regents.

(c) The board of regents, at the request of the general assembly, the joint budget committee, or the state auditor, shall provide a report of the financial status of any funds maintained pursuant to this subsection (2), including but not limited to expenditures, revenues, and the number of staff and faculty involved.

(d) Nothing in this subsection (2) shall be construed to give the board of regents any control over or power to arrange for the billing, collection, and disbursement of hospital fees of the university of Colorado hospital authority operating the university of Colorado university hospital pursuant to the provisions of part 5 of article 21 of this title, any control over how such hospital fees are spent in the operation of the hospital, or any control over the hospital's gross income, the budget and spending of the hospital, or the hospital's authority to borrow money or incur debt.

Source: L. 63: p. 874, § 1. **C.R.S. 1963:** § 124-2-33. **L. 76:** Entire section amended, p. 415, § 11, effective July 1. **L. 77:** Entire section amended, p. 280, § 27, effective August 1. **L. 79:** Entire section amended, p. 524, § 29, effective July 1. **L. 89:** Entire section amended, p. 1003, § 2, effective October 1. **L. 91:** Entire section amended, p. 585, § 4, effective October 1. **L. 2010:** (1) amended, (HB 10-1260), ch. 403, p. 1988, § 80, effective July 1. **L. 2011:** (1) amended, (HB 11-1303), ch. 264, p. 1163, § 52, effective August 10. **L. 2019:** (1) amended, (HB 19-1172), ch. 136, p. 1683, § 119, effective October 1.

Editor's note: This section was amended in House Bill No. 1143, enacted by the General Assembly at its first regular session in 1989, as a conforming amendment necessitated by the authorization for the operation of the university of Colorado university hospital by a nonprofit-nonstock corporation. The Colorado Supreme Court subsequently declared House Bill No. 1143 unconstitutional in its entirety. See *Colorado Association of Public Employees v. Board of Regents,* 804 P. 2d 138 (Colo. 1990). Senate Bill 91-225, enacted by the General Assembly at its first regular session in 1991, authorized the operation of university hospital by a newly created university of Colorado hospital authority. Since the previous act was declared unconstitutional in its entirety, the General Assembly elected to make a similar conforming amendment to this section in Senate Bill 91-225. For further explanation of the circumstances surrounding the

enactment of Senate Bill 91-225, see the legislative declaration contained in section 1 of chapter 99, Session Laws of Colorado 1991.

23-20-115. Departments - degrees - diplomas. The university shall include a classical, philosophical, normal, scientific, law, physical sciences, and preparatory department and such other departments, with courses of instruction and elective studies, as the board of regents may determine. The board has authority to confer such degrees and grant such diplomas and other marks of distinction as are usually conferred and granted by other universities. Nothing in this section shall be construed to require the regents to establish the several departments until such time as in their judgment the wants and necessities of the people require it. Nothing in this section shall be construed to limit the authority of the Colorado commission on higher education to direct the board of regents to discontinue an academic or vocational degree program area pursuant to section 23-1-107 (2).

Source: G.L. § 2758. **G.S.** § 3449. **L. 07:** p. 590, § 1. **R.S. 08:** § 6945. **C.L.** § 8007. **CSA:** C. 169, § 12. **CRS 53:** § 124-2-12. **C.R.S. 1963:** § 124-2-12. **L. 85:** Entire section amended, p. 762, § 4, effective July 1.

23-20-116. Claims against university. Except with respect to claims coming within the provisions of article 10 of title 24, C.R.S., the board of regents shall audit all claims against the university, and the president shall draw all warrants and checks for approved claims; but before payment such warrants and checks shall be countersigned by the secretary, who shall keep a specific and complete record of all matters involving the expenditure of money, which record shall be submitted to the board of regents at each regular meeting of the same.

Source: G.L. § 2763. **G.S.** § 3454. **R.S. 08:** § 6950. **C.L.** § 8012. **CSA:** C. 169, § 17. **CRS 53:** § 124-2-17. **C.R.S. 1963:** § 124-2-17. **L. 71:** p. 1216, § 14. **L. 2014:** Entire section amended, (HB 14-1391), ch. 328, p. 1449, § 3, effective June 5.

23-20-117. Power and authority of regents to invest. (Repealed)

Source: L. 55: p. 805, § 1. **CRS 53:** § 124-2-40. **C.R.S. 1963:** § 124-2-30. **L. 74:** Entire section repealed, p. 381, § 1, effective May 8.

23-20-117.5. University of Colorado fund - creation - control - use. (1) There is hereby created in the state treasury the university of Colorado fund that shall be under the control and administration of the board of regents of the university of Colorado in accordance with the provisions of this part 1. The board of regents shall have authority and responsibility for all university funds. The board of regents shall designate, pursuant to its statutory authority, those moneys whether received by appropriation, grant, contract, gift, or any other means that shall be credited to said fund together with all interest derived from the deposit and investment of moneys in the fund. The moneys in the fund shall remain under the control of the regents of the university of Colorado and shall not be transferred or revert to the general fund of the state at the end of any fiscal year.

(2) The moneys in the university of Colorado fund shall be used by the board of regents of the university of Colorado for the payment of salaries and operating expenses of the board and the institutions it governs, as well as for the payment of any other expenses incurred by the board in carrying out its statutory powers and duties.

(3) Moneys in the university of Colorado fund may be invested by the state treasurer in investments authorized by sections 24-36-109, 24-36-112, and 24-36-113, C.R.S., any public-private initiatives with the department of transportation, as defined in section 43-1-1201 (3), C.R.S., and bonds issued for turnpikes in accordance with part 2 of article 3 of title 43, C.R.S. The board shall determine the amount of moneys to be credited in the fund. Until the board of regents withdraws the moneys from the fund, the state treasurer shall invest the moneys on behalf of the board of regents.

(4) The board of regents shall establish an investment advisory committee consisting of at least five members to make recommendations to it regarding investments. The investment committee shall include the university of Colorado treasurer, the state treasurer, a member of the board of regents, and two representatives of the financial community.

Source: L. 94: Entire section added, p. 537, § 1, effective July 1. **L. 98:** (3) amended, p. 445, § 5, effective August 5. **L. 2000:** (1) amended, p. 613, § 12, effective May 18. **L. 2005:** (3) amended, p. 278, § 8, effective August 8.

23-20-118. Investments in consolidated funds. Unless otherwise restrained by the terms of a will, trust agreement, or other instrument of gift, the regents of the university of Colorado are authorized to hold investments in one or more consolidated investment funds in which the participating trusts or accounts have undivided interests.

Source: L. 55: p. 806, § 2. **CRS 53:** § 124-2-41. **C.R.S. 1963:** § 124-2-31.

23-20-119. Corporate stock in name of nominee authorized - report. (1) In order to facilitate the investment, reinvestment, sale, and disposition of corporate stocks, the regents of the university of Colorado are authorized to hold certificates of stock in the name of a nominee of their selection without disclosing the fact that certificates are held by the regents or are held in a fiduciary capacity, if:

(a) The records of the regents and all reports or accounts rendered by them clearly show the ownership of the stock by the regents and the facts regarding their holding; and

(b) The nominee deposits with the regents a signed statement showing the trust ownership, endorses the stock certificate in blank, and does not have possession of the stock certificate or access thereto except under the immediate supervision of the treasurer of the university or such other person as the regents designate.

(2) Notwithstanding section 24-1-136 (11)(a)(I), a report shall be made by the regents of the university of Colorado, to the general assembly at each regular session, of the investments made and the interest derived therefrom under the provisions of this section and section 23-20-118.

Source: L. 55: p. 806, § 3. **CRS 53:** § 124-2-42. **C.R.S. 1963:** § 124-2-32. **L. 76:** (2) amended, p. 304, § 38, effective May 20. **L. 2017:** (2) amended, (HB 17-1251), ch. 253, p. 1060, § 10, effective August 9.

23-20-120. Donations - invested. All donations of money, securities, or other property shall be conveyed to the regents of the university and invested as other funds of the university. Donations may be made to, and for the sole use of, any of the departments of the university, and donations so made shall be kept in a separate fund for the use of such department.

Source: G.L. § 2772. **G.S.** § 3463. **R.S. 08:** § 6960. **C.L.** § 8031. **CSA:** C. 169, § 34. **CRS 53:** § 124-2-31. **C.R.S. 1963:** § 124-2-21.

23-20-121. Money from university lands. All moneys which arise from the sale of public lands belonging to the university of Colorado, or from the leasing of lands belonging to the said university, or from interest arising on the investment of such funds are placed under the exclusive control of the regents of the said university. The treasurer of the state of Colorado is instructed to turn over to the said regents all the moneys, warrants, bonds, and other securities of any nature that have come from the sale of said public lands belonging to said university.

Source: L. 1895: p. 237, § 1. **R.S. 08:** § 6958. **C.L.** § 8029. **CSA:** C. 169, § 32. **CRS 53:** § 124-2-29. **C.R.S. 1963:** § 124-2-19.

23-20-122. Raising funds for university student memorial center. (1) For the purpose of raising funds from time to time for erecting, purchasing, otherwise acquiring, reconstructing, improving, adding to, extending, bettering, equipping, and furnishing, or any combination thereof, a student memorial center consisting of one or more buildings on the campus of the university of Colorado, the board of regents thereof, designated as the "regents of the university of Colorado" (in this section sometimes designated as the "board"), is authorized to enter into contracts with persons or corporations advancing money for such purposes, under which contracts the board is authorized to pledge the net income from the student memorial center, its facilities, and special student fees assessed for the purpose of financing the student memorial center or any part of such net income to the repayment of any sums so advanced and interest thereon.

(2) The board shall not pledge the general income of the university or create any mortgage upon property belonging to such institution or obligate the state of Colorado for the purpose of repaying or receiving any funds raised or advanced under the provisions of this section.

(3) For the purpose of evidencing any such loan, the board may issue, in its name and on its behalf, notes, debentures, bonds, or other evidences of indebtedness, in this section sometimes designated as "obligations".

(4) Any obligations may be refunded by the board, subject to provisions concerning their payment and any other contractual limitations in any proceedings authorizing the issuance of the obligations or otherwise appertaining thereto, by the issuance of obligations to refund, pay, and discharge all or any part of outstanding obligations for the purpose of avoiding or terminating any default, reducing interest costs or effecting other economies, or modifying or eliminating

restrictive contractual limitations concerning the outstanding obligations of the student memorial center, or any combination thereof.

(5) Any obligations issued for refunding purposes either may be delivered in exchange for the outstanding obligations being refunded or may be publicly or privately sold.

(6) No obligations may be refunded under this section unless the holders thereof voluntarily surrender them for exchange or payment or unless they either mature or are callable for prior redemption under their terms within ten years from the date of issuance of the refunding obligations. Provision shall be made for paying the obligations within said period of time. The principal amount of the refunding obligations may exceed the principal amount of the refunded obligations if the aggregate principal and interest costs of the refunding obligations do not exceed such unaccrued costs of the obligations refunded. The principal amount of the refunding obligations may also be less than or the same as the principal amount of the obligations being refunded so long as provision is duly and sufficiently made for the payment of the refunded obligations.

(7) The proceeds of refunding obligations shall either be immediately applied to the retirement of the obligations to be refunded or placed in escrow in any state or national bank within the state which is a member of the federal deposit insurance corporation to be applied to the payment of the obligations being refunded upon their presentation therefor. To the extent any incidental expenses have been capitalized, such refunding obligation proceeds may be used to defray such expenses. Any accrued interest and any premium appertaining to a sale of refunding obligations may be applied to the payment of the interest thereon, the principal thereof, or both interest and principal or deposited in a reserve therefor as the board may determine. Any such escrow shall not necessarily be limited to proceeds of refunding obligations but may include other moneys available for its purpose. Any proceeds in escrow, pending such use, may be invested or reinvested in securities meeting the investment requirements established in part 6 of article 75 of title 24, C.R.S. Such proceeds and investments in escrow, together with any interest to be derived from any such investment, shall be in an amount at all times sufficient as to principal, interest, any prior redemption premium due, and any charges of the escrow agent payable therefrom to pay the obligations being refunded as they become due at their respective maturities or due at any designated prior redemption date in connection with which the board exercises a prior redemption option. Any purchaser of any obligation issued under this section shall in no manner be responsible for the application of the proceeds thereof by the board or any of its officers, agents, or employees.

(8) Refunding obligations may be made payable from any net revenues derived from the student memorial center, or any portion thereof, notwithstanding that the pledge of such revenues for the payment of the outstanding obligations being refunded is thereby modified.

(9) Obligations for refunding and obligations for any other purpose authorized may be issued separately or in combination in one series or more.

(10) The board shall establish a maximum net effective interest rate for obligations issued under this section. Such obligations shall bear interest at a rate or rates such that the net effective interest rate of the issue of obligations does not exceed the maximum net effective interest rate established. Such interest shall be payable semiannually or annually and evidenced by one or two sets of coupons, if any, executed with the facsimile or manually executed signature of any official or officials of the board; except that the first coupon or coupons appertaining to any obligation may evidence interest not in excess of one year, and such

obligations may be in one series or more, may bear such date or dates, may mature at such time or times not exceeding forty years from their respective dates, may be designated or redesignated, may be in such denomination or denominations, may be payable in such medium of payment, at such place or places within or without the state, may carry such registration privileges, may be subject to such terms of prior redemption in advance of maturity in such order or by lot or otherwise at such time or times with or without a premium, may be executed in such manner, may bear such privileges for reissuance in the same or other denominations, may be so reissued without modification of maturities and interest rates, and may be in such form, either coupon or registered, as may be provided by resolution of the board.

(11) The obligations shall never be sold at a price such that the net effective interest rate of the issue of obligations exceeds the maximum net effective interest rate established.

(12) Obligations may be issued with privileges for conversion or registration, or both, for payment as to principal or interest, or both. If interest accruing on the obligations is not represented by interest coupons, the obligations may provide for the endorsing of payments of interest thereon. The obligations generally shall be issued in such manner, in such form, either coupon or registered, with such recitals, terms, and provisions for subordination of subsequently issued obligations and such covenants and conditions, and with such other details as may be provided by the board, except as otherwise provided in this section.

(13) All obligations and the income therefrom shall be exempt from taxation, except inheritance, estate, and transfer taxes.

(14) All moneys received from the issuance of any obligations authorized in this section shall be used solely for the purpose for which issued and the cost of any project designated by the board and authorized in this section, including interest or discount on obligations, or both; cost of issuance of obligations; architectural, engineering, and inspection costs and legal expenses; costs of financial, professional, and other estimates and advice; contingencies; any administrative, operating, and other expenses of the board appertaining to a student memorial center prior to and during such acquisition or improvement and equipment, and additionally during a period of not exceeding one year after the completion thereof, as may be estimated and determined by the board in any resolution authorizing the issuance of any obligations or other instrument appertaining thereto, and all such other expenses as may be necessary or incident to the financing, acquisition, improvement, equipment, and completion of said center or part thereof, the placing of the same in operation, and also any provision or reserves for working capital, operation, maintenance, or replacement expenses, or for payment or security of principal of or interest on any obligations during or after such acquisition or improvement and equipment as the board may determine, and also reimbursements to the board, any bank, other corporation, or any other person of any moneys previously expended for the purposes of said center; except that any accrued interest and any premium appertaining to a sale of obligations may be applied to the payment of the interest thereon and the principal thereof, or both interest and principal, or may be deposited in a reserve therefor, as the board may determine.

(15) The powers conferred by this section shall be in addition and supplemental to and not in substitution for, and the limitations imposed by this section shall not affect, the powers conferred by any other law. Obligations may be issued under this section without regard to the provisions of any other law. Insofar as the provisions of this section are inconsistent with the provisions of any other law, the provisions of this section shall be controlling.

Source: L. 49: p. 732, §§ 1, 2. **CSA:** C. 169, § 36(1). **CRS 53:** § 124-2-34. **L. 63:** pp. 869, 873, §§ 1, 2. **C.R.S. 1963:** § 124-2-24. **L. 70:** p. 346, § 3. **L. 89:** (7) amended, p. 1110, § 15, effective July 1.

23-20-123. Rents or charges for buildings and facilities for research. The regents of the university of Colorado are authorized to contract for or impose and collect rents or charges for the use of university buildings and facilities for research, including research conducted by or under the auspices of the university of Colorado. Such rents or charges shall be at a level reasonably calculated to return or amortize the cost of such buildings and facilities within a reasonable period not exceeding the life of such buildings and facilities; but such user charges or rents may not be imposed and collected in such a manner as to require payment directly or indirectly from the state general fund, tuition receipts, or student fees.

Source: L. 64: p. 632, § 1. **C.R.S. 1963:** § 124-2-34.

23-20-124. Research building revolving fund - appropriation of fund. There is established in the office of the treasurer of the university a fund to be known as the university of Colorado research building revolving fund. There shall be credited to said fund the user charges or rents authorized by section 23-20-123 and imposed by the board of regents of the university of Colorado, specific appropriations or grants or gifts made to said fund, and the proceeds of the sale of anticipation warrants authorized by sections 23-20-123 to 23-20-125. No payments from student fees, tuition receipts, or general funds shall be deposited in the research building revolving fund or used for said programs; except that the board of regents is authorized, pursuant to sections 23-5-102 and 23-5-103, to pledge the revenues and net income of any other designated enterprise auxiliary facilities in connection with bonds or other obligations secured by the research building revolving fund. All interest accumulated in this fund shall follow the fund. All such moneys so credited to said fund are appropriated to the university of Colorado for the payment of maintenance and operating costs for its research buildings and facilities and for the planning, construction, and equipping of additional research buildings and facilities for the university of Colorado; except that the board of regents is authorized, pursuant to sections 23-5-102 and 23-5-103, to pledge the research building revolving fund in connection with bonds or other obligations issued by or on behalf of any other designated enterprise auxiliary facilities.

Source: L. 64: p. 632, § 2. **C.R.S. 1963:** § 124-2-35. **L. 86:** Entire section amended, p. 830, § 2, effective May 8. **L. 91:** Entire section amended, p. 550, § 1, effective March 1. **L. 99:** Entire section amended, p. 851, § 11, effective May 24; entire section amended, p. 904, § 2, effective August 4.

Editor's note: Amendments to this section by Senate Bill 99-203 and House Bill 99-1338 were harmonized.

23-20-125. Anticipation warrants. The state treasurer is authorized to issue anticipation warrants in such amounts as requested by the board of regents of the university of Colorado, the total amount of which shall not exceed four million dollars, to be repaid exclusively from the user revenues accruing to the university of Colorado research building revolving fund as

provided in sections 23-20-123 to 23-20-125 or from revenues and net income of any other designated enterprise auxiliary facilities that are pledged to the repayment of such anticipation warrants pursuant to sections 23-5-102 and 23-5-103, or any combination thereof; such anticipation warrants shall bear interest at a rate not exceeding four percent per annum except those issued on or after February 15, 1968, which shall bear interest not exceeding six percent per annum, and shall not be sold at a price less than the face value thereof. Disbursements from said fund shall be only by warrant upon vouchers certified by the board of regents of the university of Colorado.

Source: L. 64: p. 633, § 3. **C.R.S. 1963:** § 124-2-36. **L. 68:** p. 6, § 1. **L. 71:** p. 1181, § 1. **L. 99:** Entire section amended, p. 904, § 3, effective August 4.

23-20-126. Purchase of anticipation warrants. It is lawful for any public entity, as defined in section 24-75-601 (1), C.R.S., to purchase anticipation warrants issued in pursuance of section 23-20-125 if such warrants satisfy the investment requirements established in part 6 of article 75 of title 24, C.R.S.; but not to exceed twenty percent of the total of any specific fund of such public entity shall be invested in such warrants.

Source: L. 66: p. 18, § 1. **C.R.S. 1963:** § 124-2-37. **L. 89:** Entire section amended, p. 1128, § 61, effective July 1.

23-20-127. Warrants as security - when. Anticipation warrants issued in pursuance of sections 23-20-123 to 23-20-129 may be used as security for any depository bond or obligation where any kind of bonds or other securities shall or may, by law, be deposited as security.

Source: L. 66: p. 18, § 1. **C.R.S. 1963:** § 124-2-38.

23-20-128. Tax exemption. Any anticipation warrants issued pursuant to the provisions of section 23-20-125 by the regents of the university of Colorado shall be exempt from taxation for state, county, school district, special district, municipal, or other purposes in the state of Colorado.

Source: L. 66: p. 18, § 1. **C.R.S. 1963:** § 124-2-39.

23-20-129. Bonds. (1) The regents of the university of Colorado are hereby authorized to issue bonds as provided in this section for the purpose of obtaining funds for the planning, construction or other acquisition, and equipping of research buildings and facilities, wherever located in the state of Colorado, for the university of Colorado. Any such buildings and facilities shall be related to the research mission of the university.

(2) Such bonds shall be in such amount, shall mature at such time or times, shall bear interest at such rate or rates, and shall otherwise be sold and issued in such manner and on such terms as provided by the regents of the university of Colorado.

(3) Such bonds shall be payable from, and shall be secured by a pledge of, the university of Colorado research building revolving fund created in section 23-20-124, or the revenues and net income of any other designated enterprise auxiliary facilities that are pledged to the

repayment of such bonds pursuant to sections 23-5-102 and 23-5-103, or any combination thereof.

(4) The authority contained in this section shall be in addition to the authority granted the regents of the university of Colorado to issue anticipation warrants pursuant to section 23-20-125; except that nothing in this section shall be construed to authorize the issuance of such bonds if by such issuance the obligation of any contract entered into with respect to any outstanding anticipation warrants would thereby be impaired.

(5) Any bonds issued pursuant to this section shall be exempt from taxation for state, county, school district, special district, municipal, or other purposes in the state of Colorado.

(6) Bonds issued pursuant to the provisions of this section shall not constitute a debt or an indebtedness of the state within the meaning of any applicable provision of the state constitution or state statutes.

Source: L. 66: p. 19, § 1. **C.R.S. 1963:** § 124-2-40. **L. 68:** p. 6, § 2. **L. 70:** p. 347, § 4. **L. 82:** Entire section R&RE, p. 343, § 1, effective April 23. **L. 86:** (1) and (6) amended, p. 830, § 1, effective May 8. **L. 91:** (6) amended, p. 550, § 2, effective March 1. **L. 99:** (3) amended, p. 905, § 4, effective August 4. **L. 2007:** (6) amended, p. 67, § 1, effective August 3.

23-20-129.5. Enterprise auxiliary facility bonds. (1) The board of regents shall establish policies and procedures to determine and monitor the ability of the university of Colorado:

(a) To pay principal, interest, and any other costs due in connection with any revenue bonds issued pursuant to section 23-5-102;

(b) To establish and maintain the necessary reserves required to pay the principal, interest, and other costs due in connection with any revenue bonds issued pursuant to section 23-5-102;

(c) To pay costs of operation and maintenance of the auxiliary facility or group of auxiliary facilities on behalf of which revenue bonds are issued pursuant to section 23-5-102; and

(d) To satisfy all covenants and agreements set forth in any resolution, indenture, or other document authorizing or executed in connection with the issuance of revenue bonds pursuant to section 23-5-102.

(2) The policies and procedures adopted pursuant to subsection (1) of this section shall include, but need not be limited to, the following requirements:

(a) That, upon issuance of revenue bonds pursuant to section 23-5-102, the university shall identify the primary revenue sources for payment of principal and interest on the bonds from among those revenues and other moneys pledged for payment of principal and interest on the revenue bonds;

(b) That, upon issuance of revenue bonds pursuant to section 23-5-102, the university shall perform a financial analysis, based upon assumptions approved by the board of regents and the state auditor, that demonstrates that revenues expected to be annually available from the sources identified under paragraph (a) of this subsection (2) will be sufficient to pay at least one hundred twenty-five percent of the annual principal and interest on the revenue bonds;

(c) That the university shall annually review the revenue sources identified under paragraph (a) of this subsection (2) to determine if the financial analysis required in paragraph

(b) of this subsection (2) shows sufficient revenues for payment of principal and interest on the revenue bonds and, if the revenues are not sufficient, take such action as the board of regents and the state auditor shall require to assure that adequate revenues are available to pay the principal and interest on the revenue bonds;

(d) That the maximum annual debt service on all revenue bonds issued pursuant to section 23-5-102, except as provided for in sections 23-5-101.8 and 23-5-103, outstanding at any time for the university shall not exceed ten percent of the university's unrestricted current fund expenditures plus mandatory transfers;

(e) That the university shall establish and maintain such debt service reserves and such reserves for repair and replacement of any auxiliary facility or group of auxiliary facilities on behalf of which revenue bonds are issued pursuant to section 23-5-102 and as may be required by the terms of the resolution, indenture, or other document authorizing or executed in connection with the issuance of the revenue bonds and subject to review and approval by the state auditor; and

(f) That the university shall annually report to the state auditor regarding compliance with the requirements specified in this subsection (2) and any additional requirements that may be imposed by the board of regents.

(3) The policies and procedures required under this section shall be established no later than January 1, 1995, and shall apply to any revenue bonds issued pursuant to section 23-5-102 on or after such date.

Source: L. 94: Entire section added, p. 1679, § 5, effective May 31. **L. 2004:** (2)(d) amended, p. 1936, § 6, effective July 1.

Cross references: For the legislative declaration contained in the 2004 act amending subsection (2)(d), see section 1 of chapter 391, Session Laws of Colorado 2004.

23-20-130. Disposition of natural specimens. All specimens of natural history and geological and mineralogical specimens which are collected by the state geologist of Colorado, appointed by the state to investigate its natural history, belong to and are the property of the university and form a part of its cabinet.

Source: G.L. § 2759. **G.S.** § 3450. **R.S. 08:** § 6946. **C.L.** § 8008. **CSA:** C. 169, § 13. **CRS 53:** § 124-2-13. **C.R.S. 1963:** § 124-2-13.

23-20-131. Free pupil from each county. Each county is entitled to send one pupil under the age of seventeen years to said university, tuition free, said pupil to be selected by competitive examination before the county superintendent of such county and given to the highest scholarship.

Source: L. 1874: p. 308, § 1. **G.L.** § 2746. **G.S.** § 3439. **R.S. 08:** § 6934. **C.L.** § 7997. **CSA:** C. 169, § 2. **CRS 53:** § 124-2-2. **C.R.S. 1963:** § 124-2-2. **L. 2006:** Entire section amended, p. 1214, § 9, effective July 1, 2007.

Cross references: For the legislative declaration contained in the 2006 act amending this section, see section 1 of chapter 265, Session Laws of Colorado 2006.

23-20-132. When tuition fee charged. The university shall charge a reasonable tuition fee for all out-of-state students, as provided in article 7 of this title.

Source: L. 1893: p. 474, § 4. **R.S. 08:** § 6935. **C.L.** § 7998. **CSA:** C. 169, § 3. **CRS 53:** § 124-2-3. **C.R.S. 1963:** § 124-2-3. **L. 73:** p. 1416, § 92.

23-20-133. Religious societies not to control. The university shall never be under the control of any religious or irreligious denomination or society.

Source: G.L. § 2749. **G.S.** § 3440. **R.S. 08:** § 6936. **C.L.** § 7999. **CSA:** C. 169, § 4. **CRS 53:** § 124-2-4. **C.R.S. 1963:** § 124-2-4.

23-20-134. No loans to board or faculty - exception. No funds of the university shall ever be, directly or indirectly, loaned to the president or any of the regents, professors, or other officers of the said university; except that the board of regents may make loans secured by an equity interest in real estate in Colorado from funds not appropriated by the general assembly to full-time faculty members if such secured loans are made pursuant to a faculty housing assistance plan promulgated and approved by the board of regents.

Source: G.L. § 2771. **G.S.** § 3462. **L. 1895:** p. 238, § 3. **R.S. 08:** § 6959. **C.L.** § 8030. **CSA:** C. 169, § 33. **CRS 53:** § 124-2-30. **C.R.S. 1963:** § 124-2-20. **L. 81:** Entire section amended, p. 1115, § 1, effective May 28.

23-20-135. Contracting debt forbidden, when. The board of regents is prohibited from creating any debt against the university, in any manner encumbering the same, or incurring any expense beyond its ability to pay from the annual income of the university for the current year.

Source: G.L. § 2774. **G.S.** § 3465. **R.S. 08:** § 6962. **C.L.** § 8033. **CSA:** C. 169, § 36. **CRS 53:** § 124-2-33. **C.R.S. 1963:** § 124-2-23.

23-20-136. Fitzsimons trust fund - creation - legislative declaration - repeal. (1) The general assembly hereby finds and declares that the university of Colorado health sciences center will be moving to the former Fitzsimons Army base over the next several decades; that the health sciences center can expect a major portion of the move to take place in the next ten to fifteen years; that creation of a trust fund would allow the state to set aside funds over a period of years in order to have moneys available at the time the most costly capital construction requests would be expected to occur; and that, in addition to the state moneys to be dedicated to the trust fund, other sources of funding for the move are being sought from the federal government, private and public sources, and the health sciences center and university hospital.

(2) In light of the projected amounts of state revenues that will be available over the next six years, the general assembly hereby finds and declares that a stable, predictable, and consistent source of revenues for the university of Colorado health sciences center's move to the

former Fitzsimons Army base will better allow the state to help fund such a move. In order to provide a consistent source of revenues, the general assembly further finds and declares that it is appropriate to create a trust fund that will be provided with an annual amount of principal and that will generate an annual amount of interest that is dedicated to the university of Colorado health sciences center's move to the former Fitzsimons Army base.

(3) (a) There is hereby created in the state treasury the university of Colorado health sciences center at Fitzsimons trust fund, referred to in this section as the "Fitzsimons trust fund", the principal of which shall consist of those general fund revenues that may be transferred to the capital construction fund as provided in section 24-75-302 (2), C.R.S., and then appropriated from the capital construction fund to the Fitzsimons trust fund and of moneys appropriated to the Fitzsimons trust fund from the capital construction fund pursuant to subsection (3.5) of this section. The principal and interest of the Fitzsimons trust fund shall not be expended or appropriated for any purpose other than that stated in subsection (5) of this section. The state treasurer may, in the state treasurer's discretion, deposit, redeposit, invest, and reinvest moneys accrued or accruing to the Fitzsimons trust fund in the types of deposits and investments authorized in sections 24-36-109, 24-36-112, and 24-36-113, C.R.S.

(b) Repealed.

(c) Notwithstanding any provision of paragraph (a) of this subsection (3) to the contrary, on May 5, 2010, the state treasurer shall deduct five million fifty-four thousand nine hundred eighteen dollars from the Fitzsimons trust fund and transfer such sum to the general fund.

(d) Notwithstanding any provision of paragraph (a) of this subsection (3) to the contrary, on July 1, 2010, the state treasurer shall deduct three million four hundred forty-eight thousand five hundred thirty-seven dollars from the Fitzsimons trust fund and transfer such sum to the general fund.

(3.5) (a) For the 2016-17 fiscal year and for each fiscal year thereafter in which the state receives moneys pursuant to the master settlement agreement, and in which money is due to a lessor under a lease-purchase agreement authorized pursuant to section 3 of House Bill 03-1256, enacted in 2003, the state treasurer shall transfer to the capital construction fund and the state controller shall transfer from the capital construction fund to the Fitzsimons trust fund, except as otherwise provided in section 24-75-1104.5 (5), C.R.S., eight percent of the total amount received by the state pursuant to the master settlement agreement, other than attorney fees and costs, during the preceding fiscal year.

(b) As used in this subsection (3.5), unless the context otherwise requires, "master settlement agreement" means the master settlement agreement, the smokeless tobacco master settlement agreement, and the consent decree approved and entered by the court in the case denominated *State of Colorado, ex rel. Gale A. Norton, Attorney General v. R.J. Reynolds Tobacco Co.; American Tobacco Co., Inc.; Brown & Williamson Tobacco Corp.; Liggett & Myers, Inc.; Lorillard Tobacco Co., Inc.; Philip Morris, Inc.; United States Tobacco Co.; B.A.T. Industries, P.L.C.; The Council For Tobacco Research--U.S.A., Inc.; and Tobacco Institute, Inc.,* Case No. 97 CV 3432, in the district court for the city and county of Denver.

(4) On September 1, 1998, and on September 1 of each year thereafter, the state treasurer shall certify to the general assembly the amount of interest actually earned on the principal of the Fitzsimons trust fund during the previous fiscal year and shall provide an estimate of the interest expected to be earned on such principal during the current fiscal year.

(5) Moneys in the Fitzsimons trust fund may be appropriated to pay for capital construction projects for the university of Colorado health sciences center at the former Fitzsimons Army base that have received the prior approval of the board of regents of the university of Colorado, the Colorado commission on higher education, the capital development committee, the general assembly, and the joint budget committee or for lease payments on any lease-purchase agreement authorized pursuant to section 3 of House Bill 03-1256, as enacted at the first regular session of the sixty-fourth general assembly.

(6) The creation of the Fitzsimons trust fund shall in no way reduce or eliminate the opportunity of the university of Colorado health sciences center to seek funding for capital and controlled maintenance projects through the normal annual capital development committee prioritization process.

(7) All interest derived from the deposit and investment of moneys in the Fitzsimons trust fund shall be credited to said fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the Fitzsimons trust fund shall remain therein and shall not be credited or transferred to the general fund or any other fund.

(8) This section is repealed, effective July 1, 2032.

Source: L. 98: Entire section added, p. 804, § 1, effective May 22. **L. 99:** (7) amended, p. 624, § 23, effective August 4. **L. 2002:** (3) amended, p. 152, § 7, effective March 27. **L. 2003:** (3)(a) and (5) amended and (3.5) added, p. 1378, § 8, effective April 28. **L. 2004:** (3.5)(a) amended, p. 1709, § 6, effective June 4; (3)(a) amended, p. 1213, § 106, effective August 4. **L. 2005:** (3.5)(a) amended, p. 767, § 34, effective June 1. **L. 2006:** (3.5)(a) amended, p. 1036, § 4, effective May 25. **L. 2008:** (8) amended, p. 297, § 1, effective April 3. **L. 2009:** (3.5)(a) amended, (SB 09-269), ch. 333, p. 1766, § 4, effective June 1; (3)(a) amended, (SB 09-228), ch. 410, p. 2257, § 6, effective July 1. **L. 2010:** (3)(c) and (3)(d) added, (HB 10-1389), ch. 206, p. 897, § 9, effective May 5. **L. 2016:** (3)(b) repealed and (3.5)(a) amended, (HB 16-1408), ch. 153, pp. 472, 461, §§ 26, 4, effective July 1.

Cross references: For the legislative declaration contained in the 2003 act amending subsections (3)(a) and (5) and enacting subsection (3.5), see section 1 of chapter 190, Session Laws of Colorado 2003.

23-20-137. Health sciences center - disposition of property - use of proceeds. (1) On or before June 30, 2004, the university of Colorado shall develop a master plan for the development, sale, and use of the campus at ninth avenue and Colorado boulevard and the university of Colorado hospital.

(2) On or before June 30, 2006, the university of Colorado shall enter into an agreement with a third-party master developer to carry out the development, sale, or use of the real estate interests of the university of Colorado in the campus at ninth avenue and Colorado boulevard, including, but not limited to, the university's real estate interests in the ground leased to the university of Colorado hospital, that will maximize the moneys available for the move of the Colorado health sciences center to the former Fitzsimons Army base.

(3) (a) For purposes of this subsection (3), unless the context otherwise requires, "net proceeds from ninth avenue and Colorado boulevard" means the proceeds from the sale, ground lease, or other disposition of the real estate interest of the university of Colorado in the ninth

avenue and Colorado boulevard campus, including, but not limited to, the university's interests in the ground leased to the university of Colorado hospital, less actual and reasonable costs of completing the transaction and less any unsatisfied debt or other obligation relating to such real estate interests.

(b) Of the net proceeds from ninth avenue and Colorado boulevard, up to fifteen million dollars shall be deposited into the general fund. Any net proceeds from ninth avenue and Colorado boulevard in excess of fifteen million dollars shall be divided equally with one-half being deposited into the general fund and one-half being retained by the university of Colorado for the development of the Fitzsimons campus.

Source: L. 2003: Entire section added, p. 1378, § 7, effective April 28.

Cross references: For the legislative declaration contained in the 2003 act enacting this section, see section 1 of chapter 190, Session Laws of Colorado 2003.

23-20-138. Health sciences center - definitions - accountable student program - creation. (1) As used in this section, unless the context otherwise requires:

(a) "Accountable student" means a person who, as of the date of his or her selection for admission into a university of Colorado at Denver and health sciences center professional health care program, will not be receiving funding from the state of Colorado or a cooperative state for any portion of the costs incurred in participating in a university of Colorado at Denver and health sciences center professional health care program.

(b) "Board" means the board of regents of the university of Colorado.

(c) "Cooperative state" means a state that has entered into a cooperative agreement with the state of Colorado pursuant to section 24-60-601, C.R.S.

(d) "Special support fee" means the fee determined by the board pursuant to subsection (5) of this section to reflect the difference between the actual costs of education for an accountable student enrolled in a university of Colorado at Denver and health sciences center professional health care program and the tuition assessed to the accountable student.

(2) The board is hereby authorized to enter into a contract concerning the assessment of a special support fee with each accountable student.

(3) Each accountable student shall enter into a contract with the board that shall provide that, as a condition of the accountable student's continued enrollment in a university of Colorado at Denver and health sciences center professional health care program, a special support fee shall be paid annually to the board by or on behalf of the accountable student pursuant to subsection (4) of this section.

(4) Beginning in the 2006-07 academic year, the board may annually assess each accountable student a special support fee as the board determines necessary pursuant to subsection (5) of this section. The fee required to be collected pursuant to this subsection (4) is based on an accountable student's status as an accountable student at the time of selection for admission into a university of Colorado at Denver and health sciences center professional health care program and shall not be reduced or waived regardless of the accountable student's future status as an in-state student, pursuant to the provisions of section 23-7-103, at any time during the accountable student's participation in a university of Colorado at Denver and health sciences center professional health care program. If after the first year the accountable student ceases to

participate in his or her university of Colorado at Denver and health sciences center professional health care program for reasons other than a medical disability, he or she shall repay to the university of Colorado at Denver and health sciences center professional health care program the difference between the amount paid for the special support fee and the amount of tuition that would have been otherwise assessed to the accountable student.

(5) The board shall determine annually the amount of the special support fee based on recommendations from each university of Colorado at Denver and health sciences center campus offering professional health care program courses.

(6) **[*Editor's note: This version of subsection (6) is effective until July 1, 2021.*]** The fee-for-service contract negotiated between the board and the department of higher education pursuant to section 23-18-303 shall specify the amount of funding for educational services provided to graduate students by the state of Colorado. A graduate student receiving educational services paid for by the state of Colorado is not eligible to be an accountable student.

(6) **[*Editor's note: This version of subsection (6) is effective July 1, 2021.*]** The fee-for-service contract negotiated between the board and the department of higher education pursuant to section 23-18-303.5 must specify the amount of funding for educational services provided to graduate students by the state of Colorado. A graduate student receiving educational services paid for by the state of Colorado is not eligible to be an accountable student.

Source: L. 2006: Entire section added, p. 522, § 1, effective August 7. **L. 2014:** (6) amended, (HB 14-1319), ch. 169, p. 614, § 13, effective May 9. **L. 2020:** (6) amended, (HB 20-1366), ch. 181, p. 835, § 15, effective July 1, 2021.

23-20-139. Retirement plan - eligibility - election. (1) (a) The university of Colorado president, chancellors, deans, other professionals exempt from the state personnel system, and faculty as determined by the board of regents to be eligible to participate in a university of Colorado retirement plan shall be members of a university retirement plan and covered under social security if required by federal law; except that, upon initial appointment to or employment in a position described in this subsection (1), an employee who is a member or inactive member of the association shall elect, within thirty days after such appointment, either to join the association in accordance with the provisions of article 51 of title 24, C.R.S., or to participate in a university retirement plan.

(b) For purposes of this section, "association" means the public employees' retirement association created pursuant to section 24-51-201, C.R.S.

(2) An election made by an employee pursuant to subsection (1) of this section shall be irrevocable and shall remain the election of the employee at any time the employee is employed by the university in a position described in subsection (1) of this section.

(3) An election to participate in a university retirement plan pursuant to subsection (1) of this section shall be in writing and shall be filed with the association and with the university in a manner prescribed by the university.

(4) An election to join the association pursuant to the provisions of this section shall be in writing in the manner provided by the association and shall be filed with the association no more than thirty days after the election.

(5) If an employee fails to make an election pursuant to the provisions of this section, the employee shall be a member of the association.

(6) The university shall be solely responsible for educating employees and providing information to employees about the process provided in this section and for the administration of the process.

(7) Administrative actions or civil actions brought by employees to dispute the election for participation or failure to elect participation in the association or a university retirement plan shall commence within one hundred eighty days after the election or within one hundred eighty days after the date on which the employee may make an election to participate in such plan pursuant to this section, whichever is earlier, and not thereafter.

Source: L. 2009: Entire section added, (SB 09-157), ch. 146, p. 612, § 1, effective August 5.

23-20-140. Partnership for rural education preparation - created - report. (1) (a) The general assembly finds that:

(I) There is a teacher shortage across the state, particularly in rural areas, which jeopardizes Colorado's ability to maintain the highest standards in education delivery;

(II) There are various causes of the teacher shortage; and

(III) There are resources available, and potentially available, that could help alleviate the teacher shortage; however, due to the unique causes of teacher shortages across the state, there is a need for collaboration to connect local education providers with resources to develop customized solutions.

(b) Therefore, the general assembly declares that the creation of a partnership for rural education is an effective way to reduce teacher shortages in Colorado.

(2) There is created the partnership for rural education preparation on the Denver campus of the university of Colorado, referred to in this section as the "partnership", to collaborate with other institutions of higher education to bring customized solutions to local education providers to address teacher shortages. Subject to available appropriations, and in collaboration with local education providers, the partnership shall work with identified local education providers to:

(a) Regularly collect and report data on the current and projected hiring needs for the local education provider, including turnover trends, for teachers by geographic and content area;

(b) Determine the causes of teacher shortages;

(c) Identify available and potentially available resources that align supply and demand when addressing the teacher shortages;

(d) Connect these resources to the local education provider through customized solutions targeted to the specific causes of the teacher shortage for the local education provider;

(e) To the extent possible, identify methods for improving diversity of teachers; and

(f) Provide technical assistance in implementing the local education provider's customized solution.

(3) The partnership shall prepare and submit an annual report for each year in which the partnership is operating to the department of education, the department of higher education, and the education committees of the house of representatives and the senate, or any successor committees, concerning data collected and strategies identified by the partnership to address teacher shortages across the state.

(4) Notwithstanding the provisions of section 23-1-104 (1) to the contrary, the appropriation of money for purposes of this section is not included within the single line item appropriation to the regents of the university of Colorado. Any unexpended and unencumbered money appropriated for purposes of this section remains available for expenditure for purposes of this section in the next fiscal year without further appropriation.

Source: L. 2018: Entire section added, (HB 18-1309), ch. 269, p. 1663, § 9, effective August 8.

PART 2

TOBACCO-RELATED AND
TOBACCO-FOCUSED RESEARCH

23-20-201 to 23-20-208. (Repealed)

Source: L. 2016: Entire part repealed, (HB 16-1408), ch. 153, p. 472, § 26, effective July 1.

Editor's note: This part 2 was added in 2000. For amendments to this part 2 prior to its repeal in 2016, consult the 2015 Colorado Revised Statutes and the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

ARTICLE 20.3

Communications and Information Technology

23-20.3-101 to 23-20.3-106. (Repealed)

Source: L. 2000: Entire article repealed, p. 18, § 2, effective August 2.

Editor's note: This article was added in 1999 and was not amended prior to its repeal in 2000. For the text of this article prior to 2000, consult the 1999 Colorado Revised Statutes.

ARTICLE 20.5

Dental School

23-20.5-101. Dental school tuition. (1) Tuition for students enrolled in dental programs under the university of Colorado as dental hygiene, dental assistants, or dental lab technician students shall be the same as those as are established for the school of nursing. Tuition for students enrolled as dental students or dental clinical specialty students shall be established by the board of regents of the university of Colorado.

(2) (a) The regents of the university of Colorado are hereby authorized to reduce, by an amount not to exceed eighty-seven and one-half percent, the yearly tuition charged to dental

students who qualify as resident students pursuant to article 7 of this title, for each such student who shall agree to practice dentistry upon graduation for one year, for each year in which a reduction is made, in an area of the state determined by the regents to be in need of additional dentists. The regents shall adopt the necessary rules, regulations, and contractual procedures necessary to implement the provisions of this subsection (2), as determined by the attorney general to be enforceable under the laws of Colorado. The provisions of this paragraph (a) apply to students enrolled in dental programs prior to September 30, 1982.

(b) The regents of the university of Colorado, in setting dental school tuition policy, shall require that, among any other requirements that may be established for graduation, a matriculated dental student who enrolls in the dental program on or after September 30, 1982, shall devote not less than one academic year to the provision of direct clinical dental services to any area or location within the state determined by the regents to be in need of additional dentists or dental services. In no event shall a dental student receive a degree from the university of Colorado in the field of dentistry unless such requirement has been fulfilled.

(c) Students enrolled in the dental program and paying tuition under the tuition policy program pursuant to the provisions of paragraph (a) of this subsection (2) may, at their option, participate in the dental program established pursuant to paragraph (b) of this subsection (2).

Source: L. 73: p. 163, § 3. **L. 82:** Entire section amended, p. 345, § 1, effective April 2.

Cross references: For classification of students for tuition purposes, see article 7 of this title.

ARTICLE 21

University of Colorado
University Hospital - Centers

PART 1

UNIVERSITY OF COLORADO UNIVERSITY HOSPITAL

23-21-101 to 23-21-114. (Repealed)

Source: L. 91: Entire part repealed, p. 589, § 14, effective October 1.

Editor's note: (1) This part 1 was repealed in House Bill 89-1143, enacted by the General Assembly at its first regular session in 1989, as a conforming amendment necessitated by the authorization for the operation of the university of Colorado university hospital by a nonprofit-nonstock corporation. The Colorado Supreme Court subsequently declared House Bill 89-1143 unconstitutional in its entirety. See *Colorado Association of Public Employees v. Board of Regents,* 804 P.2d 138 (Colo. 1990). Senate Bill 91-225, enacted by the General Assembly at its first regular session in 1991, authorized the operation of university hospital by a newly created university of Colorado hospital authority. Since the previous act was declared unconstitutional in its entirety, the General Assembly elected to make a similar conforming

amendment to this part 1 in Senate Bill 91-225. For further explanation of the circumstances surrounding the enactment of Senate Bill 91-225, see the legislative declaration contained in section 1 of chapter 99, Session Laws of Colorado 1991.

(2) This part 1 was numbered as article 4 of chapter 124, C.R.S. 1963. For amendments to this part 1 prior to its repeal in 1991, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

PART 2

SICKLE-CELL ANEMIA TREATMENT AND RESEARCH CENTER

23-21-201. Legislative declaration. In order to foster the health, welfare, and safety of the people of this state and to facilitate the research and treatment of sickle-cell anemia and related diseases, it is hereby declared to be the policy of this state to achieve the maximum practical degree of care and treatment for persons suffering from this and related diseases.

Source: L. 73: p. 767, § 1. **C.R.S. 1963:** § 66-42-1.

23-21-202. Definitions. As used in this part 2, unless the context otherwise requires:

(1) "Committee" means the sickle-cell anemia advisory committee.

(2) "Sickle-cell anemia" means an inherited blood disease caused by abnormal hemoglobin (oxygen-carrying pigment) in the red blood cells, causing the red blood cells to form a crescent or sickle shape when deprived of sufficient oxygen.

Source: L. 73: p. 767, § 1. **C.R.S. 1963:** § 66-42-2.

23-21-203. Center created - committee established. (1) There is hereby established the sickle-cell anemia treatment and research center within the university of Colorado school of medicine. Such treatment center shall use existing facilities and staff of the university of Colorado school of medicine and may establish programs for the care and treatment of persons suffering from sickle-cell anemia as they are needed. The treatment center shall assist those persons who require continuing treatment for sickle-cell anemia but who are unable to pay for the entire cost of such services on a continuing basis despite the existence of various types of hospital and medical insurance, medicare, medicaid, and other government assistance programs, and private charitable assistance.

(2) (a) The governor shall appoint a committee, to be known as the sickle-cell anemia advisory committee, to consult with the university of Colorado school of medicine in the administration of this part 2. The committee shall be composed of eleven members representing hospitals, voluntary agencies interested in sickle-cell anemia, medical specialists in sickle-cell anemia patient care, and the general public; but no group shall have more than four members on the committee. Each member of the committee shall hold office for a term of four years and until his successor is appointed and qualified; except that, of those members first appointed, two shall be appointed for one-year terms, three shall be appointed for two-year terms, three shall be appointed for three-year terms, and three shall be appointed for four-year terms. Any vacancy

occurring on the committee shall be filled by appointment by the governor for the unexpired term. The committee shall meet at least annually and at such other times as the executive director of the department of public health and environment deems necessary. Members of the committee shall receive no compensation but shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties.

(b) Repealed.

Source: L. 73: p. 767, § 1. **C.R.S. 1963:** § 66-42-3. **L. 74:** (2) amended, p. 411, § 38, effective April 11. **L. 86:** (2) amended, p. 413, § 22, effective March 26. **L. 89:** (2)(b) repealed, p. 1147, § 3, effective April 6. **L. 94:** (2)(a) amended, p. 2738, § 370, effective July 1.

Cross references: For the legislative declaration contained in the 1994 act amending subsection (2)(a), see section 1 of chapter 345, Session Laws of Colorado 1994.

23-21-204. Duties of the school of medicine. (1) It is the duty of the school of medicine, with the advice of the committee, to:

(a) Develop standards for determining eligibility for care and treatment under this part 2;

(b) Assist in the development and expansion of programs for the care and treatment of persons suffering from sickle-cell anemia, including home care and medical procedures designed to provide maximum control over the disease;

(c) Extend financial assistance to persons suffering from sickle-cell anemia to obtain efficacious agents of control for use in hospital and medical facilities and in the home;

(d) Institute and carry on educational programs for the detection of sickle-cell anemia in the community and for the counseling of individuals and families;

(e) Conduct educational programs for physicians, hospitals, county and district public health agencies, and the public concerning the methods of care and treatment for persons suffering from the disease;

(f) Establish research programs to promote scientific inquiry into the causes and the possible cure or alleviation of the suffering of victims of sickle-cell anemia.

Source: L. 73: p. 768, § 1. **C.R.S. 1963:** § 66-42-4. **L. 2010:** (1)(e) amended, (HB 10-1422), ch. 419, p. 2080, § 55, effective August 11.

PART 3

HEMOPHILIA TREATMENT CENTER

23-21-301. Legislative declaration. In order to foster the health, welfare, and safety of the people of this state and to facilitate the research and treatment of hemophilia and related diseases, it is hereby declared to be the policy of this state to achieve the maximum practical degree of care and treatment for persons suffering from hemophilia and other related diseases.

Source: L. 73: p. 770, § 1. **C.R.S. 1963:** § 66-43-1.

23-21-302. Definitions. As used in this part 3, unless the context otherwise requires:

(1) "Committee" means the hemophilia advisory committee.

(2) "Hemophilia" means a bleeding tendency resulting from a genetically determined deficiency factor in the blood.

Source: L. 73: p. 770, § 1. **C.R.S. 1963:** § 66-43-2.

23-21-303. Center created - committee established. (1) There is hereby established the hemophilia treatment center within the university of Colorado school of medicine. Such treatment center shall use existing facilities and staff of the university of Colorado school of medicine and may establish programs for the care and treatment of persons suffering from hemophilia as they are needed. The hemophilia treatment center shall assist those persons who require continuing treatment with blood, blood derivatives, or a manufactured pharmaceutical product to avoid crippling, hospitalization, or other effects associated with hemophilia but who are unable to pay for the entire cost of such services on a continuing basis despite the existence of various types of hospital and medical insurance, medicare, medicaid, other government assistance programs, and private charitable assistance.

(2) (a) The governor shall appoint a committee to consult with the school of medicine in the administration of this part 3. The committee shall be composed of eleven members representing hospitals, voluntary agencies interested in hemophilia, medical specialists in hemophilia patient care, and the general public; but no group shall have more than four members on the committee. Each member of the committee shall hold office for a term of four years and until his successor is appointed and qualified; except that, of those members first appointed, two shall be appointed for one-year terms, three shall be appointed for two-year terms, three shall be appointed for three-year terms, and three shall be appointed for four-year terms. Any vacancy occurring on the committee shall be filled by appointment by the governor for the unexpired term. The committee shall meet at least annually and at such other times as the governor deems necessary. Members of the committee shall receive no compensation but shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties.

(b) Repealed.

Source: L. 73: p. 770, § 1. **C.R.S. 1963:** § 66-43-3. **L. 86:** (2) amended, p. 413, § 23, effective March 26. **L. 89:** (2)(b) repealed, p. 1147, § 3, effective April 6.

23-21-304. Duties of the school of medicine. (1) It is the duty of the school of medicine, with the advice of the committee, to:

(a) Develop standards for determining eligibility for care and treatment under this part 3;

(b) Assist in the development and expansion of programs for the care and treatment of persons suffering from hemophilia, including home care and medical and dental procedures designed to provide maximum control over bleeding;

(c) Extend financial assistance to persons suffering from hemophilia to obtain blood, blood derivatives and concentrates, and other efficacious agents for use in hospital, medical, and dental facilities and in the home;

(d) Institute and carry on educational programs for the detection of hemophilia in the community and for the counseling of individuals and families;

(e) Conduct educational programs for physicians, dentists, hospitals, county or district public health agencies, and the public concerning the methods of care and treatment for persons suffering from hemophilia.

Source: L. 73: p. 771, § 1. **C.R.S. 1963:** § 66-43-4. **L. 2010:** (1)(e) amended, (HB 10-1422), ch. 419, p. 2081, § 56, effective August 11.

PART 4

OPERATION OF UNIVERSITY HOSPITAL

23-21-401 to 23-21-411. (Repealed)

Source: L. 91: Entire part repealed, p. 589, § 14, effective October 1.

Editor's note: (1) This part 4 was enacted in House Bill 89-1143, enacted by the General Assembly at its first regular session in 1989, authorizing the operation of the university of Colorado university hospital by a nonprofit-nonstock corporation. The Colorado Supreme Court subsequently declared House Bill 89-1143 unconstitutional in its entirety. See *Colorado Association of Public Employees v. Board of Regents,* 804 P.2d 138 (Colo. 1990). Senate Bill 91-225, enacted by the General Assembly at its first regular session in 1991, authorized the operation of university hospital by a newly created university of Colorado hospital authority. Since the previous act was declared unconstitutional in its entirety, the General Assembly elected to repeal this part 4 in Senate Bill 91-225. For further explanation of the circumstances surrounding the enactment of Senate Bill 91-225, see the legislative declaration contained in section 1 of chapter 99, Session Laws of Colorado 1991.

(2) This part 4 was added in 1989. For amendments to this part 4 prior to its repeal in 1991, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

PART 5

UNIVERSITY OF COLORADO HOSPITAL AUTHORITY

23-21-501. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) The mission of the university of Colorado university hospital is to facilitate and support the education, research, and public service activities of the health sciences schools operated by the regents of the university of Colorado and to provide patient care, including care for the medically indigent, and specialized services not widely available elsewhere in the state and region;

(b) In order to provide for the education and training of health care professionals, to provide a clinical setting for biomedical research, to ensure the availability of quality patient care including specialized medical services not otherwise widely available, and to provide for

the care and treatment of the medically indigent, it is necessary that the university of Colorado university hospital be a facility of the finest possible quality;

(c) The present university of Colorado university hospital is unable to become and remain economically viable due to constraints imposed by being subject to various kinds of government policy and regulation;

(d) Unless the university of Colorado university hospital can become and remain economically viable, it will become ever more dependent upon state subsidies, and the quality of medical service and education will inevitably decline;

(e) The needs of the citizens of the state of Colorado and of the university of Colorado health sciences schools will be best served if the university of Colorado university hospital is operated by a quasi-governmental and corporate entity charged with the mission of operating a teaching hospital for the benefit of the health sciences schools and providing care for the medically indigent;

(f) Subject to the provisions of section 25.5-3-102 (2), C.R.S., the authority to be created pursuant to this part 5 to operate the university of Colorado university hospital by receiving its assets and operating obligations shall continue to subsidize the costs of delivering medically indigent care in excess of the state reimbursement for the medically indigent. Consistent with the university of Colorado university hospital's past policy and performance, the authority will make every reasonable effort to continue the hospital's historic commitment to the provision of uncompensated care and shall allocate and invest its resources with a view to maximizing the hospital's long-term ability to provide uncompensated care.

Source: L. 91: Entire part added, p. 556, § 2, effective June 1. **L. 2006:** (1)(f) amended, p. 2006, § 66, effective July 1.

23-21-502. Definitions. As used in this part 5 and part 6 of this article, unless the context otherwise requires:

(1) "Authority" means the political subdivision and body corporate called the university of Colorado hospital authority created by this part 5.

(2) "Board of directors" means the board of directors of the authority.

(3) "Health sciences schools" means the schools of medicine, dentistry, nursing, pharmacy, and any other schools operated by the regents of the university of Colorado at the university health sciences center.

(4) "Hospital assets" means all property or rights in property, real and personal, tangible and intangible existing on the transfer date under this part 5, used by or accruing to university hospital in the normal course of its operations as a teaching, research, and medical treatment facility.

(5) "Hospital liabilities" means all debts or other obligations, contingent or certain, owing on the transfer date under this part 5 to any person or other entity arising out of the operation of university hospital as a medical treatment facility, and including, without limitation, all debts for the purchase of goods and services, whether or not delivered, and obligations for the delivery of services, whether or not performed.

(6) "Part 4 corporation" means the nonprofit-nonstock corporation created on July 24, 1989, to operate university hospital.

(7) "PERA" means the public employees' retirement association created in part 2 of article 51 of title 24, C.R.S.

(8) "Regents" means the board of regents of the university of Colorado.

(9) "State employee" means a person employed by the state whether or not a classified employee in the state personnel system.

(10) "Transfer date under this part 5" or "authority's transfer date" means a date agreed to by the regents and the authority for the transfer of hospital assets to and the assumption of hospital liabilities by such authority.

(11) "University hospital" means the hospital and clinics created and operated by the regents of the university of Colorado under section 5 of article VIII of the Colorado constitution.

Source: L. 91: Entire part added, p. 557, § 2, effective June 1.

23-21-503. University of Colorado hospital authority. (1) There is hereby created the university of Colorado hospital authority, which shall be a body corporate and a political subdivision of the state, which shall not be an agency of state government, and which shall not be subject to administrative direction or control by the regents or by any department, commission, board, bureau, or agency of the state.

(2) The authority shall be governed by an eleven-member board of directors who shall be appointed by the regents. The board of directors shall control the day-to-day operation of university hospital. There shall be a director appointed from each congressional district. One director shall reside west of the continental divide, and not more than four directors shall be employees of the university of Colorado or of the authority. The appointment of the directors from the congressional districts shall be subject to the advice and consent of the senate. Of the directors first appointed, four shall serve terms of two years and five shall serve terms of four years. Nothing in this subsection (2) shall be construed to limit the power of the regents to appoint persons as directors of the authority who are directors of the part 4 corporation. Each director appointed from a congressional district, whether appointed for an unexpired term or a full term, shall be deemed duly appointed and qualified until the appointment of the director is approved or rejected by the senate. If the general assembly is not in regular session at the time the appointment is made or is in regular session but does not consider the appointment before adjourning, the appointment shall be submitted to the senate for its approval or rejection during the next regular session of the general assembly following the appointment.

(3) Each member of the board of directors shall hold office for such member's term and until a successor is appointed and qualified. Any member shall be eligible for reappointment, but members shall not be eligible to serve more than two consecutive full terms. Members of the board shall receive no compensation for such services but shall be reimbursed for their necessary expenses while serving as a member of the board. Any vacancy shall be filled by the regents.

(4) Any member of the board of directors may be removed by the regents for malfeasance in office, failure to regularly attend meetings, or for any cause which renders said member incapable of or unfit to discharge the duties of director.

(5) No part of the revenues or assets of the authority shall inure to the benefit of, or be distributed to, its board of directors or officers or any other private person or entity; except that the authority may make reasonable payments for expenses incurred on its behalf relating to any

of its lawful purposes and the authority shall be authorized and empowered to pay reasonable compensation for services rendered to or for its benefit relating to any of its lawful purposes.

(6) The authority and its corporate existence shall continue until terminated by law; except that no such law shall take effect so long as the authority has bonds, notes, or other obligations outstanding, unless adequate provision has been made for the payment thereof.

Source: L. 91: Entire part added, p. 558, § 2, effective June 1. **L. 2008:** (2) amended, p. 28, § 1, effective August 5.

Cross references: For the provisions that designate the university of Colorado hospital authority as a "special purpose authority" for the purposes of section 20 of article X of the Colorado constitution, see § 24-77-102 (15).

23-21-504. Mission of the authority - obligation to provide uncompensated care - action of the board of directors. (1) The mission of the authority shall be the operation of university hospital as a state of the art teaching and research hospital providing comprehensive medical care, including tertiary care, and patient care of limited availability. The authority shall also provide space and facilities as necessary for the operation of the clinical programs of the health sciences schools at the health sciences center together with the university of Colorado psychiatric hospital, and, subject to the provisions of section 25.5-3-102 (2), C.R.S., the provision of medical care to those eligible for payment assistance through any program for the benefit of the medically indigent. For every three dollars of moneys appropriated by the general assembly that is distributed to the authority for the state medically indigent program, the authority shall provide four dollars worth of medically indigent care.

(2) The board of directors shall award hospital privileges only to health care providers who are faculty members of the health sciences schools of the university of Colorado.

(3) The board of directors shall not transfer the authority's assets or the hospital's assets to any person or entity except the regents.

(4) Upon the dissolution of the authority, all assets of the authority, after the satisfaction of creditors, shall revert to the regents.

(5) The business activities of the authority, including any joint ventures, shall be primarily in furtherance or in support of the mission of the hospital as the same is specified in subsection (1) of this section.

Source: L. 91: Entire part added, p. 560, § 2, effective June 1. **L. 2006:** (1) amended, p. 2006, § 67, effective July 1.

23-21-505. Authorization for transfer of hospital assets and liabilities to authority. (1) Following the creation of the authority and on the transfer date under this part 5, the regents shall have the authority to lease, convey, or otherwise transfer to the authority some or all hospital assets, except land which may be leased to the authority for a term not to exceed ninety-nine years. Any such lease, conveyance, or transfer shall be on such terms as may be approved by the regents and in consideration of the authority's agreement to assume the hospital liabilities and to continue to support the education, research, patient care, care to the medically indigent, and public service activities of the university of Colorado.

(2) Any transfer of hospital assets to the authority pursuant to this section shall be conditioned upon the existence of a binding agreement between the regents and the authority which provides that, effective on the transfer date under this part 5 and thereafter, the authority shall assume responsibility for and shall defend, indemnify, and hold harmless the regents and the state and the part 4 corporation and its officers and directors with respect to:

(a) All liabilities and duties of the regents pursuant to contracts, agreements, and leases for commodities, services, and supplies utilized by university hospital, including real property leases;

(b) All claims related to the employment relationship between employees of the authority and the authority on and after the transfer date under this part 5;

(c) All claims for breach of contract resulting from the authority's action or failure to act on and after the transfer date under this part 5;

(d) All claims related to the authority's errors and omissions including, but not limited to: Medical malpractice; directors and officers liability; workers' compensation; automobile liability; and premises, completed operations, and products liability; and

(e) All claims related to the part 4 corporation's errors and omissions prior to the transfer date under this part 5, including, but not limited to: Medical malpractice; directors and officers liability; workers' compensation; automobile liability; and premises, completed operations, and products liability.

(3) Any transfer of hospital assets to the authority shall be further conditioned upon the existence of a binding agreement between the regents and the authority by which the authority shall accept and agree to abide by the provisions set forth in section 23-21-504 concerning the mission of the authority, the provisions in sections 23-21-507 and 23-21-508, and the provisions of part 6 of this article concerning employees of university hospital, the part 4 corporation, and the authority.

Source: L. 91: Entire part added, p. 560, § 2, effective June 1.

23-21-506. Relationship between authority and regents. (1) Following the creation of the authority and on the transfer date under this part 5, and except for the power of the regents to appoint members of the board of directors, the regents shall have no further control over the operation of university hospital but shall be authorized to:

(a) At such future date as the regents shall determine it to be necessary and for the purpose of preserving the certification of the university of Colorado psychiatric hospital and eligibility for federal funds thereunder, transfer some or all of the assets of the university of Colorado psychiatric hospital to the authority operating university hospital pursuant to the provisions of this article; except that the director of the university of Colorado psychiatric hospital shall at all times be a professor of psychiatry in the school of medicine of the university of Colorado. The transfer of assets of the university of Colorado psychiatric hospital shall be conditional upon the provision of retirement benefits and the protection of accrued sick leave and annual leave under sections 23-21-507 and 23-21-508 for state employees of the psychiatric hospital who become employees of the authority.

(b) Notwithstanding the provisions of the "Procurement Code", articles 101 through 112 of title 24, C.R.S., enter into contracts with the authority for the provision of goods, services, and facilities in support of programs of the university of Colorado; except that moneys paid to either

the regents or the authority under said contracts shall not exceed a reasonable estimate of actual cost of the goods, services, or facilities.

(c) In the regents' discretion, provide the authority and its employees with medical malpractice liability coverage from any self-insurance trust fund established pursuant to section 24-10-115, C.R.S., or any other provision of state law, or through such other fund or mechanism which may be available for the provision of such coverage by the regents to university of Colorado employees, at such cost as would be actuarially sound.

Source: L. 91: Entire part added, p. 561, § 2, effective June 1.

23-21-507. Personnel. (1) Any employee of university hospital who is a state employee on the transfer date under this part 5 may elect to remain a state employee or become an employee of the authority. Said employee may elect to become an employee of the authority at any time but shall not thereafter return to state employment status while employed by the authority. No state employee shall be discriminated against in training, promotion, retention, assignment of duties, granting of rights and benefits, or any other personnel action. Promotion or a change in position shall not be contingent upon the employee becoming an employee of the authority.

(2) Any employee who elects to remain a state employee shall retain all rights and privileges of the state employment status which is applicable to such employee's position.

(3) In the case of any dispute involving an employee who is a member of the state personnel system, university hospital and the authority shall agree to accept resolution of all disciplinary appeals or other employment disputes governed by the statutes of the state personnel system or the rules of the state personnel department according to the rules and procedures applicable to members of the state personnel system.

(4) Any employee who elects to become an employee of the authority shall receive full credit for sick leave and annual leave accrued while employed by university hospital.

(5) Any employee initially employed by the authority operating university hospital pursuant to this part 5 on or after the transfer date under this part 5 shall be deemed to be an employee of the authority created under this part 5 and not a state employee.

(6) The authority is authorized to contract with the university of Colorado health sciences center through the state personnel board pursuant to section 13 (4) of article XII of the state constitution for personnel.

Source: L. 91: Entire part added, p. 562, § 2, effective June 1.

23-21-508. Retirement benefits - rights of former state employees - PERA membership. (1) Any employee initially employed by the authority on and after the transfer date under this part 5 shall be eligible for membership in the authority's qualified retirement plan.

(2) (a) Any employee of university hospital who was a member of PERA on the transfer date under this part 5 and who elects to become an employee of the authority pursuant to section 23-21-507 (1) shall have such employee's active membership in PERA terminated and shall be provided retirement benefits in accordance with this subsection (2).

(b) Any employee of university hospital who elects to become an employee of the authority, and who has less than five years of service credit at the time such employee's active membership in PERA was terminated, may elect to have such employee's member contributions to PERA credited to the authority's qualified retirement plan. Any employee who so elects shall receive from the authority, upon retirement, a benefit which, when combined with social security, is at least equal to the benefit such employee would have received from PERA if such employee had continued to earn PERA service credit until retirement or the date upon which the employee ceases to be an employee of the authority. The calculation of such benefit shall be based upon the PERA benefit plan in effect on the transfer date under this part 5. Any employee who elects not to have such employee's member contributions credited to the authority's qualified retirement plan shall be entitled only to those retirement benefits provided in accordance with such plan.

(c) (I) Any employee of university hospital who elects to become an employee of the authority, and who has five or more years of service credit at the time such employee's active membership in PERA was terminated, may elect either to become a vested inactive member of PERA or to have such employee's member contributions to PERA credited to the authority's qualified retirement plan.

(II) Any employee who becomes a vested inactive member of PERA shall receive from the authority, upon retirement, a benefit which, when combined with social security and the PERA retirement benefit earned by the employee, is at least equal to the benefit such employee would have received from PERA had such employee continued to earn PERA service credit until retirement or the date upon which the employee ceases to be an employee of the authority. The calculation of such benefit shall be based upon the PERA benefit plan in effect on the transfer date under this part 5.

(III) Any employee who elects to have all member contributions credited to the authority's qualified retirement plan shall receive from the authority, upon retirement, a benefit which, when combined with social security, is at least equal to the benefit such employee would have received from PERA if such employee had continued to earn PERA service credit until retirement or the date upon which the employee ceases to be an employee of the authority. The calculation of such benefit shall be based upon the PERA benefit plan in effect on the transfer date under this part 5.

(IV) The discretion granted to an employee of the corporation by this subsection (2) to elect either vested inactive status in PERA or the crediting of the employee's member contributions to the authority's qualified retirement plan shall not be limited or abridged as a condition of employment or promotion by the authority.

(d) An employee of university hospital who becomes an employee of the authority and whose member contributions in PERA are credited to the authority's qualified retirement plan shall be eligible to purchase service credit for previous employment at university hospital only pursuant to the terms of section 24-51-505, C.R.S.

(3) (a) As soon as practicable after the transfer date under this part 5, and again on each annual anniversary of such transfer date, the board of trustees of PERA shall determine the amount of reserves required to provide benefits and health care to former employees of university hospital who are benefit recipients or vested inactive members of PERA as provided in article 51 of title 24, C.R.S. The amount of reserves required shall be determined by the board of trustees utilizing certified actuarial reports prepared by the board's actuary.

(b) If the amount of reserves on deposit in the state division trust fund of PERA to provide such benefits and health care, as calculated by the actuary, exceeds the amount of reserves required pursuant to paragraph (a) of this subsection (3), then the excess amount shall be paid to a retirement trust established by the authority as further provided in this subsection (3). Such payment shall be made if the actuarial report certifies that the payment will not have an adverse impact on the actuarial soundness of the state division trust fund or the PERA health care trust fund. If the actuary determines, in accordance with accepted actuarial principles, that the payment provided by this paragraph (b) will have an adverse impact on the actuarial soundness of these funds, the payment shall not be permitted.

(c) Not later than one hundred twenty days following the transfer date under this part 5, and again not later than one hundred twenty days following each anniversary date of such transfer date, the board of trustees of PERA shall pay to a retirement trust established by the authority any moneys payable pursuant to paragraph (b) of this subsection (3) together with all member contributions, not previously paid, of all employees electing to have their member contributions credited to the authority's qualified retirement plan pursuant to subsection (2) of this section. PERA shall include interest on such payment for the period from the transfer date under this part 5, or subsequent anniversary of such transfer date, to the date of payment at the rate specified for members in section 24-51-101 (28), C.R.S.

(d) All expenses incurred by the board of trustees of PERA for the preparation of actuarial reports pursuant to paragraph (b) of this subsection (3) shall be paid by the authority. Such expenses shall be deducted from any amounts transferred pursuant to paragraph (c) of this subsection (3). Any actuarial reports prepared pursuant to this subsection (3) shall be made available to the authority upon request.

Source: L. 91: Entire part added, p. 563, § 2, effective June 1. **L. 93:** (3)(b) amended, p. 481, § 14, effective March 1, 1994. **L. 97:** (3)(b) amended, p. 778, § 17, effective July 1. **L. 2004:** (3)(b) amended, p. 1938, § 1, effective January 1, 2006.

23-21-509. Status of part 4 corporation - effect of actions taken by part 4 corporation - validation of certain actions. (1) It is the intent of the general assembly in enacting this section to address the status of the part 4 corporation, and actions taken by such corporation on and after October 1, 1989, as said status and actions relate to the operation of university hospital by the authority. Nothing in this section shall be construed to affect any litigation concerning the part 4 corporation.

(2) The hospital assets and hospital liabilities which existed on September 30, 1989, and which were transferred by the regents to the part 4 corporation on October 1, 1989, shall be transferred to the authority in accordance with the provisions of this part 5.

(3) Any indebtedness or other obligations incurred by the part 4 corporation between October 1, 1989, and the transfer date under this part 5 shall be assumed by the authority on such transfer date.

(4) Any assets acquired by the part 4 corporation between October 1, 1989, and the transfer date under this part 5 may be transferred to the authority on such transfer date.

(5) Any contract, lease, license agreement, credit agreement, or similar business transaction entered into by the part 4 corporation between October 1, 1989, and the transfer date

under this part 5 may be ratified by the authority on or after said transfer date. The ratification of any such transaction shall be in the sole discretion of the authority.

(6) The employees of the part 4 corporation shall be subject to the provisions of part 6 of this article with respect to the employment status and pension status of such employees.

(7) The transfer of moneys from PERA to a qualified retirement plan provided by the part 4 corporation on or after October 1, 1989, is declared to be a valid transfer. The status of the part 4 corporation's qualified retirement plan shall be as provided in section 23-21-604.

(8) The part 4 corporation shall cooperate with the authority in accomplishing the purposes of this section and the remaining provisions of this part 5 and in accomplishing the purposes of part 6 of this article.

Source: L. 91: Entire part added, p. 566, § 2, effective June 1.

23-21-510. Records of board of directors. All resolutions and orders shall be recorded and authenticated by the signature of the secretary or any assistant secretary of the board of directors. Every legislative act of the board of directors of a general or permanent nature shall be by resolution. The book of resolutions, orders, other proceedings of the board of directors, minutes of the meetings, annual reports and monthly financial statements, certificates, contracts and any financial agreements, and bonds given by officers, employees, and any other agents of the authority, and any personnel reports, guidelines, manuals, handbooks, other than individual personnel files shall be a public record as defined in section 24-72-202 (6), C.R.S., and subject to the provisions of part 2 of article 72 of title 24, C.R.S. The account of all moneys received by and disbursed on behalf of the authority shall also be a public record. All records shall be subject to the uniform budget and audit laws and shall be subject to regular audit as provided therein; except that the audit of the authority shall be on a fiscal year that begins on July 1 and ends on June 30. Notwithstanding any provision of this section to the contrary, all writings and other records concerning the modification, initiation, or cessation of patient care programs shall not be deemed to be a public record and shall not be subject to the provisions of this section if premature disclosure of information contained in such writings or other records would give an unfair competitive or bargaining advantage to any person or entity.

Source: L. 91: Entire part added, p. 567, § 2, effective June 1.

23-21-511. Meetings of board of directors. All meetings of the board of directors shall be subject to the provisions of section 24-6-402, C.R.S. No business of the board of directors shall be transacted except at a regular or special meeting at which a quorum consisting of at least a majority of the total membership of the board is present. Any action of the board of directors shall require the affirmative vote of a majority of the total membership of the board.

Source: L. 91: Entire part added, p. 567, § 2, effective June 1.

23-21-512. Disclosure of interests required. Any member of the board of directors and any employee or other agent or adviser of the authority, who has a direct or indirect interest in any contract or transaction with the authority, shall disclose this interest to the authority. This interest shall be set forth in the minutes of the authority, and no director, employee, or other

agent or adviser having such interest shall participate on behalf of the authority in the authorization of any such contract or transaction; except that the provisions of this section shall not be construed to prohibit any employee of the university of Colorado who is a member of the board of directors, who has no personal interest, from voting on the authorization of any such contract or transaction between the authority and the regents.

Source: L. 91: Entire part added, p. 567, § 2, effective June 1.

23-21-513. General powers of the authority. (1) In addition to any other powers granted to the authority in this part 5, the authority shall have the following powers:

(a) To have the duties, privileges, immunities, rights, liabilities, and disabilities of a body corporate and political subdivision of the state;

(b) To have perpetual existence and succession;

(c) To adopt, have, and use a seal and to alter the same at its pleasure;

(d) To sue and be sued;

(e) To enter into any contract or agreement not inconsistent with this part 5 or the laws of this state and to authorize the executive director to enter into contracts, execute all instruments, and do all things necessary or convenient in the exercise of the powers granted in this part 5 and to secure the payment of bonds;

(f) To borrow money and to issue bonds evidencing the same;

(g) To purchase, lease, trade, exchange, or otherwise acquire, maintain, hold, improve, mortgage, lease, sell, and dispose of personal property, whether tangible or intangible, and any interest therein; and to purchase, lease, trade, exchange, or otherwise acquire real property or any interest therein and to maintain, hold, improve, mortgage, lease, and otherwise transfer such real property, so long as such transactions do not interfere with the mission of the authority as specified in section 23-21-504;

(h) To acquire space, equipment, services, supplies, and insurance necessary to carry out the purposes of this part 5;

(i) To deposit any moneys of the authority in any banking institution within or without the state or in any depository authorized in section 24-75-603, C.R.S., and to appoint, for the purpose of making such deposits, one or more persons to act as custodians of the moneys of the authority, who shall give surety bonds in such amounts and form and for such purposes as the board of directors requires;

(j) To contract for and to accept any gifts, grants, and loans of funds, property, or any other aid in any form from the federal government, the state, any state agency, or any other source, or any combination thereof, and to comply, subject to the provisions of this part 5, with the terms and conditions thereof;

(k) To have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted in this part 5, which specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent of this part 5;

(l) To fix the time and place or places at which its regular and special meetings are to be held. Meetings shall be held on the call of the presiding officer, but no less than eight meetings shall be held annually.

(m) To adopt and from time to time amend or repeal bylaws and rules and regulations consistent with the provisions of this part 5; except that article 4 of title 24, C.R.S., shall not apply to the promulgation of any policies, procedures, rules, or regulations of the authority;

(n) To appoint one or more persons as secretary and treasurer of the board and such other officers as the board of directors may determine and provide for their duties and terms of office; except that the president of the university of Colorado shall designate the director who shall be the presiding officer of the board of directors;

(o) To appoint an executive director and such agents, employees, and professional and business advisers as may from time to time be necessary in its judgment to accomplish the purposes of this part 5, to fix the compensation of such executive director, employees, agents, and advisers, and to establish the powers and duties of all such agents, employees, and other persons contracting with the authority;

(p) To waive, by such means as the authority deems appropriate, the exemption from federal income taxation of interest on the authority's bonds, notes, or other obligations provided by the "Internal Revenue Code of 1986", as amended, or any other federal statute providing a similar exemption;

(q) To make and execute agreements, contracts, and other instruments necessary or convenient in the exercise of the powers and functions of the authority under this part 5, including but not limited to contracts with any person, firm, corporation, municipality, state agency, county, or other entity. All municipalities, counties, and state agencies are hereby authorized to enter into and do all things necessary to perform any such arrangement or contract with the authority.

(r) To arrange for guaranties or insurance of its bonds, notes, or other obligations by the federal government or by any private insurer, and to pay any premiums therefor.

Source: L. 91: Entire part added, p. 568, § 2, effective June 1. **L. 2011:** (1)(n) amended, (HB 11-1164), ch. 116, p. 363, § 1, effective April 20.

23-21-514. Bonds and notes. (1) (a) The authority has the power and is authorized to issue from time to time its notes and bonds in such principal amounts as the authority determines to be necessary to provide sufficient funds for achieving any of its corporate purposes, including the payment of interest on notes and bonds of the authority, the establishment of reserves to secure such notes and bonds, and all other expenditures of the authority incident to and necessary or convenient to carry out its corporate purposes and powers.

(b) (I) The authority has the power, from time to time, to issue:

(A) Notes to renew notes;

(B) Bonds to pay notes, including the interest thereon, and, whenever it deems refunding expedient, to refund any bonds whether the bonds to be refunded have or have not matured; and

(C) Bonds partly to refund bonds then outstanding and partly for any of its corporate purposes.

(II) Refunding bonds issued pursuant to this paragraph (b) may be exchanged for the bonds to be refunded or sold and the proceeds applied to the purchase, redemption, or payment of such bonds.

(c) The authority has the power to provide for the replacement of lost, destroyed, or mutilated bonds or notes.

(d) Except as may otherwise be expressly provided by the authority, every issue of its notes and bonds shall be general obligations of the authority payable out of any revenues or moneys of the authority, subject only to any agreements with the holders of particular notes or bonds pledging any particular revenues.

(2) The notes and bonds shall be authorized by a resolution adopted by an affirmative vote of a majority of the members of the board of directors.

(3) Any resolution authorizing any notes or bonds or any issue thereof may contain provisions, which shall be a part of the contract with the holders thereof, as to:

(a) Pledging all or any part of the revenues of the authority to secure the payment of the notes or bonds or of any issue thereof, subject to such agreements with noteholders or bondholders as may then exist;

(b) Pledging all or any part of the assets of the authority to secure the payment of the notes or bonds or of any issue of notes or bonds, subject to such agreements with noteholders or bondholders as may then exist, such assets to include any grant or contribution from the federal government or any corporation, association, institution, or person;

(c) The setting aside of reserves or sinking funds and the regulation and disposition thereof;

(d) Limitations on the purpose to which the proceeds of sale of notes or bonds may be applied and pledging such proceeds to secure the payment of the notes or bonds or of any issue thereof;

(e) Limitations on the issuance of additional notes or bonds, the terms upon which additional notes or bonds may be issued and secured, and the refunding of outstanding or other notes or bonds;

(f) The procedure, if any, by which the terms of any contract with noteholders or bondholders may be amended or abrogated, the amount of notes or bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(g) Limitations on the amount of moneys to be expended by the authority for operating expenses of the authority;

(h) Vesting in a trustee such property, rights, powers, and duties in trust as the authority may determine, which may include any or all of the rights, powers, and duties of the trustee appointed by the bondholders pursuant to this part 5, and limiting or abrogating the right of the bondholders to appoint a trustee under this part 5 or limiting the rights, powers, and duties of such trustee;

(i) Defining the acts or omissions to act which shall constitute a default in the obligations and duties of the authority to the holders of the notes or bonds and providing for the rights and remedies of the holders of the notes or bonds in the event of such default, including as a matter of right the appointment of a receiver; except that such rights and remedies shall not be inconsistent with the general laws of this state and the other provisions of this part 5;

(j) Any other matters, of like or different character, which in any way affect the security or protection of the holders of the notes or bonds.

(4) The bonds or notes of each issue may, in the discretion of the board of directors, be made redeemable before maturity at such prices and under such terms and conditions as may be determined by the board of directors. Notes shall mature at such time as may be determined by the board of directors, and bonds shall mature at such time, not exceeding thirty-five years from their date of issue, as may be determined by the board. The bonds may be issued as serial bonds

payable in annual installments or as term bonds or as a combination thereof. The notes and bonds shall bear interest at such rate, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment and at such place, and be subject to such terms of redemption as such resolution may provide. The notes and bonds of the authority may be sold by the authority, at public or private sale, at such price as the board of directors shall determine.

(5) In case any officer whose signature or a facsimile of whose signature appears on any bonds or notes or coupons attached thereto ceases to be such officer before the delivery thereof, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. The board of directors may also provide for the authentication of the bonds or notes by a trustee or fiscal agent.

(6) Prior to the preparation of definitive bonds or notes, the authority may, under like restrictions, issue interim receipts or temporary bonds or notes until such definitive bonds or notes have been executed and are available for delivery.

(7) The authority, subject to such agreements with noteholders or bondholders as may then exist, has the power out of any funds available therefor to purchase notes or bonds of the authority, which shall thereupon be cancelled at a price not exceeding:

(a) If the notes or bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment thereon; or

(b) If the notes or bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the notes or bonds become subject to redemption plus accrued interest to such date.

(8) In the discretion of the authority, the bonds may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the power of a trust company within or without this state. Such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the exercise of its corporate powers and the custody, safeguarding, and application of all moneys. The authority may provide by such trust indenture for the payment of the proceeds of the bonds and the revenues to the trustee under such trust indenture or other depository and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out such trust indenture may be treated as a part of the operating expenses of the authority. If the bonds are secured by a trust indenture, the bondholders shall have no authority to appoint a separate trustee to represent them.

(9) The authority shall not have outstanding, at any one time, bonds, not including bond anticipation notes, or bonds which have been refunded, in an aggregate principal amount exceeding sixty million dollars; however, this limitation shall not apply to bonds which are unsecured or secured solely by a pledge of the revenues of the authority and are not in any way secured by a pledge of any of the authority's other assets, including, without limitation, any buildings or real property, and which contain a statement that the bondholders shall not have any recourse against the authority's other assets for repayment of the bonds. Under no circumstances shall the regents or the state of Colorado be liable for any indebtedness incurred by the authority. The general assembly specifically finds there is a substantial public purpose in limiting the

indebtedness of the authority in the event the authority assets or the hospital assets are transferred back to or revert to the regents.

(10) The authority has the power and is authorized to issue from time to time notes, bonds, and other securities which may be collateralized or otherwise secured in whole or in part by loans or participations or other interests in such loans or which may evidence loans or participations or other interests in such loans to provide net funds that are to be dedicated in whole or in part by resolution of the authority to the carrying out of one or more of the purposes of the authority. The interest on or from such notes, bonds, and other securities may be subject to or exempt from federal income taxation.

(11) Any notes, bonds, or other securities issued pursuant to this section, and the income therefrom, including any profit from the sale thereof, shall at all times be free from taxation by the state or any agency, political subdivision, or instrumentality of the state.

Source: L. 91: Entire part added, p. 570, § 2, effective June 1.

23-21-515. Remedies. Any holder of bonds issued under the provisions of this part 5, or any coupons appertaining thereto, and the trustee under any trust agreement or resolution authorizing the issuance of such bonds, except to the extent the rights under this part 5 may be restricted by such trust agreement or resolution, may, either at law or in equity by suit, action, mandamus, or other proceeding, protect and enforce any and all rights under the laws of the state or granted under this part 5 or under such agreement or resolution, or under any other contract executed by the authority pursuant to this part 5, and may enforce and compel the performance of all duties required by this part 5 or by such trust agreement or resolution to be performed by the authority or by an officer thereof.

Source: L. 91: Entire part added, p. 574, § 2, effective June 1.

23-21-516. Negotiable instruments. Notwithstanding any of the foregoing provisions of this part 5 or any recitals in any bonds issued under the provisions of this part 5, all such bonds and interest coupons appertaining thereto shall be negotiable instruments under the laws of this state, subject only to any applicable provisions for registration.

Source: L. 91: Entire part added, p. 574, § 2, effective June 1.

23-21-517. Bonds eligible for investment. Bonds issued under the provisions of this part 5 are hereby made securities in which all insurance companies, trust companies, banking associations, savings and loan associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Public entities, as defined in section 24-75-601 (1), C.R.S., may invest public funds in such bonds only if said bonds satisfy the investment requirements established in part 6 of article 75 of title 24, C.R.S. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the state for any purpose for which the deposit of bonds, notes, or obligations of the state is authorized by law.

Source: L. 91: Entire part added, p. 574, § 2, effective June 1.

23-21-518. Refunding bonds. (1) The board of directors may provide for the issuance of refunding obligations of the authority for the purpose of refunding any obligations then outstanding which have been issued under the provisions of this part 5, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such obligations, and for any corporate purpose of the authority.

(2) Refunding obligations issued as provided in subsection (1) of this section may be sold or exchanged for outstanding obligations issued under this part 5, and, if sold, the proceeds thereof may be applied, in addition to any other authorized purposes, to the purchase, redemption, or payment of such outstanding obligations. Pending the application of the proceeds of any such refunding obligations, with any other available funds, to the payment of the principal, the accrued interest, and any redemption premium on the obligations being refunded and, if so provided or permitted in the resolution authorizing the issuance of such refunding obligations or in the trust agreement securing the same, to the payment of any interest on such refunding obligations and any expenses in connection with such refunding, such proceeds may be invested in securities meeting the investment requirements established in part 6 of article 75 of title 24, C.R.S., which shall mature or which shall be subject to redemption by the holders thereof, at the option of such holders, not later than the respective dates when the proceeds, together with the interest accruing thereon, will be required for the purposes intended.

Source: L. 91: Entire part added, p. 575, § 2, effective June 1.

23-21-519. Nonliability of state for bonds. Neither the state of Colorado nor the regents shall be liable for bonds of the authority, and such bonds shall not constitute a debt of the state or of the regents. The bonds shall contain on the face thereof a statement to such effect.

Source: L. 91: Entire part added, p. 575, § 2, effective June 1.

23-21-520. Members of authority not personally liable on bonds. Neither the members of the board of directors nor any authorized person executing bonds issued pursuant to this part 5 shall be personally liable for such bonds by reason of the execution or issuance thereof.

Source: L. 91: Entire part added, p. 576, § 2, effective June 1.

23-21-521. Annual report. Notwithstanding section 24-1-136 (11)(a)(I), the authority shall submit to the governor and the joint budget committee within six months after the end of the fiscal year a report which shall set forth a complete and detailed operating and financial statement of the authority during such year. Also included in the report shall be any recommendations with reference to additional legislation or other action that may be necessary to carry out the purposes of the authority.

Source: L. 91: Entire part added, p. 576, § 2, effective June 1. **L. 99:** Entire section amended, p. 852, § 12, effective May 24. **L. 2017:** Entire section amended, (HB 17-1251), ch. 253, p. 1060, § 11, effective August 9.

23-21-522. Powers of the authority - investments. (1) The authority has the power:

(a) To invest any funds not required for immediate disbursement in property or in securities which meet the standard for investments established in section 15-1-304, C.R.S., provided such investment assists the authority in carrying out its public purposes; and to sell from time to time such securities thus purchased and held; and to deposit any securities in any trust bank within or without the state. Any funds deposited in a banking institution or in any depository authorized in section 24-75-603, C.R.S., shall be secured in such manner and subject to such terms and conditions as the board may determine, with or without payment of any interest on such deposit, including, without limitation, time deposits evidenced by certificates of deposit. Any commercial bank incorporated under the laws of this state which may act as depository of any funds of the authority may issue indemnifying bonds or may pledge such securities as may be required by the board of directors.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (1), to contract with the holders of any of its notes or bonds as to the custody, collection, securing, investment, and payment of any moneys of the authority and of any moneys held in trust or otherwise for the payment of notes or bonds and to carry out such contract. Moneys held in trust or otherwise for the payment of notes or bonds or in any way to secure notes or bonds and deposits of such moneys may be secured in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits.

Source: L. 91: Entire part added, p. 576, § 2, effective June 1.

23-21-523. Agreement of this state. This state does hereby pledge to and agree with the holders of any notes or bonds issued under this part 5 that this state will not limit or alter the rights hereby vested in the authority to fulfill the terms of any agreements made with the said holders thereof or in any way impair the rights and remedies of such holders until such notes and bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders are fully met and discharged. The authority is authorized to include this pledge and agreement of this state in any agreement with the holders of such notes or bonds.

Source: L. 91: Entire part added, p. 577, § 2, effective June 1.

23-21-524. This part 5 not a limitation of powers. Nothing in this part 5 shall be construed as a restriction or limitation upon any other powers which the authority might otherwise have under any other law of this state, and this part 5 is cumulative to any such powers. This part 5 does and shall be construed to provide a complete, additional, and alternative method for the doing of the things authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws. However, the issuance of bonds, notes, and other obligations and refunding bonds under the provisions of this part 5 need not comply with the requirements of any other state law applicable to the issuance of bonds, notes, and other

obligations. No proceedings, notice, or approval shall be required for the issuance of any bonds, notes, or other obligations or any instrument as security therefor, except as is provided in this part 5.

Source: L. 91: Entire part added, p. 577, § 2, effective June 1.

23-21-525. Exemption from property taxation. The authority shall be exempt from any general ad valorem taxes upon any property of the authority acquired and used for its public purposes. The authority may enter into agreements to pay annual sums in lieu of taxes to any county, municipality, or other taxing entity with respect to any real property which is owned by the authority and is located in such county, municipality, or other taxing entity.

Source: L. 91: Entire part added, p. 577, § 2, effective June 1.

23-21-526. Psychiatric hospital. The university of Colorado psychiatric hospital established under article 22 of this title shall remain the integrated psychiatric service for university hospital, and the department of public health and environment shall issue a single license for the university of Colorado psychiatric hospital and university hospital.

Source: L. 91: Entire part added, p. 577, § 2, effective June 1. **L. 94:** Entire section amended, p. 2739, § 371, effective July 1.

Cross references: For the legislative declaration contained in the 1994 act amending this section, see section 1 of chapter 345, Session Laws of Colorado 1994.

23-21-527. General assembly retains authority to enact laws governing university hospital. The general assembly expressly reserves its plenary legislative authority relating to the university of Colorado university hospital, including but not limited to the authority to enact laws relating thereto. Nothing in this part 5 or part 6 of this article or in section 11 of article II of the state constitution or in section 10 of article I of the federal constitution, relating to impairment of the obligation of contract, shall be construed to limit said legislative authority. Any contract or other obligation of the authority is expressly subject to the provisions of this section, and the parties to such contract or obligation shall not assert such contract or obligation as a bar to the general assembly's exercise of legislative authority relating to the university of Colorado university hospital.

Source: L. 91: Entire part added, p. 578, § 2, effective June 1.

23-21-528. Severability. Any provision of this part 5 declared to be unconstitutional or otherwise invalid shall not impair the remaining provisions of this part 5 or the provisions of part 6 of this article. Any provision of part 6 of this article declared to be unconstitutional or otherwise invalid shall not impair the provisions of this part 5 or the remaining provisions of said part 6.

Source: L. 91: Entire part added, p. 578, § 2, effective June 1.

PART 6

EMPLOYMENT STATUS AND
PENSION STATUS OF EMPLOYEES OF
REORGANIZED UNIVERSITY HOSPITAL

23-21-601. Legislative declaration. (1) The general assembly hereby finds and declares:

(a) That through the passage of House Bill No. 1143 at its first regular session in 1989, the general assembly intended to authorize the reorganization of the university of Colorado university hospital by its operation through a private nonprofit-nonstock corporation;

(b) That said hospital was reorganized and attempted to commence operations through a private nonprofit-nonstock corporation on October 1, 1989;

(c) That the Colorado supreme court subsequently found said House Bill No. 1143 unconstitutional;

(d) That employees of university hospital made decisions governing their state employment status and their membership in the public employees' retirement association in reliance on the provisions of said House Bill No. 1143;

(e) That this part 6 is enacted to address certain issues affecting employees of university hospital who changed their employment status or pension status, or both, in reliance on said House Bill No. 1143 or who were initially employed by the part 4 corporation, within the context of the creation of the university of Colorado hospital authority to operate university hospital pursuant to part 5 of this article.

Source: L. 91: Entire part added, p. 578, § 2, effective June 1.

23-21-602. Personnel - election to return to state personnel system. (1) (a) Any employee of university hospital who was a member of the state personnel system and was employed by university hospital on September 30, 1989, and who elected to become an employee of the part 4 corporation may become an employee of the authority on the authority's transfer date or may elect to return to classified employment in the state personnel system and may reserve the right to be employed by the authority.

(b) Any such employee of the part 4 corporation who elects to return to the state personnel system shall have restored all rights and privileges of membership in the state personnel system.

(2) (a) Any employee of university hospital who was a state employee but not a member of the state personnel system and was employed by university hospital on September 30, 1989, and who elected to become an employee of the part 4 corporation may become an employee of the authority on the authority's transfer date or may elect to return to state employment status and may reserve the right to be employed by the authority.

(b) Any such employee of the part 4 corporation who elects to become a state employee not a member of the state personnel system shall have restored all rights and privileges of a state employee not a member of the state personnel system.

(3) (a) Any employee initially employed by the part 4 corporation on and after October 1, 1989, and continuously employed thereafter, may become an employee of the authority on the

authority's transfer date or may elect to be a state employee in the state personnel system or a state employee not a member of the state personnel system, whichever is applicable to such employee's position.

(b) Any such employee of the part 4 corporation who elects to become a state employee in the state personnel system or a state employee not a member of the state personnel system shall have all rights and privileges of the state employment status which is applicable to such employee's position.

(4) Any election provided for in this section shall be made no later than one hundred twenty days after the authority's transfer date.

Source: L. 91: Entire part added, p. 579, § 2, effective June 1.

23-21-603. Pension status of part 4 corporation employees. (1) **Employees who elected to become employees of the part 4 corporation and rolled over PERA contributions to the part 4 corporation's qualified retirement plan - election to return to PERA.** (a) Any employee of university hospital on September 30, 1989, who elected to become an employee of the part 4 corporation and who had all member contributions to PERA credited to the part 4 corporation's qualified retirement plan may elect to return to the employee's prior state employment status and resume active membership in PERA.

(b) If an employee elects to resume active membership in PERA, the authority is obligated to contribute to PERA an amount necessary to restore said employee to the retirement status with PERA the employee would have attained if said employee had never elected to become an employee of the part 4 corporation; except that said employee shall cooperate in obtaining the refund of any moneys contributed by the part 4 corporation and the employee under the "Federal Insurance Contributions Act", as amended, shall direct the trustee of the part 4 corporation's qualified retirement plan to distribute such employee's account balance in the plan to the authority for transfer to PERA, and shall relinquish all rights in the part 4 plan and the authority's qualified retirement plan. The authority's obligation under this paragraph (b) shall be discharged consistent with sound actuarial practices and PERA shall be obligated to act in accordance with this paragraph (b) in order to accomplish an employee election under this paragraph (b).

(c) An employee who elects to resume active membership in PERA may elect, no earlier than three years after the election to return to PERA or upon acquiring twenty years of service credit in PERA, whichever occurs first, to become an employee of the authority and participate in the authority's qualified retirement plan in accordance with section 23-21-508; except that said employee shall not thereafter resume active membership in PERA while employed by the authority.

(2) **Employees who elected to become employees of the part 4 corporation and received cash - election to return to PERA.** (a) Any employee of university hospital on September 30, 1989, who elected to become an employee of the part 4 corporation and who received said employee's member contributions to PERA in cash may elect to return to the employee's prior state employment status and resume active membership in PERA.

(b) If an employee elects to resume active membership in PERA, the authority is obligated to contribute to PERA an amount necessary to restore said employee to the retirement status with PERA the employee would have attained if said employee had never elected to

become an employee of the part 4 corporation; except that the authority shall have no such obligation unless the employee electing pursuant to this paragraph (b) purchases all of the employee's service credit in PERA for employment at university hospital prior to becoming a part 4 corporation employee by restoring to PERA the member contributions refunded plus interest accrued from the date of refund to completion of purchase. Said employee shall cooperate in obtaining the refund of any moneys contributed by the part 4 corporation and the employee under the "Federal Insurance Contributions Act", as amended, shall direct the trustee of the part 4 corporation's qualified retirement plan to distribute such employee's account balance in the plan to the authority for transfer to PERA, and shall relinquish all rights in the part 4 plan and the authority's qualified retirement plan. The authority's obligation under this paragraph (b) shall be discharged consistent with sound actuarial practices and PERA shall be obligated to act in accordance with this paragraph (b) in order to accomplish an employee election pursuant to this paragraph (b).

(c) An employee electing to resume active membership in PERA may elect, no earlier than three years after the election to return to PERA or upon acquiring twenty years of service credit in PERA, whichever occurs first, to become an employee of the authority and participate in the authority's qualified retirement plan in accordance with section 23-21-508; except that said employee shall not thereafter resume active membership in PERA while employed by the authority.

(3) **Employees who elected to become employees of the part 4 corporation and became vested inactive members of PERA - election to return to PERA.** (a) Any employee of university hospital on September 30, 1989, who elected to become an employee of the part 4 corporation and who became a vested inactive member of PERA may elect to return to the employee's prior state employment status and resume active membership in PERA.

(b) If an employee elects to resume active membership in PERA, the authority is obligated to contribute to PERA an amount necessary to restore said employee to the retirement status with PERA the employee would have attained if said employee had never elected to become an employee of the part 4 corporation; except that said employee shall cooperate in obtaining the refund of moneys contributed by the part 4 corporation and the employee under the "Federal Insurance Contributions Act", as amended, shall direct the trustee of the part 4 corporation's qualified retirement plan to distribute such employee's account balance in the plan to the authority for transfer to PERA, and shall relinquish all rights in the part 4 plan and the authority's qualified retirement plan. The authority's obligation under this paragraph (b) shall be discharged consistent with sound actuarial practices and PERA shall be obligated to act in accordance with this paragraph (b) in order to accomplish an employee election under this paragraph (b).

(c) An employee who elects to resume active membership in PERA may elect, no earlier than three years after the election to return to PERA or upon acquiring twenty years of service credit in PERA, whichever occurs first, to become an employee of the authority and participate in the authority's qualified retirement plan in accordance with section 23-21-508; except that said employee shall not thereafter resume active membership in PERA while employed by the authority.

(4) **Employees of the part 4 corporation not electing to return to prior state employment status become active members of the qualified retirement plan of the authority.** An employee of university hospital on September 30, 1989, who elected to become

an employee of the part 4 corporation and who does not elect to return to such employee's prior state employment status and resume active membership in PERA shall become an employee of the authority on the authority's transfer date, shall commence active membership in the authority's qualified retirement plan, shall receive service credit in the authority's qualified retirement plan for the period of employment by the part 4 corporation, shall direct the trustee of the part 4 corporation's qualified retirement plan to distribute such employee's account balance in the plan to the authority, and shall relinquish all rights in the part 4 plan.

(5) **Employees initially employed by the part 4 corporation on or after October 1, 1989 - election to become active members of PERA.** (a) Any employee of university hospital initially employed on or after October 1, 1989, may elect to become a state employee and an active member of PERA.

(b) If an employee elects to become an active member in PERA, the authority is obligated to contribute to PERA an amount necessary to establish the retirement status with PERA the employee would have attained if said employee had been a member of PERA from the date the employee was initially employed by the part 4 corporation; except that said employee shall cooperate in obtaining the refund of moneys contributed by the part 4 corporation and the employee under the "Federal Insurance Contributions Act", as amended, shall direct the trustee of the part 4 corporation's qualified retirement plan to distribute such employee's account balance in the plan to the authority for transfer to PERA, and shall relinquish all rights in the part 4 plan and the authority's qualified retirement plan. The authority's obligation under this paragraph (b) shall be discharged consistent with sound actuarial practices and PERA shall be obligated to act in accordance with this paragraph (b) in order to accomplish an employee election under this paragraph (b).

(c) An employee who becomes an active member in PERA may elect, no earlier than three years after the election to join PERA or upon acquiring twenty years of service credit in PERA, whichever occurs first, to become an employee of the authority and participate in the authority's qualified retirement plan in accordance with section 23-21-508; except that said employee shall not thereafter resume active membership in PERA while employed by the authority.

(6) **Employees initially employed by the part 4 corporation on or after October 1, 1989 - election to become active members of the authority's qualified retirement plan.** Any employee of university hospital initially employed on or after October 1, 1989, who does not elect to become a state employee and an active member in PERA shall become an employee of the authority on the authority's transfer date, shall commence active membership in the authority's qualified retirement plan, shall receive service credit in the authority's qualified retirement plan for the period of employment by the part 4 corporation, shall direct the trustee of the part 4 corporation's qualified retirement plan to distribute such employee's account balance in the plan to the authority, and shall relinquish all rights in the part 4 plan.

(7) **Election required - when.** Except as otherwise provided in subsections (1)(c), (2)(c), (3)(c), and (5)(c) of this section, any election provided for in this section shall be made no later than one hundred twenty days after the authority's transfer date.

Source: L. 91: Entire part added, p. 580, § 2, effective June 1.

Cross references: For the "Federal Insurance Contributions Act", see 26 U.S.C. 3101 et seq.

23-21-604. Transfers necessary to accomplish the purposes of this part 6. (1) The trustee of the part 4 corporation's qualified retirement plan shall transfer all reserves to the authority's qualified retirement plan as soon as practicable after the authority's transfer date and consistent with sound actuarial practices.

(2) (a) (I) The reserves held by PERA which are due and payable to the part 4 corporation shall remain with PERA to the extent and in the amount necessary to enable the authority to make the contributions to PERA provided for in section 23-21-603 (1)(b), (2)(b), (3)(b), or (5)(b).

(II) Any remaining reserves held by PERA which are due and payable to the part 4 corporation, including interest as determined by mutual agreement of the trustees of PERA and the board of directors of the authority, shall be transferred to the authority's qualified retirement plan as soon as practicable and consistent with sound actuarial practices.

(b) If the reserves held by PERA which are due and payable to the part 4 corporation are not sufficient to enable the authority to make the contributions to PERA provided for in section 23-21-603 (1)(b), (2)(b), (3)(b), or (5)(b), the authority shall transfer such additional amount to PERA plus interest as determined by mutual agreement of the trustees of PERA and the board of directors of the authority.

(3) Any employer and employee contributions under the "Federal Insurance Contributions Act", as amended, which are refunded pursuant to section 23-21-603 (1)(b), (2)(b), (3)(b), or (5)(b) shall be payable to the authority's qualified retirement plan.

(4) All expenses incurred for the preparation of actuarial reports pursuant to this section shall be paid by the authority. Any such actuarial reports shall be available to the authority upon request.

Source: L. 91: Entire part added, p. 584, § 2, effective June 1.

Cross references: For the "Federal Insurance Contributions Act", see 26 U.S.C. 3101 et seq.

PART 7

ALZHEIMER'S DISEASE CENTER

23-21-701. Legislative declaration. To foster the health, welfare, and safety of the people of this state and to facilitate the research and treatment of dementia diseases and related disabilities, it is declared to be the policy of this state to achieve the maximum practical degree of care and treatment for persons suffering from dementia diseases and related disabilities.

Source: L. 2014: Entire part added, (SB 14-211), ch. 341, p. 1516, § 1, effective June 5. **L. 2018:** Entire section amended, (HB 18-1091), ch. 74, p. 648, § 16, effective August 8.

23-21-702. Definitions. As used in this part 7, unless the context otherwise requires:

(1) "Dementia diseases and related disabilities" has the same meaning set forth in section 25-1-502 (2.5).

Source: L. 2014: Entire part added, (SB 14-211), ch. 341, p. 1516, § 1, effective June 5. **L. 2018:** (1) amended, (HB 18-1091), ch. 74, p. 648, § 17, effective August 8.

23-21-703. Center created. There is established the dementia diseases and related disabilities treatment and research center within the university of Colorado school of medicine. The treatment center must use existing facilities and staff of the university of Colorado school of medicine and may establish programs for the care and treatment of persons suffering from dementia diseases and related disabilities as programs are needed. The treatment center may assist on a continuing basis those persons who require continuing treatment for dementia diseases and related disabilities but who are unable to pay for the entire cost of the services despite the existence of various types of hospital and medical insurance, medicare, medicaid, and other government assistance programs, and private charitable assistance.

Source: L. 2014: Entire part added, (SB 14-211), ch. 341, p. 1516, § 1, effective June 5. **L. 2018:** Entire section amended, (HB 18-1091), ch. 74, p. 648, § 18, effective August 8.

23-21-704. Duties of the school of medicine. (1) The school of medicine shall:

(a) Develop standards for determining eligibility for care and treatment under this part 7;

(b) Assist in the development and expansion of programs for the care and treatment of persons suffering from dementia diseases and related disabilities, including home care and medical procedures designed to provide maximum control over the diseases and disabilities;

(c) Extend financial assistance to persons suffering from dementia diseases and related disabilities to obtain efficacious agents of control for use in hospital and medical facilities and in the home;

(d) Institute and carry on educational programs for the detection of dementia diseases and related disabilities in the community and for the counseling of individuals and families;

(e) Conduct educational programs for physicians, hospitals, county and district public health agencies, and the public concerning the methods of care and treatment for persons suffering from dementia diseases and related disabilities; and

(f) Establish research programs to promote scientific inquiry into the causes and the possible cure or alleviation of the suffering of persons with dementia diseases and related disabilities.

Source: L. 2014: Entire part added, (SB 14-211), ch. 341, p. 1517, § 1, effective June 5. **L. 2018:** (1)(b) to (1)(f) amended, (HB 18-1091), ch. 74, p. 648, § 19, effective August 8.

PART 8

MEDICATION-ASSISTED TREATMENT (MAT)
EXPANSION PILOT PROGRAM

23-21-801. Short title. The short title of this part 8 is the "Medication-assisted Treatment Expansion Pilot Program Act".

Source: L. 2017: Entire part added, (SB 17-074), ch. 226, p. 870, § 1, effective May 22.

23-21-802. Legislative declaration. (1) The general assembly finds that:

(a) In an effort to address the growing opioid addiction problem throughout the nation, on July 22, 2016, President Obama signed into law the federal "Comprehensive Addiction and Recovery Act of 2016", also referred to as "CARA";

(b) CARA authorizes qualified nurse practitioners and physician assistants in community- and office-based practice settings to prescribe certain medications used in the treatment of opioid addiction as a means of increasing access to treatment for opioid-dependent patients;

(c) Opioid addiction has emerged as a significant public health concern in Colorado, with over ten thousand deaths attributed to drug overdose since 2000 and the annual rate of drug overdose deaths doubling from 7.8 deaths per one hundred thousand people in 2000 to 15.7 deaths per one hundred thousand people in 2015, a rate significantly higher than the national rate;

(d) Southeast Colorado comprises six percent of the state's population and accounts for eighteen percent of admissions for heroin treatment, the Pueblo county jail sees over one thousand seven hundred opioid protocol prisoners each year, and the Pueblo fire department used an opioid antagonist to halt an opioid-related drug overdose event one hundred forty times in 2015;

(e) In Routt county, drug overdose death rates have increased nearly six-fold from 2014 to 2016, and over sixty-five percent of these deaths were related to prescription opioids;

(f) Despite the prevalence of opioid addiction and opioid-related overdose events in Pueblo and Routt counties, only three doctors in Pueblo county and one doctor in Routt county are able to provide medication-assisted treatment to opioid-dependent patients in those counties;

(g) Medication-assisted treatment, which includes the use of medication and behavioral therapies to treat individuals with opioid addictive disorders:

(I) Has proven to be clinically effective and to significantly reduce the need for inpatient detoxification services for individuals with opioid addictive disorders;

(II) Provides a comprehensive, individually tailored program of treatment for opioid-dependent patients;

(III) Is intended to achieve full recovery;

(IV) Can contribute to lowering a person's risk of contracting HIV or hepatitis C by reducing the potential for relapse; and

(V) Has improved patient survival rates, increased retention in treatment, decreased illicit opioid use and other criminal activity among individuals with substance abuse disorders, increased patients' ability to attain and retain employment, and improved birth outcomes among pregnant women who have substance use disorders;

(h) In order to increase access to addiction treatment in areas of the state where opioid addiction is prevalent, it is necessary to establish a pilot program to award grants to:

(I) Organizations or practices with nurse practitioners and physician assistants to enable them to obtain the training and ongoing support required to prescribe medications, such as

buprenorphine and all other medications and therapies approved by the federal food and drug administration, to treat opioid use disorders; and

(II) Community agencies to provide behavioral therapies, in conjunction with medication treatment, to treat individuals with opioid use disorders; and

(i) Since the pilot program will provide access to treatment to individuals with substance use disorders, the use of retail marijuana tax revenues to fund the pilot program is authorized under section 39-28.8-501 (2)(b)(IV)(C).

(2) The general assembly further finds that:

(a) Since its creation, the pilot program has achieved numerous successes toward program goals as follows:

(I) With regard to the program goal of increasing the number of advanced practice providers able to prescribe medications to treat individuals with opioid use disorders in Pueblo and Routt counties:

(A) Two medication-assisted treatment (MAT) programs in Pueblo county were selected to receive funding and one MAT program was started in Routt county;

(B) As of August 2018, four providers certified to prescribe MAT medications were added to the two MAT programs in Pueblo county and six MAT medication-certified prescribers are available in the Routt county program; and

(C) Through July 1, 2018, fifty providers received education on opioid use disorders and related issues in assessment and treatment; and

(II) With regard to the program goal of increasing access to MAT services in Pueblo and Routt counties:

(A) Pueblo county increased MAT services from a total of ninety-nine clients treated through its two MAT programs in 2017 to five hundred seventy-six clients treated through the two programs through October 2018; and

(B) Routt county had very limited MAT services available in 2017 and, through October of 2018, provided MAT services through its new MAT program to fifty clients;

(b) Given the successes of the program in expanding access to MAT services in Pueblo and Routt counties, the pilot program should be extended and made available to additional areas of the state that are experiencing significant public health concerns due to the prevalence of opioid addiction and overdose incidences and inadequate numbers of providers;

(c) In the San Luis valley, which has approximately fifty thousand residents and consists of the counties of Alamosa, Conejos, Costilla, Custer, Huerfano, Mineral, Rio Grande, and Saguache, opioid overdoses have been increasing since 2010, with recent reports of more than ten overdoses per one hundred thousand in population yearly in each of the counties in the valley;

(d) Huerfano county, which has about six thousand six hundred residents, had six overdose deaths in 2016, a rate of 152.6 per one hundred thousand in population, which was the highest overdose rate for any county in the state;

(e) Many other counties in the state are also experiencing high incidences of overdose and lack available, qualified providers to meet the addiction treatment needs in the county;

(f) Given the prevalence of opioid overdoses in the San Luis valley and other areas of the state, it is necessary to extend the pilot program established pursuant to this part 8 for an additional two years, expand its availability to critical-need areas of the state, and increase its

funding in order to increase access to addiction treatment in these areas where opioid addiction and overdose incidences are at significant levels.

Source: L. 2017: Entire part added, (SB 17-074), ch. 226, p. 870, § 1, effective May 22. **L. 2019:** (2) added, (SB 19-001), ch. 173, p. 2002, § 1, effective May 14.

Cross references: For section 303 of the federal "Comprehensive Addiction and Recovery Act of 2016", see Pub.L. 114-198.

23-21-803. Definitions. As used in this part 8, unless the context otherwise requires:

(1) "Advisory board" means the MAT expansion advisory board created in section 23-21-805.

(1.5) "Center" means the center for research into substance use disorder prevention, treatment, and recovery support strategies established pursuant to section 27-80-118.

(2) "College of nursing" means the college of nursing at the university of Colorado Anschutz medical campus, operated by the board of regents of the university of Colorado.

(3) "Federal act" means section 303 of the federal "Comprehensive Addiction and Recovery Act of 2016", Pub.L. 114-198.

(4) "Medication-assisted treatment" or "MAT" means a combination of behavioral therapy and medications, such as buprenorphine and all other medications and therapies, approved by the federal food and drug administration to treat opioid use disorder.

(5) "Nurse practitioner" means an advanced practice nurse, as defined in section 12-255-104 (1), who is listed on the advanced practice registry in accordance with section 12-255-111 and is authorized by the state board of nursing in accordance with section 12-255-112 to prescribe controlled substances and prescription drugs.

(6) "Physician assistant" means a person licensed as a physician assistant by the Colorado medical board in accordance with section 12-240-113 who is authorized, in accordance with section 12-240-107 (6), to perform acts constituting the practice of medicine, including prescribing controlled substances, and who is under the supervision of a physician trained in MAT.

(7) "Pilot program" or "MAT expansion pilot program" means the medication-assisted treatment expansion pilot program created in section 23-21-804.

(8) "Pilot program area" means the areas of the state in which the pilot program is available, as specified in section 23-21-804 (1)(b).

(9) "Qualified nurse practitioner or physician assistant" means a nurse practitioner or physician assistant who is a qualifying practitioner, as defined in the federal act and regulations adopted under the federal act, and is registered in accordance with 21 U.S.C. sec. 823 (g).

(10) "San Luis valley" means the counties of Alamosa, Conejos, Costilla, Custer, Huerfano, Mineral, Rio Grande, and Saguache.

Source: L. 2017: Entire part added, (SB 17-074), ch. 226, p. 872, § 1, effective May 22. **L. 2019:** (1.5) and (10) added, (SB 19-001), ch. 173, p. 2003, § 2, effective May 14; (5) and (6) amended, (HB 19-1172), ch. 136, p. 1684, § 120, effective October 1.

23-21-804. Medication-assisted treatment expansion pilot program - created - pilot program location - eligible grant recipients - rules. (1) (a) There is hereby created the medication-assisted treatment expansion pilot program to provide grants to community agencies, office-based practices, behavioral health organizations, and substance abuse treatment organizations to enable:

(I) Nurse practitioners or physician assistants working in those settings to obtain training and ongoing support required under the federal act in order to prescribe buprenorphine and all other medications and therapies approved by the federal food and drug administration as part of medication-assisted treatment provided to individuals with an opioid use disorder; and

(II) Those agencies, practices, and organizations to provide behavioral therapies and support in conjunction with medication-assisted treatment for individuals with an opioid use disorder.

(b) The MAT expansion pilot program is available to provide grants to community agencies, office-based practices, behavioral health organizations, and substance abuse treatment organizations practicing or providing treatment in Pueblo county or Routt county, and, starting in the 2019-20 fiscal year, the San Luis valley and up to two additional counties selected by the center for participation based on demonstrated need.

(2) A grant recipient may use the money received through the pilot program for the following purposes:

(a) To enable nurse practitioners or physician assistants practicing or working in the grant recipient's setting in the pilot program area to obtain the training required to be a qualified nurse practitioner or physician assistant in order to prescribe buprenorphine and all other medications and therapies approved by the federal food and drug administration as part of medication-assisted treatment for individuals with opioid use disorders; and

(b) To increase access to medication-assisted treatment for individuals with opioid use disorders in the pilot program area.

(3) The center shall administer the MAT expansion pilot program and, subject to available appropriations, shall award grants as provided in this part 8. Subject to available appropriations, grants shall be paid out of money annually appropriated for the pilot program as provided in section 23-21-808.

(4) The center shall implement the MAT expansion pilot program in accordance with this part 8 and shall develop, with assistance from and in coordination with the advisory board, pilot program guidelines and procedures as necessary to implement the pilot program, including guidelines and procedures specifying the time frames for applying for grants; the form of the pilot program grant application; the time frames for distributing grant money, technical assistance, and consultation to grant recipients; and evaluation of the pilot program.

Source: L. 2017: Entire part added, (SB 17-074), ch. 226, p. 873, § 1, effective May 22. **L. 2019:** (1)(b), (3), and (4) amended, (SB 19-001), ch. 173, p. 2004, § 3, effective May 14.

23-21-805. MAT expansion advisory board - created - duties. (1) There is hereby created in the center the MAT expansion advisory board, which shall:

(a) Review and approve pilot program guidelines and procedures;

(b) Advise and provide assistance to the center on the implementation of the pilot program;

(c) Review and make recommendations to the center on grant applications, including recommendations for grant award amounts;

(d) Assist the center in evaluating the pilot program; and

(e) Perform other tasks, as requested by the center, related to the implementation and administration of the pilot program.

(2) (a) The advisory board consists of representatives of the following entities or organizations who are designated by the entity or organization:

(I) The college of nursing;

(II) The state substance abuse trend and response task force created in section 18-18.5-103;

(III) The Colorado consortium for prescription drug abuse prevention, administered under the center at the university of Colorado Anschutz medical campus;

(IV) The Colorado Nurses Association;

(V) The Colorado Academy of Physician Assistants; and

(VI) The physician assistant program at the university of Colorado.

(b) In addition to the members specified in subsection (2)(a) of this section, representatives from counties participating in the pilot program area, appointed as follows, shall serve on the advisory board:

(I) The Northwest Colorado Community Health Partnership in Routt county shall appoint a medical or public health professional from Routt county;

(II) The Pueblo county heroin task force shall appoint a medical or public health professional from Pueblo county;

(III) Valley-wide Health Systems, Inc., shall appoint a medical professional from the San Luis valley;

(IV) The San Luis Valley Area Health Education Center shall appoint a medical or public health professional from the San Luis valley;

(V) The Colorado Association of Local Public Health Officials shall appoint a public health professional from the San Luis valley;

(VI) If additional counties are selected to participate in the pilot program, the center shall determine the appointing authority for and type of professional from each participating county;

(VII) The board of county commissioners for each county participating in the pilot program, including additional counties that may be selected to participate pursuant to section 23-21-804 (1)(b), shall appoint a member of its board; except that, for the San Luis valley, the boards of county commissioners of the counties in the San Luis valley shall jointly appoint one member from one of the boards of county commissioners in the San Luis valley to serve on the advisory board; and

(VIII) The executive director of the department of health care policy and financing shall appoint a representative from the department.

Source: L. 2017: Entire part added, (SB 17-074), ch. 226, p. 874, § 1, effective May 22. **L. 2019:** (1), (2)(a)(III), and (2)(b) amended, (SB 19-001), ch. 173, p. 2004, § 4, effective May 14.

23-21-806. Grant application - criteria - awards. (1) To receive a grant, an eligible organization or practice must submit an application to the center in accordance with pilot program guidelines and procedures established by the center. At a minimum, the application must include the following information:

(a) A specific description of the need in the county served by the applicant, including data on the prevalence of opioid addiction, the overdose rate, and the provider capacity in the county;

(a.5) The purpose for which the applicant will use the grant;

(b) The amount of grant money requested;

(c) The number of nurse practitioners or physician assistants willing to complete the required training;

(d) Identification of any incentives to assist nurse practitioners or physician assistants in completing the required training and becoming certified to prescribe buprenorphine;

(e) An agreement to institute policies and procedures for implementing medication-assisted treatment;

(f) A description of how the applicant will achieve improved access to medication-assisted treatment in the pilot program area the applicant serves;

(g) Identification of expected outcomes of care for opioid-dependent patients; and

(h) An evaluation plan.

(2) The advisory board shall review the applications received pursuant to this section and make recommendations to the center regarding grant recipients and awards. In recommending grant awards and in awarding grants, the advisory board and the center shall consider the following criteria:

(a) The eligibility of the applicants;

(a.5) The demonstrated need in the area served by the applicant;

(b) The number of opioid-dependent patients that could be served by nurse practitioners or physician assistants working in or with a practice or organization applying for a grant;

(c) The written commitment of the applicant to implement policies and procedures for providing MAT;

(d) The written commitment of the applicant to have nurse practitioners or physician assistants participate in periodic consultations with center staff; and

(e) The written commitment of the applicant to participate in the evaluation of the pilot program.

(3) Subject to available appropriations, in the 2019-20 and 2020-21 fiscal years, the center shall award grants to applicants approved in accordance with this section and shall distribute the grant money to grant recipients within ninety days after issuing the grant awards.

Source: L. 2017: Entire part added, (SB 17-074), ch. 226, p. 875, § 1, effective May 22. **L. 2019:** IP(1), (1)(a), (1)(f), IP(2), (2)(d), and (3) amended and (1)(a.5) and (2)(a.5) added, (SB 19-001), ch. 173, p. 2005, § 5, effective May 14.

23-21-807. Reporting requirements. (1) Each organization or practice that receives a grant through the pilot program shall submit an annual report to the center by a date set by the center. At a minimum, the report must include the following information:

(a) The amount of the grant and the date on which the grant was received;

(b) An accounting of how the grant money was spent and whether any grant money was not expended;

(c) The number of nurse practitioners or physician assistants who were trained and who received certification to prescribe buprenorphine and all other medications and therapies approved by the federal food and drug administration to treat opioid use disorder; and

(d) A detailed description of the training received by nurse practitioners or physician assistants; whether the nurse practitioners or physician assistants completed the training and attained status as a qualified nurse practitioner or physician assistant; whether the nurse practitioners or physician assistants that attained qualified nurse practitioner or physician assistant status are currently able to provide and are providing medication-assisted treatment to opioid-dependent patients; the number of individuals with opioid use disorders treated in the previous two years before the pilot program; and the number of opioid-dependent patients treated during the pilot program period by each qualified nurse practitioner or physician assistant.

(2) On or before June 30, 2018, and on or before each June 30 through June 30, 2021, the center shall submit a summarized report on the pilot program to the health and human services committee of the senate and the health and insurance and the public health care and human services committees of the house of representatives, or any successor committees, and to the governor. At a minimum, the report must include:

(a) A description of the pilot program, including a list of counties participating in the pilot program;

(b) A list identifying the grant recipients, including the amount awarded to each grant recipient, the county in which the grant recipient is providing services, and a detailed description of how each grant recipient used the grant award;

(c) The total number of nurse practitioners and physician assistants who completed the required training and became certified to prescribe buprenorphine, listed by county participating in the pilot program;

(d) The total number of patients served during the course of the pilot program, listed by county participating in the pilot program;

(e) A summary of policies and procedures instituted by grant recipients related to the provision of MAT by qualified nurse practitioners and physician assistants;

(f) A summary of evaluation results of the pilot program; and

(g) A summary of lessons learned and recommendations for implementing MAT as provided by nurse practitioners and physician assistants in other communities in the state.

Source: L. 2017: Entire part added, (SB 17-074), ch. 226, p. 876, § 1, effective May 22. **L. 2019:** IP(1), IP(2), (2)(a), and (2)(b) amended, (SB 19-001), ch. 173, p. 2006, § 6, effective May 14.

23-21-808. Funding for pilot program. (1) (a) For the 2019-20 and 2020-21 state fiscal years, the general assembly shall annually appropriate two million five hundred thousand dollars per fiscal year from the marijuana tax cash fund created in section 39-28.8-501 to the board of regents of the university of Colorado, for allocation to the center to implement and administer the MAT expansion pilot program. The center may use a portion of the money annually appropriated for the pilot program to pay the direct and indirect costs that the center

incurs to administer the pilot program, as well as to provide consulting services to and oversight of grant recipients, for data collection and analysis, evaluation of the pilot program, and program reporting.

(b) If any unexpended or uncommitted money appropriated for a fiscal year remains at the end of that fiscal year, the center may expend the money in accordance with this section in the succeeding fiscal year. Any unexpended or uncommitted money remaining at the end of the 2020-21 fiscal year reverts to the marijuana tax cash fund.

(2) The center may accept and expend any gifts, grants, or donations it receives to implement or administer the pilot program.

Source: L. 2017: Entire part added, (SB 17-074), ch. 226, p. 877, § 1, effective May 22. **L. 2019:** Entire section amended, (SB 19-001), ch. 173, p. 2007, § 7, effective May 14.

23-21-809. Repeal of part. This part 8 is repealed, effective June 30, 2022.

Source: L. 2017: Entire part added, (SB 17-074), ch. 226, p. 877, § 1, effective May 22. **L. 2019:** Entire section amended, (SB 19-001), ch. 173, p. 2007, § 8, effective May 14.

ARTICLE 22

Psychiatric Hospital

23-22-101. Psychopathic hospital and laboratory. There shall be established in this state a hospital under the name and title of the "psychopathic hospital and laboratory of the university of Colorado". This hospital shall be established at Denver.

Source: L. 19: p. 568, § 1. **C.L.** § 594. **CSA:** C. 105, § 59. **CRS 53:** § 124-3-1. **C.R.S. 1963:** § 124-3-1.

23-22-102. Name of hospital changed. The institution within the university of Colorado, known and designated under the name and title of the "psychopathic hospital and laboratory of the university of Colorado" by section 23-22-101, after July 1, 1967, shall be designated under the name and title of the "university of Colorado psychiatric hospital". The legal effect of any statute prior to July 1, 1967, designating such hospital by any other name or property rights acquired and obligations incurred prior to said date under any other name shall not be impaired hereby.

Source: L. 67: p. 556, § 1. **C.R.S. 1963:** § 124-3-18.

23-22-103. Definitions. As used in this article, unless the context otherwise requires:

(1) "Hospital" or "psychiatric hospital" means the university of Colorado psychiatric hospital.

Source: L. 23: p. 524, § 1. **CSA:** C. 105, § 67. **CRS 53:** § 124-3-2. **C.R.S. 1963:** § 124-3-2.

23-22-104. Control and management of hospital. Unless the assets of the university of Colorado psychiatric hospital are transferred, pursuant to section 23-21-506 (1)(a), to the university of Colorado hospital authority operating university hospital, the board of regents of the university of Colorado shall have full control and supervision of all the property and grounds and buildings of the hospital and shall have the entire government and management of the same. It shall prescribe and publish all rules, regulations, and bylaws for the management of the affairs of the hospital and of its patients and for the government of its officers and employees. The board shall make proper provisions for the reception, treatment, discharge, and transfer either from or to other institutions or from the hospital to family care and the return therefrom of all patients who may be committed to the hospital.

Source: L. 19: p. 569, § 4. **C.L.** § 597. **CSA:** C. 105, § 62. **CRS 53:** § 124-3-3. **C.R.S. 1963:** § 124-3-3. **L. 89:** Entire section amended, p. 1003, § 3, effective October 1. **L. 91:** Entire section amended, p. 586, § 5, effective October 1.

Editor's note: This section was amended in House Bill 89-1143, enacted by the General Assembly at its first regular session in 1989, as a conforming amendment necessitated by the authorization for the operation of the university of Colorado university hospital by a nonprofit-nonstock corporation. The Colorado Supreme Court subsequently declared House Bill 89-1143 unconstitutional in its entirety. See *Colorado Association of Public Employees v. Board of Regents,* 804 P.2d 138 (Colo. 1990). Senate Bill 91-225, enacted by the General Assembly at its first regular session in 1991, authorized the operation of university hospital by a newly created university of Colorado hospital authority. Since the previous act was declared unconstitutional in its entirety, the General Assembly elected to make a similar conforming amendment to this section in Senate Bill 91-225. For further explanation of the circumstances surrounding the enactment of Senate Bill 91-225, see the legislative declaration contained in section 1 of chapter 99, Session Laws of Colorado 1991.

23-22-105. Control of hospital - director. (1) The board of regents has full power to accept legacies, bequests, devises, and donations for the benefit of the psychiatric hospital and to apply the same to the furtherance of the purposes of said hospital, to the end that these benefits may accrue to the greatest possible extent to the afflicted citizens of this state.

(2) The director of said hospital shall serve as professor of psychiatry in the school of medicine of the university of Colorado.

Source: L. 23: p. 524, § 2. **CSA:** C. 105, § 68. **CRS 53:** § 124-3-4. **C.R.S. 1963:** § 124-3-4.

23-22-106. Director and assistant. The board of regents shall appoint a director who holds office during its pleasure, who is a physician and graduate of an incorporated medical college, who has had at least ten years' experience in the actual practice of his or her profession, and who has had at least five years' actual experience as a neuropathologist. The director shall reside at the hospital, give his or her entire time and attention to the discharge of his or her official duties, and receive compensation as fixed by the board of regents. The board of regents may further provide for an assistant director who is a physician and graduate of an incorporated

medical college, has had at least five years' experience in the actual practice of his or her profession, and one year's specialization in behavioral or mental health disorders. It shall provide for other employees and medical assistants as may be necessary and prescribe their duties and fix their respective compensations. The director shall select and appoint all such assistants and employees, subject to the approval of the board of regents. The assistants and employees hold their positions subject to the rules of the board of regents.

Source: L. 19: p. 570, § 6. **C.L.** § 599. **CSA:** C. 105, § 64. **CRS 53:** § 124-3-5. **C.R.S. 1963:** § 124-3-5. **L. 2017:** Entire section amended, (SB 17-242), ch. 263, p. 1319, § 173, effective May 25.

Cross references: (1) For rule-making procedures, see article 4 of title 24.

(2) For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017.

23-22-107. Objects of hospital - eligible patients. (1) The hospital is primarily and principally conducted, not for chronic illness, but for the care and treatment of legal residents of Colorado who are afflicted with a behavioral or mental health disorder that can probably be remedied by observation, treatment, and hospital care. The hospital must also be utilized for such instruction and for such scientific research as, in the opinion of the board of regents, will promote the welfare of the patients committed or certified to its care and assist in the application of science to the prevention and cure of behavioral or mental health disorders.

(2) Persons eligible to admission to said hospital as patients shall belong to one of the following classes: First, voluntary public patients; second, committed public patients; third, voluntary private patients; fourth, committed private patients; fifth, part pay patients, either voluntary or committed.

(3) A voluntary public patient is one who is admitted to the hospital at his own request or at the request of the person who has lawful custody or control over him. A committed patient is one who is ordered by the court to submit to observation, care, and treatment at the hospital. A private patient is one whose entire expenses at the hospital are paid by himself, out of his estate, by those responsible for his support, or by some person who voluntarily assumes the expense. A public patient is one whose entire expense at the hospital is paid out of the psychiatric hospital fund. A part pay patient is one whose expense is paid in part out of the psychiatric hospital fund, and the remainder is paid by himself, out of his estate, by those legally responsible for his support, or by someone who voluntarily assumes the expense.

Source: L. 23: p. 525, § 3. **CSA:** C. 105, § 69. **CRS 53:** § 124-3-6. **C.R.S. 1963:** § 124-3-6. **L. 2017:** (1) amended, (SB 17-242), ch. 263, p. 1320, § 174, effective May 25.

Cross references: For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017.

23-22-108. Voluntary private patients. Voluntary private patients may be admitted in accordance with regulations to be established by the board of regents of the university of Colorado, and their care, nursing, observation, treatment, medicine, maintenance, and other

expenses shall be without expense to the state. However, the charge for such care, nursing, observation, treatment, medicine, maintenance, and other expenses shall not exceed the actual per diem cost of the same as determined by the board of regents. An advance deposit for the expenses of voluntary private patients shall be required at all times.

Source: L. 23: p. 532, § 7. **CSA:** C. 105, § 73. **CRS 53:** § 124-3-13. **C.R.S. 1963:** § 124-3-7.

23-22-109. Control over voluntary patients. If any person has been admitted to the hospital as a voluntary patient, the director of the hospital has the same authority and control over the patient as if the patient had been admitted by order of court; except that a voluntary patient must not be detained against the patient's will or that of the person having legal custody or control over the patient for more than ten days unless the hospital director has within such interval obtained an order of certification for the patient.

Source: L. 23: p. 532, § 8. **CSA:** C. 105, § 74. **CRS 53:** § 124-3-14. **C.R.S. 1963:** § 124-3-8. **L. 2020:** Entire section amended, (SB 20-136), ch. 70, p. 284, § 10, effective September 14.

Cross references: For the legislative declaration in SB 20-136, see section 1 of chapter 70, Session Laws of Colorado 2020.

23-22-110. Deposit of moneys collected. (1) All sums collected from patients in said hospital shall be deposited in the psychiatric hospital fund.

(2) Every person received as a patient at the psychiatric hospital, whether certified, committed, or otherwise, and the estate of such person and of all persons responsible for the patient's support are liable for the cost of the inquisition, certification, commitment, transportation, and hospital expenses.

(3) The expenses of the proceedings, commitment, and transportation to the hospital may be recovered by the county bearing such expenses, and the expenses of observation, treatment, and hospital care and of transportation and attendance of any discharged patient from said hospital to any point within the state to which he may be discharged, insofar as they remain unpaid, may be collected by the attorney general for the board of regents. The statutes of limitations shall not run against the obligations for these items. All moneys so collected by the attorney general shall be placed in the psychiatric hospital fund.

Source: L. 23: p. 538, § 16. **CSA:** C. 105, § 82. **CRS 53:** § 124-3-20. **C.R.S. 1963:** § 124-3-9. **L. 2020:** (2) amended, (SB 20-136), ch. 70, p. 284, § 11, effective September 14.

Cross references: For the legislative declaration in SB 20-136, see section 1 of chapter 70, Session Laws of Colorado 2020.

23-22-111. Reorganization of university hospital - effect. (Repealed)

Source: L. 89: Entire section added, p. 1005, § 10, effective October 1. **L. 91:** (2) added by revision, p. 589, §§ 14, 15.

Editor's note: Subsection (2) provided for the repeal of this section upon the repeal of part 1 of article 21 of this title. Said part 1 was repealed, effective October 1, 1991. (See L. 91, p. 589.)

ARTICLE 23

Children's Diagnostic Center

23-23-101. Children's diagnostic center established. In order to provide for the commitment or sentencing of children to the various institutions of the state of Colorado most suited to their care, rehabilitation, and treatment, to provide the administrative authorities of such institutions with social and medical case histories of children committed or sentenced to such institutions, and to provide the courts with such information as may be needed before children are sentenced or committed to such institutions, there is hereby established a Colorado children's diagnostic center, to be located at the Colorado psychiatric hospital.

Source: L. 55: p. 807, § 1. **CRS 53:** § 124-3-26. **C.R.S. 1963:** § 124-3-10.

23-23-102. Supervision - interdepartmental cooperation. The center shall be under the general supervision and control of the regents of the university of Colorado. The governor shall instruct the executive director of the department of human services to cooperate with the regents to provide the diagnostic services provided for by this article.

Source: L. 55: p. 807, § 2. **CRS 53:** § 124-3-27. **C.R.S. 1963:** § 124-3-11. **L. 94:** Entire section amended, p. 2691, § 223, effective July 1.

Cross references: For the legislative declaration contained in the 1994 act amending this section, see section 1 of chapter 345, Session Laws of Colorado 1994.

23-23-103. Evaluations made - when. (1) A child may be referred to the medical center for diagnostic evaluation and study under the following conditions:

(a) A judge who has before him or her the matter of possible certification, commitment, or sentencing of a child to one of the institutions of the state may have an evaluation of the child made at the diagnostic center; or the judge may send a child to the center for an evaluation of the child's mental and physical capacity if the judge believes such diagnosis will aid in the determination of the matter concerning the child, regardless of the fact that, because of lack of space, none of the regional centers is able to accept the child.

(b) Any judge, for the purpose of determining whether or not a child under sixteen years of age has a behavioral or mental health disorder or an intellectual and developmental disability, may cause the child to be sent to the center for diagnostic evaluation.

(c) The superintendent of any institution in Colorado to which children have been committed or sentenced may request the executive director of the department of human services to have an evaluation of any child in his institution made at the center.

(d) The director of a county department of social services may request an evaluation at the Colorado children's diagnostic center of a child in the care, custody, or supervision of such

county department when such evaluation will aid it in its determination of the disposition, placement, or planning for such child; but no such evaluation shall be requested until such parental consent as is necessary has been obtained. If such an evaluation is made, the costs thereof shall be paid by the said county department of social services.

Source: L. 55: p. 808, § 3. **CRS 53:** § 124-3-28. **L. 61:** p. 712, § 1. **C.R.S. 1963:** § 124-3-12. **L. 65:** p. 1034, § 1. **L. 75:** (1)(b) amended, p. 929, § 37, effective July 14. **L. 83:** (1)(a) amended, p. 1160, § 16, effective April 26. **L. 94:** (1)(c) amended, p. 2692, § 224, effective July 1. **L. 2006:** (1)(b) amended, p. 1404, § 62, effective August 7. **L. 2017:** (1)(b) amended, (SB 17-242), ch. 263, p. 1320, § 175, effective May 25. **L. 2020:** (1)(a) amended, (SB 20-136), ch. 70, p. 284, § 12, effective September 14.

Cross references: For the legislative declaration contained in the 1994 act amending subsection (1)(c), see section 1 of chapter 345, Session Laws of Colorado 1994. For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017. For the legislative declaration in SB 20-136, see section 1 of chapter 70, Session Laws of Colorado 2020.

23-23-104. Custody of children - housing. For the making of any diagnostic evaluation before certification or commitment, the district judge or juvenile judge shall give the temporary custody of the child to the executive director of the department of human services for temporary placement at any state institution deemed most suitable by the executive director during the period of evaluation. Subject to the provisions of section 23-23-108, the executive director of the department of human services shall accept all such children assigned to the executive director, within the limits of available facilities. Nothing in this section permits the designation of the university of Colorado psychiatric hospital as a housing facility for such children.

Source: L. 55: p. 808, § 4. **CRS 53:** § 124-3-29. **L. 61:** p. 712, § 2. **C.R.S. 1963:** § 124-3-13. **L. 64:** p. 312, § 285. **L. 74:** Entire section amended, p. 420, § 69, effective April 11. **L. 94:** Entire section amended, p. 2692, § 225, effective July 1. **L. 2020:** Entire section amended, (SB 20-136), ch. 70, p. 284, § 13, effective September 14.

Cross references: For the legislative declaration contained in the 1994 act amending this section, see section 1 of chapter 345, Session Laws of Colorado 1994. For the legislative declaration in SB 20-136, see section 1 of chapter 70, Session Laws of Colorado 2020.

23-23-105. Guardians - transportation - costs. The district or juvenile judge requesting a diagnostic evaluation of any child in his county to be made at the center shall appoint a guardian to accompany such child to the center. The full costs of the transportation and subsistence of such child and guardian to and from the center and during the period of examination shall be paid by the parents of such child, and, if the parents are unable to pay such costs, they shall be paid by the county.

Source: L. 55: p. 808, § 5. **CRS 53:** § 124-3-30. **C.R.S. 1963:** § 124-3-14. **L. 64:** p. 313, § 286.

23-23-106. Hearings held in Denver juvenile court - when. Any district judge may, in order to eliminate the cost of returning any child back to his county of residence after such diagnosis is completed, designate the juvenile court of the city and county of Denver as master or magistrate to hear any additional evidence that may be necessary in the case. He may then, on the basis of the report from such master or magistrate and the information in the diagnostic report and such other evidence as the court may require, commit such child to the appropriate institution and direct that such child be transported from the center to such institution.

Source: L. 55: p. 809, § 6. **CRS 53:** § 124-3-31. **C.R.S. 1963:** § 124-3-15. **L. 64:** p. 313, § 287. **L. 91:** Entire section amended, p. 364, § 37, effective April 9.

23-23-107. Case histories - preparation and use. (1) In order to facilitate the work of the center in making a diagnostic evaluation of a child as provided in this article, the county department of social services of the county of the child's residence or any licensed children's agency in such county shall prepare and forward to the center a social and medical case history of such child to assist the center in making such diagnosis. Such history shall accompany or precede the child's assignment to the center.

(2) In order to assist the administrative authorities of any institution to which a child is finally committed or sentenced, such case history prepared as provided in subsection (1) of this section, together with a copy of the diagnostic report made by the center upon the completion of an evaluation of any such child, shall be transmitted to the authorities of such institution.

Source: L. 55: p. 809, § 7. **CRS 53:** § 124-3-32. **C.R.S. 1963:** § 124-3-16.

23-23-108. Limitation on admissions - report - disposition of children. The director of the Colorado children's diagnostic center shall determine whether a child referred by an institution or by a district or juvenile court shall be accepted for study and evaluation at the diagnostic center. Such determination shall be based on the adequacy and availability of local facilities, including local community mental health clinics, for such study and evaluation, the emergency nature of the referral, and the number of children currently being studied and evaluated and waiting to be studied and evaluated at the diagnostic center. Said diagnostic center upon completion of its study and evaluation in each case shall make its report in writing to said director; whereupon, the child shall forthwith be returned to the institution from which he came or committed or sentenced to the appropriate institution and removed thereto without delay.

Source: L. 55: p. 809, § 8. **CRS 53:** § 124-3-33. **L. 61:** p. 713, § 3. **C.R.S. 1963:** § 124-3-17. **L. 64:** p. 313, § 288.

ARTICLE 30

Board of Governors of the
Colorado State University System

Editor's note: This article was numbered as article 11 of chapter 124, C.R.S. 1963. The provisions of this article were amended with relocations in 2007, resulting in the addition,

relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 2007, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this article, see the comparative tables located in the back of the index.

23-30-101. Board of governors of the Colorado state university system. (1) (a) A board is hereby established that shall be known by the name and title of the board of governors of the Colorado state university system, referred to in this section as the "board". It shall consist of a total of fifteen members as provided in paragraphs (b) and (c) of this subsection (1).

(b) Six of the members shall be advisory, without the right to vote. The six advisory members shall be elected or appointed by their respective governing bodies from their membership. The advisory officers shall serve terms of one academic year. The advisory members shall consist of:

(I) One elected officer of the student body who is a full-time junior or senior student at Colorado state university;

(II) One elected officer of the faculty council of Colorado state university having the rank of associate professor or higher;

(III) One elected officer of the student body who is a full-time junior or senior student at the Colorado state university - Pueblo;

(IV) One elected officer of the faculty council of the Colorado state university - Pueblo having the rank of associate professor or higher;

(V) One student in good standing from the CSU global campus student body, to be recommended by the student affairs committee and approved by the governing council at CSU global campus; and

(VI) One CSU global campus faculty member with a minimum of three years of service on the CSU global campus faculty, to be recommended by the faculty affairs committee and approved by the governing council at CSU global campus.

(c) Commencing with appointments made in 1974 and continuing through appointments made in 2006, the remaining nine members of the board, at least one of whom shall be a graduate of the Colorado state university or Colorado state university - Pueblo and at least two of whom shall have some connection with agriculture, shall be appointed by the governor, with the consent of the senate, for basic terms of four years, although interim appointments may be made for lesser periods so that at least two of the nine terms will expire in each calendar year.

(d) Commencing with appointments made in 2007 and subsequent years, the remaining nine members of the board shall be appointed by the governor with the consent of the senate, for terms of four years, in the following manner:

(I) One of the nine voting members shall either reside in Larimer county or be a graduate of Colorado state university.

(II) One of the nine voting members shall either reside in southern Colorado or be a graduate of Colorado state university - Pueblo.

(III) At least two of the nine voting members shall have substantial experience in the production of agriculture.

(IV) The appointment of the voting members not appointed under subparagraphs (I) and (II) of this paragraph (d) shall be made with consideration given to broad geographical representation whenever possible.

(e) (Deleted by amendment, L. 2008, p. 1999, § 1, effective August 5, 2008.)

(f) For purposes of paragraph (d) of this subsection (1), "southern Colorado" means Alamosa, Baca, Bent, Chaffee, Conejos, Costilla, Crowley, Custer, Fremont, Huerfano, Kiowa, Las Animas, Mineral, Otero, Prowers, Pueblo, Rio Grande, and Saguache counties.

(g) Members appointed on or after January 1, 2007, shall serve terms of up to four years, expiring on December 31 of the third calendar year following the calendar year in which the member is appointed.

(h) A person, elected or appointed under this section, shall not serve on the board for more than two terms; except that a member of the board, whether elected or appointed, shall continue to serve until a successor is elected or appointed and confirmed by the senate.

(i) Of the nine members appointed by the governor, no more than five members shall be from the same political party.

(j) For the purposes of this section, "full-time student" means the same as it does in the respective institutions.

(2) (a) Whenever any law of this state refers to the state board of agriculture, it shall be taken to refer to the board of governors of the Colorado state university system. The legal effect of any statute heretofore designating the board of governors of the Colorado state university system by any other name, or property rights heretofore acquired and obligations heretofore incurred under any other name, shall not be impaired.

(b) The revisor of statutes is authorized to make such changes in other provisions of the statutes as may be necessary to conform such provisions to the change of name of the board specified in subsection (1) of this section.

Source: L. 2007: Entire article amended with relocations, p. 517, § 1, effective August 3; (1) amended, p. 462, § 1, effective August 3. **L. 2008:** (1)(d), (1)(e), (1)(f), and (1)(h) amended, p. 1999, § 1, effective August 5. **L. 2012:** (1)(a), (1)(b), (1)(g), and (1)(h) amended, (HB 12-1220), ch. 100, p. 333, § 2, effective August 8.

Editor's note: (1) This section is similar to former § 23-30-101 as it existed prior to 2007.

(2) Amendments to subsection (1) by Senate Bill 07-052 and House Bill 07-1254 were harmonized.

23-30-102. Board body corporate - powers relating to real and personal property. (1) The board of governors of the Colorado state university system is a body corporate, capable in law of suing and being sued; of taking, holding, acquiring, exchanging, selling, and determining the uses of personal property and real estate, or any interest therein, the ownership of which is vested in the board of governors of the Colorado state university system or the entities governed by it; of contracting and being contracted with; of having and using a corporate seal; having duties and powers to control, manage, and direct the fiscal and all other affairs of the Colorado state university system and the entities it governs; and of causing to be done all things necessary to carry out the provisions of this article.

(1.5) The board of governors of the Colorado state university system shall report all sales, leases, or exchanges of real property to the Colorado commission on higher education.

(2) The board of governors of the Colorado state university system has the power to lease personal property, the ownership of which is vested in the Colorado state university system, or on behalf of any entity governed by it, for a term not to exceed eighty years to state or federal governmental agencies and to persons or corporations, public or private.

(2.5) Subject to such reviews and approvals of state agencies as are required by law, the board of governors of the Colorado state university system has the power to sell, lease, or exchange real property, or any interest therein, including any mineral rights, the ownership of which is vested in the board of governors of the Colorado state university system or on behalf of any entity governed by it. All moneys which arise from the sale, lease, or exchange of said real property, or any interest therein, and all funds transferred pursuant to this subsection (2.5), together with any interest arising from the investment of said moneys and funds, shall be under the exclusive control of the board of governors of the Colorado state university system. The state treasurer is instructed to turn over to the board of governors of the Colorado state university system all the moneys, warrants, bonds, and other securities of any nature, and any interest earned thereon, that have come from the sale, lease, or exchange of said real property, or any interest therein, including any mineral rights.

(3) The board of governors of the Colorado state university system has the power to lease any real property or any interest therein owned by it on behalf of any entity governed by it for mineral exploration, development, and production purposes, upon such terms and conditions as may be prescribed and contracted by the board in the exercise of its best judgment as being in the best interests of said entity. Any lease of mineral rights shall be for a term not to exceed ten years and so long thereafter as minerals are produced and shall provide for a royalty of not less than the royalty for current commercial agreements which are generally accepted as fair royalty returns, which royalty may be reduced proportionately under an appropriate provision in the lease if the interest in said board is less than a full interest in the land or mineral rights in the land described in the lease. All royalties received under lease agreements made pursuant to the authority of this section shall be remitted by the board of governors of the Colorado state university system to the state treasurer for deposit in the general fund. Whenever, in the opinion of the board and because of the size, shape, or current use of any tract of land owned by said board on behalf of any entity governed by it, any lease of such tract provides that no mineral development or production be conducted on the land covered thereby, such lease shall be for a term not to exceed ten years and so long thereafter as the board may share in royalties payable on account of the production of minerals from lands adjacent to such tract so leased.

(4) Whenever deemed by the board of governors of the Colorado state university system to be in the best interests of any entity governed by it, the board may enter into a unit agreement on behalf of the entity, which unit agreement may provide for the pooling, unitization, or consolidation of acreage covered by any oil and gas lease executed by the board with other acreage for oil and gas exploration, development, and production purposes and also provide for the apportionment or allocation of royalties among the separate tracts of land included in the unit or pooling agreement on an acreage or other equitable basis, and the board may change, by such agreement and with the consent of the lessee under the lease, any or all of the provisions of any lease issued by it, including the term of years for which the lease was originally granted, in order

to conform the lease to the terms and provisions of the unit or pooling agreement and to facilitate the efficient and economic production of oil and gas from the lands subject to such agreement.

(5) The leasing of real property or any interest therein held by the board of governors of the Colorado state university system under the provisions of this section shall not be deemed to be a sale of such property.

(6) The board of governors of the Colorado state university system has the power to exchange real property or any interest therein owned by the board on behalf of any entity governed by it for lands or interests in lands which the board, in the exercise of its best judgment, believes to be in the best interests of said entity in the furtherance of its programs.

(7) The authority of the board of governors of the Colorado state university system to execute oil and gas or other mineral leases of lands owned by the board prior to June 3, 1977, is hereby confirmed and acknowledged, and no such lease heretofore executed by the board shall be invalid for want of such authority.

Source: L. 2007: Entire article amended with relocations, p. 518, § 1, effective August 3. **L. 2012:** (1) amended, (HB 12-1220), ch. 100, p. 334, § 3, effective August 8.

Editor's note: This section is similar to former § 23-30-102 as it existed prior to 2007.

23-30-103. Vacancies - compensation. Any vacancy in the office of any member of the board of governors of the Colorado state university system appointed by the governor caused by death, resignation, or removal from the state may be filled by a majority of the voting members. Any vacancy in the elected office on the board shall be filled by reelection for the unexpired term. The members of the board shall receive no compensation for their services but may be allowed reimbursement for expenses incurred that are reasonable, necessary, and directly related to an individual's duties as a board member upon presenting an itemized bill for the same.

Source: L. 2007: Entire article amended with relocations, p. 520, § 1, effective August 3.

Editor's note: This section is similar to former § 23-30-103 as it existed prior to 2007.

23-30-104. Meetings of board. The board shall meet at the Colorado state university twice annually and may meet at other times and places at the call of the chair who has the power in case of emergency to call special meetings of the board. The chair, with the consent of the board, shall annually set the schedule for regular board meetings. Upon the written request of any three members of the board, it is the duty of the chair of the board to call a special meeting thereof at such time and place as shall be designated in the written request therefor. A quorum of the board is a majority of voting members of the board.

Source: L. 2007: Entire article amended with relocations, p. 520, § 1, effective August 3. **L. 2012:** Entire section amended, (HB 12-1220), ch. 100, p. 334, § 4, effective August 8.

Editor's note: This section is similar to former § 23-30-104 as it existed prior to 2007.

23-30-105. Election of officers - terms. (1) The board of governors of the Colorado state university system shall elect from its membership a chair and a vice-chair and also from its membership or from outside its membership a secretary and a treasurer, all of which said officers shall hold the office to which they are chosen for a period of two years from the date of election and until their successors are duly elected and qualified. The secretary shall give bond in an amount deemed sufficient by the board and discharge all the duties of said office in accordance with section 23-30-107. The treasurer shall give bond in an amount deemed sufficient by the board and safely keep and account for all moneys received by the treasurer and pay the same out only on warrants of the board of governors of the Colorado state university system, signed by its chair and countersigned by its chief financial officer in accordance with section 23-30-108. The board of governors may waive the bond requirements set forth in this subsection (1) and in lieu thereof utilize all applicable governmental insurance coverage.

(2) Repealed.

Source: L. 2007: Entire article amended with relocations, p. 520, § 1, effective August 3. **L. 2008:** (2) repealed, p. 342, § 4, effective April 10. **L. 2012:** (1) amended, (HB 12-1220), ch. 100, p. 335, § 5, effective August 8.

Editor's note: This section is similar to former § 23-30-105 as it existed prior to 2007.

23-30-106. Board of governors of the Colorado state university system fund - creation - control - use. (1) There is hereby created in the state treasury the board of governors of the Colorado state university system fund which is under the control of and administered by the board of governors of the Colorado state university system in accordance with the provisions of this article. The board of governors has authority and responsibility for all moneys of the board of governors and any entity governed by it. The board of governors shall designate, pursuant to its constitutional and statutory authority, those moneys received or acquired by the board of governors of the Colorado state university system or any of the entities it governs, whether by appropriation, grant, contract, or gift, by sale or lease of surplus real or personal property, or by any other means, whose disposition is not otherwise provided for by law, that shall be credited to the fund. All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. The moneys in the fund are hereby continuously appropriated to the board of governors of the Colorado state university system and shall remain in the fund under the control of the board of governors and shall not be transferred or revert to the general fund of the state at the end of any fiscal year.

(2) The moneys in the board of governors of the Colorado state university system fund shall be used by the board of governors of the Colorado state university system for the payment of salaries and operating expenses of the board and the entities it governs and for the payment of any other expenses incurred by the board and the entities it governs in carrying out its statutory powers and duties.

(3) Moneys in the board of governors of the Colorado state university system fund which are not needed for immediate use by the board of governors of the Colorado state university system may be invested by the state treasurer in investments authorized by sections 24-36-109, 24-36-112, and 24-36-113, C.R.S. The board shall determine the amount of moneys in the fund which may be invested and shall notify the state treasurer in writing of such amount.

(4) If the board of governors votes to invest moneys pursuant to sections 23-30-121 and 23-30-122, the board of governors shall establish an investment advisory committee consisting of at least five members to make recommendations to the board of governors regarding investments. The investment advisory committee shall include, at a minimum, the treasurer of the Colorado state university system, a member of the board of governors, and three representatives of the financial community.

Source: L. 2007: Entire article amended with relocations, p. 521, § 1, effective August 3. **L. 2008:** (1) amended and (4) added, p. 342, § 5, effective April 10. **L. 2012:** (1) and (2) amended, (HB 12-1220), ch. 100, p. 335, § 6, effective August 8.

Editor's note: This section is similar to former § 23-30-106 as it existed prior to 2007.

23-30-107. Duties of secretary. It is the duty of the secretary to keep a record of the transactions of the board of governors of the Colorado state university system and keep and file all reports that may be required at any time, which shall be open at all times to the inspection of any citizen of the state. The secretary shall also have the custody of all books, papers, documents, and other property which may be deposited in the secretary's office.

Source: L. 2007: Entire article amended with relocations, p. 521, § 1, effective August 3. **L. 2012:** Entire section amended, (HB 12-1220), ch. 100, p. 336, § 7, effective August 8.

Editor's note: This section is similar to former § 23-30-107 as it existed prior to 2007.

23-30-108. Duties of treasurer - financial instruments signed by whom - accounts. (1) The treasurer of the board shall keep a true and faithful account of all funds so received in separate accounts according to the source of the funds. The treasurer shall report on the funds to the board of governors of the Colorado state university system, including an annual report at the close of the fiscal year and other reports as the board may require. The duties of the treasurer may, upon approval by the board, be delegated to the chief financial officer of the Colorado state university system.

(2) Warrants, checks, or other financial instruments shall be used to pay the expenses of the board of governors of the Colorado state university system and the entities it governs and shall be duly signed by the chair and countersigned by the treasurer or the chief financial officer appointed by the board for the Colorado state university system, or the presidents or their delegates.

Source: L. 2007: Entire article amended with relocations, p. 522, § 1, effective August 3. **L. 2012:** Entire section amended, (HB 12-1220), ch. 100, p. 336, § 8, effective August 8.

Editor's note: This section is similar to former § 23-30-108 as it existed prior to 2007.

23-30-109. Program to be made. The board of governors of the Colorado state university system and faculty shall, when deemed appropriate by the board, make programs of theoretical and practical instruction.

Source: L. 2007: Entire article amended with relocations, p. 522, § 1, effective August 3. **L. 2012:** Entire section amended, (HB 12-1220), ch. 100, p. 336, § 9, effective August 8.

Editor's note: This section is similar to former § 23-31-104 as it existed prior to 2007.

23-30-110. Duration of course. The board of governors of the Colorado state university system may institute courses of lectures for persons other than students of the institutions governed by the board under necessary rules and regulations.

Source: L. 2007: Entire article amended with relocations, p. 522, § 1, effective August 3.

Editor's note: This section is similar to former § 23-31-105 as it existed prior to 2007, and the former § 23-30-110 was relocated to § 23-31-119.

23-30-111. Academic year - term - suspension. The academic year may be divided into such terms by the board of governors of the Colorado state university system as in their judgment will best secure the objects for which the universities governed by the board were founded. The board at any time may temporarily suspend a university in case of fire, the prevalence of fatal diseases, or other unforeseen calamity.

Source: L. 2007: Entire article amended with relocations, p. 522, § 1, effective August 3.

Editor's note: This section is similar to former § 23-31-106 as it existed prior to 2007, and the former § 23-30-111 was relocated to § 23-31-120.

23-30-112. Tuition. (1) 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 23-1-104 (1)(b)(I). The board may discriminate in regard to tuition between students from this state and students from other states.

(2) Repealed.

Source: L. 2007: Entire article amended with relocations, p. 522, § 1, effective August 3. **L. 2008:** Entire section amended, p. 119, § 4, effective March 19. **L. 2010:** Entire section amended, (SB 10-003), ch. 391, p. 1842, § 9, effective June 9.

Editor's note: (1) This section is similar to former § 23-31-107 as it existed prior to 2007, and the former § 23-30-112 was relocated to § 23-31-121.

(2) Subsection (2)(b) provided for the repeal of subsection (2), effective July 1, 2016. (See L. 2010, p. 1842.)

Cross references: For the legislative declaration in the 2010 act amending this section, see section 1 of chapter 391, Session Laws of Colorado 2010.

23-30-113. Board's personnel powers. The board of governors of the Colorado state university system has authority over all personnel matters relating to the system and the

institutions and entities it governs. The board may delegate all or part of its powers over personnel matters in accordance with section 23-5-117.

Source: L. 2007: Entire article amended with relocations, p. 523, § 1, effective August 3.

23-30-114. Board to choose chancellor and certain staff. (1) It is the duty of the board of governors of the Colorado state university system to choose:

(a) A chancellor of the Colorado state university system, who shall serve as the chief executive officer of the system; and

(b) Other system staff that report directly to the board.

Source: L. 2007: Entire article amended with relocations, p. 523, § 1, effective August 3.

23-30-115. Chancellor to choose certain staff. Pursuant to section 23-30-113, the board of governors of the Colorado state university system may delegate to the chancellor of the Colorado state university system the power to choose such personnel as may be needed as system staff, which personnel shall report directly to the chancellor.

Source: L. 2007: Entire article amended with relocations, p. 523, § 1, effective August 3.

23-30-116. Board to choose presidents. It is the duty of the board of governors of the Colorado state university system to choose the presidents of the institutions it governs. In case of a vacancy in an office of president, the board shall appoint an interim president who shall perform the duties of the office until the board selects a president.

Source: L. 2007: Entire article amended with relocations, p. 523, § 1, effective August 3.

Editor's note: This section is similar to former § 23-31-109 as it existed prior to 2007.

23-30-117. Presidents to choose faculty and staff. Pursuant to section 23-30-113, the board of governors of the Colorado state university system may delegate to the presidents of the institutions it governs the power to choose such professors and staff as the necessities of their institutions require.

Source: L. 2007: Entire article amended with relocations, p. 523, § 1, effective August 3.

23-30-118. Board to fix salaries. The board shall fix the salaries of the chancellor, presidents, and other system staff that report directly to the board and shall prescribe their respective duties. The board may delegate the authority to set salaries for professors and other employees of the system to the chancellor and presidents. The board may remove the chancellor, presidents, or subordinate officers and fill all vacancies.

Source: L. 2007: Entire article amended with relocations, p. 523, § 1, effective August 3. **L. 2012:** Entire section amended, (HB 12-1220), ch. 100, p. 336, § 10, effective August 8.

Editor's note: This section is similar to former § 23-31-111 as it existed prior to 2007.

23-30-119. Board to confer degrees. The board, with the advice of the institutions it governs, shall confer such degrees or testimonials as are conferred by similar institutions.

Source: L. 2007: Entire article amended with relocations, p. 523, § 1, effective August 3. **L. 2012:** Entire section amended, (HB 12-1220), ch. 100, p. 337, § 11, effective August 8.

Editor's note: This section is similar to former § 23-31-112 as it existed prior to 2007.

23-30-120. Payment of expenses. The board of governors shall have general supervision, control, and direction of the funds and appropriations made thereto. All expenses of the board of governors of the Colorado state university system and the entities it governs shall be paid from funds received or maintained by the board or the entities it governs in accordance with the procedures listed in section 23-30-108.

Source: L. 2007: Entire article amended with relocations, p. 523, § 1, effective August 3. **L. 2012:** Entire section amended, (HB 12-1220), ch. 100, p. 337, § 12, effective August 8.

Editor's note: This section is similar to former § 23-31-120 as it existed prior to 2007.

23-30-121. Investments in consolidated funds. Unless otherwise restrained by the terms of a will, trust agreement, or other instrument of gift, the board of governors of the Colorado state university system may hold investments in one or more consolidated investment funds in which the participating trusts or accounts have undivided interests.

Source: L. 2008: Entire section added, p. 343, § 6, effective April 10.

23-30-122. Corporate stock in nominee authorized - report. (1) In order to facilitate the investment, reinvestment, sale, and disposition of corporate stocks, the board of governors of the Colorado state university system, referred to in this section as the "board", is authorized to hold certificates of stock in the name of a nominee of its selection without disclosing the fact that the certificates are held by the board or are held in a fiduciary capacity if:

(a) The records of the board and all reports or accounts rendered by it clearly show the ownership of the stock by the board and the facts regarding the board's holdings; and

(b) The nominee deposits with the board a signed statement showing the trust ownership, endorses the stock certificate in blank, and does not have possession of or access to the stock certificate except under the immediate supervision of the treasurer of the Colorado state university system or another person that the board has designated.

(2) The board shall maintain a list of certificates of stock held in the names of nominees pursuant to this section and shall make the list available for public inspection during normal business hours.

(3) Notwithstanding section 24-1-136 (11)(a)(I), the board shall report to the joint budget committee of the general assembly at each regular session regarding the investments made and the earnings or losses derived therefrom under the provisions of this section and

section 23-30-121. The report shall include information indicating the extent to which the investment managers hired by the board have achieved or failed to achieve the performance benchmarks established pursuant to section 23-30-123 (1)(b).

Source: L. 2008: Entire section added, p. 343, § 6, effective April 10. **L. 2017:** (3) amended, (HB 17-1251), ch. 253, p. 1060, § 12, effective August 9.

23-30-123. Investment policy - fiduciary responsibility - annual financial statements. (1) If the board of governors votes to invest assets of the Colorado state university system pursuant to sections 23-30-121 and 23-30-122, the board shall develop and annually review a written investment policy for the Colorado state university system, which policy shall include:

(a) An acknowledgment by the board of governors of the board's fiduciary responsibility with respect to oversight of the investment policy of the system; and

(b) The establishment of performance benchmarks for each investment manager hired by the board of governors pursuant to sections 23-30-121 and 23-30-122.

(2) In selecting investment managers for the purposes of this section, the board of governors shall use an open and competitive process.

(3) If the board of governors votes to invest assets of the Colorado state university system pursuant to sections 23-30-121 and 23-30-122, notwithstanding section 24-1-136 (11)(a)(I), the board shall require annual financial statements to be submitted to the board of governors, the state treasurer, the state auditor, and the joint budget committee of the general assembly. The financial statements shall include, at a minimum, information concerning investment income, gains, and losses, if any, of the Colorado state university system. The financial statements shall report the performance of investments on both a gross-of-fee and a net-of-fee basis.

(4) If the board of governors votes to invest moneys pursuant to sections 23-20-121 and 23-20-122, the board:

(a) Shall ensure that, at all times, liquid investment assets remain at a level sufficient to pay for all budgeted, outstanding operational obligations and expenses occurring within the current fiscal year; and

(b) Repealed.

(5) The Colorado state university system shall not request from the general assembly any general fund appropriations to replace any losses incurred due to investment activities conducted by the board of governors pursuant to sections 23-30-121 and 23-30-122.

Source: L. 2008: Entire section added, p. 344, § 6, effective April 10. **L. 2013:** (4)(b) repealed, (SB 13-270), ch. 250, p. 1317, § 6, effective May 23. **L. 2017:** (3) amended, (HB 17-1251), ch. 253, p. 1061, § 13, effective August 9.

23-30-124. Online university established - role and mission. (Repealed)

Source: L. 2009: Entire section added, (SB 09-086), ch. 14, p. 83, § 1, effective March 18. **L. 2012:** Entire section repealed, (HB 12-1220), ch. 100, p. 337, § 13, effective August 8.

ARTICLE 31

Colorado State University

Editor's note: This article was numbered as article 10 of chapter 124, C.R.S. 1963. The provisions of this article were amended with relocations in 2007, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 2007, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this article, see the comparative tables located in the back of the index.

PART 1

GENERAL PROVISIONS

23-31-101. University established - role and mission. There is hereby established a university at Fort Collins to be known as Colorado state university. Colorado state university shall be a comprehensive graduate research university with selective admission standards offering a comprehensive array of baccalaureate, master's, and doctoral degree programs. Consistent with the tradition of land grant universities, Colorado state university has exclusive authority to offer graduate and undergraduate programs in agriculture, forestry, natural resources, and veterinary medicine. The Colorado commission on higher education, in consultation with the board of governors of the Colorado state university system, shall designate those graduate level programs that are the primary responsibility of Colorado state university. Colorado state university has the responsibility to provide on a statewide basis, utilizing when possible and appropriate the faculty and facilities of other educational institutions, those graduate level programs. The commission shall include in its funding recommendations a level of general fund support for these programs.

Source: L. 2007: Entire article amended with relocations, p. 524, § 2, effective August 3.

Editor's note: This section is similar to former § 23-31-101 as it existed prior to 2007.

23-31-102. Name changed. The agricultural college at Fort Collins, declared to be an institution of the state by section 5 of article VIII of the state constitution as said section existed prior to January 11, 1973, and designated under the name and title of the "Colorado agricultural and mechanical college" by section 124-10-1, CRS 53, after May 1, 1957, shall be designated under the name and title of the "Colorado state university". The legal effect of any statute prior to May 1, 1957, designating such institution by any other name, or property rights acquired and obligations incurred prior to May 1, 1957, under any other name, shall not be impaired hereby.

Source: L. 2007: Entire article amended with relocations, p. 524, § 2, effective August 3.

Editor's note: This section is similar to former § 23-31-102 as it existed prior to 2007.

23-31-103. Board to control college and lands. The board of governors of the Colorado state university system has the general control and supervision of the Colorado state university and lands and the use thereof, which may be vested in the university by state or national legislation and of all appropriations made by the state for the support of the same. The board has plenary power to adopt all such ordinances, bylaws, and regulations, not in conflict with the law, as they may deem necessary to secure the successful operation of the university and promote the designed objects.

Source: L. 2007: Entire article amended with relocations, p. 525, § 2, effective August 3.

Editor's note: This section is similar to former § 23-31-108 as it existed prior to 2007.

23-31-104. Who shall constitute faculty. The president and the faculty shall constitute the faculty of the Colorado state university.

Source: L. 2007: Entire article amended with relocations, p. 525, § 2, effective August 3.

Editor's note: This section is similar to former § 23-31-113 as it existed prior to 2007, and the former § 23-31-104 was relocated to § 23-30-109.

23-31-105. Duty of faculty. The faculty shall have the responsibility for making academic policy and governing the academic affairs of the Colorado state university.

Source: L. 2007: Entire article amended with relocations, p. 525, § 2, effective August 3.

Editor's note: This section is similar to former § 23-31-115 as it existed prior to 2007, and the former § 23-31-105 was relocated to § 23-30-110.

23-31-106. President - duties. The president shall be chief executive officer of the Colorado state university, and it is his or her duty to see that the rules and regulations of the board of governors of the Colorado state university system and the faculty are observed and executed.

Source: L. 2007: Entire article amended with relocations, p. 525, § 2, effective August 3.

Editor's note: This section is similar to former § 23-31-117 as it existed prior to 2007, and the former § 23-31-106 was relocated to § 23-30-111.

23-31-107. President may remove officers. The subordinate officers and employees, not members of the faculty, shall be under the direction of the president and removable at his or her discretion. The president may fill vacancies of such subordinate officers and employees subject to his or her personnel power.

Source: L. 2007: Entire article amended with relocations, p. 525, § 2, effective August 3.

Editor's note: This section is similar to former § 23-31-118 as it existed prior to 2007, and the former § 23-31-107 was relocated to § 23-30-112.

23-31-108. President may be professor. The president may or may not perform the duties of a professor, as the board of governors of the Colorado state university system shall determine.

Source: L. 2007: Entire article amended with relocations, p. 525, § 2, effective August 3.

Editor's note: This section is similar to former § 23-31-119 as it existed prior to 2007, and the former § 23-31-108 was relocated to § 23-31-103.

23-31-109. Report of experimental operations. All agricultural operations shall be carried on experimentally for the instruction of the students and with a view to the improvement of the science of agriculture in the state of Colorado. Such reports as may be required by the board of governors of the Colorado state university system shall be submitted in accordance with the directions of the board.

Source: L. 2007: Entire article amended with relocations, p. 525, § 2, effective August 3.

Editor's note: This section is similar to former § 23-31-121 as it existed prior to 2007, and the former § 23-31-109 was relocated to § 23-30-116.

23-31-110. Pledge of income from facilities or equipment. (1) The board of governors of the Colorado state university system, designated in this section as the "board", is authorized to enter into a contract for the advancement of moneys for the acquisition of facilities or equipment, or both, for the Colorado state university auditorium-gymnasium, and in connection with or as a part of such contract to pledge the net income, or any part of such net income, to be derived from such facilities or equipment, or both, so acquired, and to pledge special student fees assessed for the purpose of financing such facilities or equipment, or both, as security for the repayment of the moneys advanced therefor, together with interest thereon. For the same purpose, the board is also authorized to pledge the net income derived from any similar facility or equipment, or portion thereof, which was not acquired with moneys appropriated to Colorado state university, if such net income derived from such similar facility or equipment, or portion thereof, is unpledged or, if pledged, is currently in excess of the amount required to amortize the advancements and interest thereon for which such net income has been obligated.

(2) The board shall not pledge the general income of Colorado state university or create any mortgage upon property belonging to such institution or obligate the state of Colorado for the purpose of repaying or receiving any funds raised or advanced under the provisions of this section.

(3) Any advancement of moneys may be evidenced by revenue bonds or warrants to be executed by and on behalf of Colorado state university and containing such terms and provisions, including provisions for redemption prior to maturity and a maximum net effective

interest rate, as may be determined by the board. Such revenue bonds or warrants shall bear interest at a rate such that the net effective interest rate of the issue of bonds does not exceed the maximum net effective interest rate fixed, which interest shall be payable semiannually or annually. Such revenue bonds or warrants may be sold at less than par, but they may not be sold at a price such that the net effective interest rate of the issue of bonds or warrants exceeds the maximum net effective interest rate fixed. Any such revenue bonds or warrants may be refunded if in the judgment of the board such refunding is to the best interests of the university.

(4) If the net income derived from such facilities or equipment so acquired under the provisions of this section exceeds the amount required for the amortization of any advancement made therefor, together with interest thereon, the board may apply such surplus to the redemption of such securities prior to maturity of such securities according to redemption provisions thereof, or such surplus net income may be used by the board for the purposes of altering or adding to any existing equipment or facilities acquired pursuant to the provisions of this section.

(5) All obligations and the income therefrom shall be exempt from taxation, except inheritance, estate, and transfer taxes.

Source: L. 2007: Entire article amended with relocations, p. 526, § 2, effective August 3.

Editor's note: This section is similar to former § 23-31-127 as it existed prior to 2007.

23-31-111. Rents or charges for buildings and facilities for research. The board of governors of the Colorado state university system is authorized to contract for or impose and collect rents or charges for the use of university buildings and facilities for research, including research conducted by or under the auspices of Colorado state university. Such rents or charges shall be at a level reasonably calculated to return or amortize the cost of such buildings and facilities within a reasonable period not exceeding the life of such buildings and facilities; but such user charges or rents may not be imposed and collected in such a manner as to require payment directly or indirectly from the state general fund, tuition receipts, or student fees.

Source: L. 2007: Entire article amended with relocations, p. 526, § 2, effective August 3.

Editor's note: This section is similar to former § 23-31-128 as it existed prior to 2007, and the former § 23-31-111 was relocated to § 23-30-118.

23-31-112. Research building revolving fund - appropriation of fund. There is established in the office of the state treasurer a fund to be known as the Colorado state university research building revolving fund, and there shall be credited to said fund the user charges or rents authorized by section 23-31-111 and imposed by the board of governors of the Colorado state university system, specific appropriations or grants or gifts made to said fund, the proceeds of the sale of anticipation warrants authorized by this section and sections 23-31-111 and 23-31-113, and the proceeds from the issuance and sale of bonds pursuant to section 23-31-117. No payments from student fees, tuition receipts, or general funds shall be deposited in the research building revolving fund. All interest earned on the investment of moneys in the fund shall be credited to the fund and shall be a part of the fund, and such moneys shall not be transferred or

credited to the general fund or to any other fund. All such moneys so credited to said fund are appropriated to Colorado state university for the payment of maintenance and operating costs for its research buildings and facilities and for planning, constructing, acquiring, renovating, and equipping research buildings and facilities, wherever located in the state of Colorado, for Colorado state university. Any such buildings and facilities shall be related to the research mission of the university.

Source: L. 2007: Entire article amended with relocations, p. 527, § 2, effective August 3.

Editor's note: This section is similar to former § 23-31-129 as it existed prior to 2007, and the former § 23-31-112 was relocated to § 23-30-119.

23-31-113. Anticipation warrants. The state treasurer is authorized to issue anticipation warrants in such amounts as requested by the board of governors of the Colorado state university system, the total amount of which shall not exceed one million dollars, to be repaid exclusively from the user revenues accruing to the Colorado state university research building revolving fund as provided in this section and sections 23-31-111 and 23-31-112. The anticipation warrants shall not be sold at a price less than the face value thereof. Disbursements from said fund shall be only by warrant upon vouchers certified by the board of governors of the Colorado state university system.

Source: L. 2007: Entire article amended with relocations, p. 527, § 2, effective August 3.

Editor's note: This section is similar to former § 23-31-130 as it existed prior to 2007, and the former § 23-31-113 was relocated to § 23-31-104.

23-31-114. Purchase of anticipation warrants. It is lawful for any public entity, as defined in section 24-75-601 (1), C.R.S., to purchase anticipation warrants issued in pursuance of section 23-31-113 if such warrants satisfy the investment requirements established in part 6 of article 75 of title 24, C.R.S.; but not to exceed twenty percent of the total of any specific fund of such public entity shall be invested in such warrants.

Source: L. 2007: Entire article amended with relocations, p. 527, § 2, effective August 3.

Editor's note: This section is similar to former § 23-31-131 as it existed prior to 2007.

23-31-115. Warrants as security - when. Anticipation warrants issued in pursuance of this section and sections 23-31-111 to 23-31-114, 23-31-116, and 23-31-117 may be used as security for any depository bond or obligation where any kind of bonds or other securities must or may, by law, be deposited as security.

Source: L. 2007: Entire article amended with relocations, p. 527, § 2, effective August 3.

Editor's note: This section is similar to former § 23-31-132 as it existed prior to 2007, and the former § 23-31-115 was relocated to § 23-31-105.

23-31-116. Tax exemption. Any anticipation warrants issued pursuant to the provisions of section 23-31-113 by the board of governors of the Colorado state university system shall be exempt from taxation for state, county, school district, special district, municipal, or any other purpose in the state of Colorado.

Source: L. 2007: Entire article amended with relocations, p. 528, § 2, effective August 3.

Editor's note: This section is similar to former § 23-31-133 as it existed prior to 2007.

23-31-117. Borrowing funds. (1) For the purposes described in section 23-31-112, the board of governors of the Colorado state university system is authorized to:

(a) Enter into contracts with any person, corporation, or state or federal government agency for the advancement of money for such purposes and providing for the repayment of such advances with interest from the Colorado state university research building revolving fund; and

(b) Issue bonds as provided in this section.

(2) (a) Any bonds issued pursuant to this section shall mature at such time or times, shall bear or accrue interest at such rate or rates, and shall otherwise be sold and issued in such manner and on such terms as provided by the board of governors of the Colorado state university system.

(b) Such bonds shall be payable exclusively from, and shall be secured by a pledge of, the Colorado state university research building revolving fund created in section 23-31-112.

(c) The authority contained in this section to issue bonds shall be in addition to the authority granted to the board of governors of the Colorado state university system to issue anticipation warrants pursuant to section 23-31-113; except that nothing in this section shall be construed to authorize the issuance of bonds if by such issuance the obligation of any contract entered into with respect to any outstanding anticipation warrants would thereby be impaired.

(d) Any bonds issued pursuant to this section shall be exempt from taxation for state, county, school district, special district, municipal, or other purposes in the state of Colorado.

(e) Bonds issued pursuant to the provisions of this section shall not constitute a debt or an indebtedness of the state within the meaning of any applicable provision of the state constitution or state statutes.

Source: L. 2007: Entire article amended with relocations, p. 528, § 2, effective August 3; (2)(e) amended, p. 67, § 2, effective August 3.

Editor's note: (1) This section is similar to former § 23-31-134 as it existed prior to 2007, and the former § 23-31-117 was relocated to § 23-31-106.

(2) Subsection (2)(e) was originally numbered as § 23-31-134 (2)(e), and the amendments to it in Senate Bill 07-054 were harmonized with House Bill 07-1254 and relocated to this section.

23-31-118. Advancement of moneys and pledge of income. (1) The board of governors of the Colorado state university system, designated in this section as the "board", is authorized to enter into contracts for the advancement of moneys for the construction and

acquisition of facilities or equipment, or both, for the Colorado state university veterinary medicine hospital, or any part thereof, and, in connection with or as a part of such contracts, to pledge revenues from a special hospital fee that the board shall collect pursuant to agreements entered into with or with respect to each accountable student as security for the repayment of the moneys advanced therefor, together with interest thereon. The maximum number of accountable students at any given time shall not exceed three hundred eight; except that, should the total enrollment in the professional veterinary medicine program exceed five hundred forty-eight head-count students, additional accountable students may not exceed forty-five percent of each admitted class. For purposes of this section, an "accountable student" is a person who, as of the date of his or her selection for admission into the professional veterinary medicine program, is not receiving funding, either from the state of Colorado or from a state that has entered into a cooperative agreement with the state of Colorado pursuant to section 24-60-601, C.R.S., for all or any portion of the costs incurred in participating in the professional veterinary medicine program. An agreement shall be entered into with or with respect to each accountable student, and each such agreement shall provide that, as a condition to that student's continued enrollment in the professional veterinary medicine program, there shall be paid annually by or on behalf of the student the special hospital fee provided for in this section, which fee shall be fixed by the board annually in an amount sufficient to meet the obligation authorized by this section.

(2) The board shall annually assess each cooperative state or accountable student a support fee to reimburse Colorado for instructional costs. This support fee includes an equipment and renovation fee of one thousand one dollars assessed to each cooperative state or accountable student for acquisition or replacement of equipment and for renovation. Colorado shall share proportionately in the acquisition or replacement of equipment and renovation projects. The amount to be paid by Colorado shall be determined by the annual ratio of Colorado students to accountable students based upon beginning enrollment of each school year. The fee required to be collected pursuant to this subsection (2) is based on a student's status as an "accountable student" at the time of selection for admission into the professional veterinary medicine program and shall not be reduced or waived regardless of the student's status as an in-state student, pursuant to the provisions of section 23-7-103, at any time during the student's participation in the professional veterinary medicine program.

(3) The board shall not pledge any income of the university except that authorized in subsection (1) of this section and shall not create any mortgage upon property belonging to such institution or obligate the state of Colorado for the purpose of repaying or receiving any funds raised or advanced under the provisions of this section.

(4) Any advancement of moneys, not to exceed two million five hundred thousand dollars, may be evidenced by revenue bonds or anticipation warrants to be executed by the board for and on behalf of Colorado state university and containing such terms and provisions, including provisions for adequate reserves and for redemption prior to maturity and a maximum net effective interest rate, as may be determined by the board. Such revenue bonds or anticipation warrants shall bear interest at a rate such that the net effective interest rate of the issue of bonds or anticipation warrants does not exceed the maximum net effective interest rate fixed, which interest shall be payable semiannually or annually. Such revenue bonds or warrants may be sold at less than par, but they may not be sold at a price such that the net effective interest rate of the issue of bonds or warrants exceeds the maximum net effective interest rate

fixed. Any such revenue bonds or warrants may be refunded pursuant to article 54 of title 11, C.R.S., if in the judgment of the board such refunding is to the best interests of the university.

(5) If the sources of pledged revenues described in subsection (1) of this section exceed the amount required for the amortization of any advancement made pursuant to this section, and the payment of interest thereof, together with reserve requirements, the board may apply such surplus to the redemption of such securities prior to maturity of such securities according to redemption provisions thereof, or such surplus may be used by the board for the purposes of maintaining, repairing, altering, or adding to any existing equipment or facilities acquired pursuant to the provisions of this section for any lawful purpose.

(6) All obligations issued pursuant to this section and the income therefrom shall be exempt from taxation, except inheritance, estate, and transfer taxes.

(7) No action shall be brought questioning the legality of any contract, proceedings, revenue bonds, or anticipation warrants issued or to be issued by the board in connection with the provision of all or any part of the Colorado state university veterinary medicine hospital pursuant to this section after the expiration of thirty days from the effective date of any resolution or other official action authorizing such contract, adopting such proceedings, or authorizing the issuance of such warrants or bonds.

Source: L. 2007: Entire article amended with relocations, p. 529, § 2, effective August 3. **L. 2013:** (2) amended, (HB 13-1026), ch. 12, p. 33, § 1, effective March 8.

Editor's note: This section is similar to former § 23-31-135 as it existed prior to 2007, and the former § 23-31-118 was relocated to § 23-31-107.

23-31-119. Plant breeding programs. The board of governors of the Colorado state university system is authorized to initiate and expand plant breeding programs that will result in the development of disease-resistant varieties of crop plants, particularly of small grain varieties that are resistant to black stem rust disease, and to continue or expand any plant breeding program which may be necessary to protect important crops of Colorado from diseases that would endanger or seriously reduce the production of these crops in the state of Colorado.

Source: L. 2007: Entire article amended with relocations, p. 530, § 2, effective August 3.

Editor's note: This section is similar to former § 23-30-110 as it existed prior to 2007, and the former § 23-31-119 was relocated to § 23-31-108.

23-31-120. Cooperation with other agencies. The board of governors of the Colorado state university system may cooperate with the United States department of agriculture or any of its departments or agencies, the Colorado department of agriculture, other states, counties of Colorado, any organized group of Colorado citizens, and such other agencies, firms, or individuals as may be necessary or desirable to prosecute the provisions of this part 1.

Source: L. 2007: Entire article amended with relocations, p. 530, § 2, effective August 3.

Editor's note: This section is similar to former § 23-30-111 as it existed prior to 2007, and the former § 23-31-120 was relocated to § 23-30-120.

23-31-121. Providing personnel, supplies. The board of governors of the Colorado state university system, operating through the Colorado agricultural experiment station, may provide such personnel, funds, labor, material, and supplies as are necessary for the purposes specified in sections 23-31-119 and 23-31-120.

Source: L. 2007: Entire article amended with relocations, p. 531, § 2, effective August 3.

Editor's note: This section is similar to former § 23-30-112 as it existed prior to 2007, and the former § 23-31-121 was relocated to § 23-31-109.

23-31-122. Agricultural extension service furnished counties. Two or more counties may join in financing agricultural extension service furnished counties by the Colorado state university. In such event, each such county shall pay its pro rata share of the cost of such work as determined by negotiation between the board of governors of the Colorado state university system and the board of county commissioners of each such county.

Source: L. 2007: Entire article amended with relocations, p. 531, § 2, effective August 3.

Editor's note: This section is similar to former § 23-30-113 as it existed prior to 2007.

PART 2

FORESTRY

23-31-201. Transfer to board of governors of the Colorado state university system - exceptions. (1) There is transferred to and vested in the board of governors of the Colorado state university system, referred to in this part 2 as the "board", all rights, powers, and duties for protecting, promoting, and extending the conservation of the forests in the state vested on or before February 14, 1955, in the state board of land commissioners, acting ex officio as the state board of forestry; but such authority shall not extend to nor include the power vested in the state board of land commissioners with respect to forest lands included in the public lands of the state under the control and jurisdiction of said state board of land commissioners, as provided by sections 9 and 10 of article IX of the state constitution and the laws relating thereto.

(2) (a) Effective July 1, 2012, the forestry functions of the board relating principally to fire and wildfire preparedness, response, suppression, coordination, or management are transferred by a **type 2** transfer, as such transfer is defined in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S., to the wildland fire management section in the division of fire prevention and control in the department of public safety created in section 24-33.5-1201, C.R.S.

(b) Nothing in paragraph (a) of this subsection (2) divests the board or the state forest service of any other personnel, functions, powers, or duties relating to forest resources, including risk education and prevention, forest health, management, stewardship, technical assistance,

urban and community forestry, insect and disease monitoring and mitigation, research, education, outreach, planning, and fire ecology.

(c) Any and all claims, liabilities, and damages, including costs and attorneys' fees, relating in any way to the performance of duties described in paragraph (a) of this subsection (2) that were performed by the board or its employees on or before June 30, 2012, are hereby transferred to and assumed by the state exclusively through the division of fire prevention and control in the department of public safety, and no other public entity or agency, including the board and its employees, shall be responsible or liable for any such claims, liabilities, or damages that arose before June 30, 2012.

Source: L. 2007: Entire article amended with relocations, p. 531, § 2, effective August 3. **L. 2012:** Entire section amended, (HB 12-1283), ch. 240, p. 1066, § 2, effective July 1.

Editor's note: This section is similar to former § 23-30-201 as it existed prior to 2007.

Cross references: For the legislative declaration in the 2012 act amending this section, see section 1 of chapter 240, Session Laws of Colorado 2012.

23-31-202. Powers and duties of board of governors of the Colorado state university system. (1) The authority granted to the board by section 23-31-201 includes the following powers and duties:

(a) To provide for the protection of the forest resources of the state, both public and private, from insects and diseases;

(b) To foster and promote the control of soil erosion on such forest lands;

(c) To carry on an educational program with landowners, in the application of the practice of forestry on forest lands, by the growing, harvesting, and marketing of forest products from such lands;

(d) To disseminate information and statistics concerning forests and forestry in the state, subject to the control and approval of the executive director of the department of natural resources;

(e) To conduct investigations and experiments tending to further the intent of this part 2;

(f) To report to the executive director of the department of natural resources at such times and on such matters as the executive director may require; and

(g) To cooperate with all agencies of the state which need and request the aid and assistance of a trained forester.

(2) In addition to the powers and duties set forth in subsection (1) of this section, the board of governors of the Colorado state university system shall enter into an agreement with the executive director of the department of natural resources pursuant to section 24-33-201 (1), C.R.S.

Source: L. 2007: Entire article amended with relocations, p. 531, § 2, effective August 3. **L. 2012:** IP(1) and (1)(a) amended, (HB 12-1283), ch. 240, p. 1067, § 3, effective July 1.

Editor's note: This section is similar to former § 23-30-202 as it existed prior to 2007.

Cross references: For the legislative declaration in the 2012 act amending the introductory portion to subsection (1) and subsection (1)(a), see section 1 of chapter 240, Session Laws of Colorado 2012.

23-31-203. Cooperation with governmental units. (Repealed)

Source: L. 2007: Entire article amended with relocations, p. 532, § 2, effective August 3. **L. 2012:** Entire section repealed, (HB 12-1283), ch. 240, p. 1137, § 55, effective July 1.

Editor's note: (1) This section was similar to former § 23-30-203 as it existed prior to 2007.

(2) This section was relocated to § 24-33.5-1218 in 2012.

Cross references: For the legislative declaration in the 2012 act repealing this section, see section 1 of chapter 240, Session Laws of Colorado 2012.

23-31-204. Forest fires - duty of sheriff to report. (Repealed)

Source: L. 2007: Entire article amended with relocations, p. 532, § 2, effective August 3. **L. 2012:** Entire section repealed, (HB 12-1283), ch. 240, p. 1137, § 55, effective July 1.

Editor's note: (1) This section was similar to former § 23-30-204 as it existed prior to 2007.

(2) This section was relocated to § 24-33.5-1219 in 2012.

Cross references: (1) For additional duties of sheriffs as to forest fires, see §§ 30-10-512, 30-10-513, and 30-10-513.5.

(2) For the legislative declaration in the 2012 act repealing this section, see section 1 of chapter 240, Session Laws of Colorado 2012.

23-31-205. Provisions of act of congress accepted. The state of Colorado does hereby accept the provisions of the act of congress dated June 7, 1924, entitled "Clarke-McNary Law", as amended.

Source: L. 2007: Entire article amended with relocations, p. 532, § 2, effective August 3.

Editor's note: (1) This section is similar to former § 23-30-205 as it existed prior to 2007.

(2) The "Clarke-McNary Law", as referenced in this section, refers to the federal "Clarke-McNary Act (Reforestation)" and was found in title 16, U.S.C., before portions of the act were repealed, effective October 1, 1978.

23-31-206. Cooperative agreements. (1) The board is further authorized to enter into cooperative agreements with federal and state agencies to promote and carry out the intent and purposes of this part 2, and in carrying out the provisions of all federal acts providing funds to

promote the practice of forestry; and, for the purpose of continued acceptance and participation in the provisions of the act of congress dated June 7, 1924, entitled the "Clarke-McNary Law", the board is designated as the agency of the state to administer and expend any federal appropriations received under said act of congress, pursuant to section 23-31-205.

(2) Notwithstanding any provision of law to the contrary, including the transfer of functions effected by House Bill 12-1283, enacted in 2012, all interagency agreements regarding wildfire and prescribed fire management and control that are in effect as of July 1, 2012, to which the state forest service, or the board on its behalf, is a party, shall remain in full force and effect.

Source: L. 2007: Entire article amended with relocations, p. 532, § 2, effective August 3. **L. 2012:** Entire section amended, (HB 12-1283), ch. 240, p. 1067, § 4, effective July 1.

Editor's note: (1) This section is similar to former § 23-30-206 as it existed prior to 2007.

(2) The "Clarke-McNary Law", as referenced in this section, refers to the federal "Clarke-McNary Act (Reforestation)" and was found in title 16, U.S.C., before portions of the act were repealed, effective October 1, 1978.

Cross references: For the legislative declaration in the 2012 act amending this section, see section 1 of chapter 240, Session Laws of Colorado 2012.

23-31-207. Employees and personnel. The board is authorized to employ the necessary professional, clerical, and other personnel needed to carry out this part 2. Persons employed in a technical forestry capacity must have completed the requirements for and received a degree from an accredited school of forestry. Persons employed in other technical fields must have completed the requirements for and received a degree from an accredited school in their professional field. The board may appoint, pursuant to its personnel powers, in consultation with the executive director of the department of natural resources, to carry out the provisions of this part 2 and part 3 of this article, a professional forester, to be known as the state forester, whose duties shall be primarily of an educational or regulatory nature.

Source: L. 2007: Entire article amended with relocations, p. 532, § 2, effective August 3. **L. 2010:** Entire section amended, (HB 10-1071), ch. 44, p. 170, § 1, effective March 29.

Editor's note: This section is similar to former § 23-30-207 as it existed prior to 2007.

23-31-208. Rights by succession to state board of land commissioners - transfers to division of fire prevention and control. (1) (a) On February 14, 1955, the board shall succeed to all records, documents, and equipment in the hands of the state board of land commissioners as pertain to and used by the state board of land commissioners in the performance of the rights, powers, and duties transferred, and the state board of land commissioners is directed to deliver said property to the board within a reasonable time.

(b) On February 14, 1955, the state treasurer and the controller shall transfer to the board all funds, including federal grants-in-aid, remaining to the credit of the state board of land

commissioners and appropriated or received for the administration of the rights, powers, and duties transferred by this section; but the transfer of funds shall not apply to any moneys appropriated for forest administration from the land commissioners' expense fund.

(2) On July 1, 2012, the board's funds, moneys, positions of employment, personnel, and personal property that were, as of June 30, 2012, principally directed to fire and wildfire preparedness, response, suppression, coordination, or management and any and all claims and liabilities, whether known or unknown, asserted or unasserted, relating in any way to fire and wildfire preparedness, response, suppression, coordination, or management by the board, the state forest services or its employees on or before June 30, 2012, are transferred to the division of fire prevention and control in the department of public safety pursuant to section 24-33.5-1201, C.R.S.

Source: L. 2007: Entire article amended with relocations, p. 533, § 2, effective August 3. **L. 2012:** Entire section amended, (HB 12-1283), ch. 240, p. 1068, § 5, effective July 1.

Editor's note: This section is similar to former § 23-30-208 as it existed prior to 2007.

Cross references: For the legislative declaration in the 2012 act amending this section, see section 1 of chapter 240, Session Laws of Colorado 2012.

PART 3

STATE FOREST SERVICE

23-31-301. Legislative declaration. (1) The general assembly hereby finds that:

(a) The management of Colorado's state-owned forested land has far-reaching impacts on overall forest condition, risk of wildfire, water quantity and quality, and wildlife habitat;

(b) The unnatural condition of many forests throughout the state leaves them at great risk to catastrophic fires, invasion by exotic and native pest species, and other types of damage on a landscape scale;

(c) As a result of the 2002 wildfire season, the worst in Colorado's recorded history, in which two thousand twelve fires consumed over half a million acres of forested land:

(I) Local, state, and federal agencies incurred one hundred fifty-two million dollars in suppression costs and at least fifty million dollars to date in rehabilitation costs on United States forest service land alone; and

(II) Eighty-one thousand four hundred thirty-five residents had to be evacuated from their homes;

(d) Excessive runoff and soil erosion that occurs following wildfires poses a substantial threat to water quantity and quality in areas dependent on forest watersheds, including water supplies and wildlife;

(e) Since 1937, United States forest service scientists have been studying the relationship between forests and water yields in the Fraser experimental forest in western Colorado and have found that unnaturally overgrown stands reduce water yields and that carefully applied natural forest management practices can conserve a more natural water yield;

(f) Decades of scientific research have built a foundation of knowledge and technologies to inform and implement sound forest management and conservation;

(g) Robust, resilient forest conditions that sustain diverse forest stages are essential for productive habitat, healthy populations of wildlife, and improved water quality and quantity for Colorado's fisheries;

(h) Sound forest management activities, such as thinning, prescribed burning, and insect and disease treatments, improve the overall diversity and vigor of forested landscapes as well as the condition of related water, wildlife, recreation, and aesthetic resources;

(i) The Colorado state forest service has worked cooperatively and successfully with the division of parks and wildlife and the state board of land commissioners to improve the condition of forested land and wildlife habitat in selected project areas;

(i.5) These goals will be further advanced through the coordination of efforts to create community-based solutions to restore Colorado forest ecosystems, promote forest industries, and stimulate rural economies through the generation of clean energy from forest biomass;

(j) The executive director of the department of natural resources is authorized to enter into an agreement with the board of governors of the Colorado state university system to work cooperatively with the Colorado state forest service and to provide staff for the division of forestry to carry out its mission of improving the health and sustainability of Colorado's forested state land.

(2) (a) The general assembly hereby declares that it is the public policy of this state to encourage the health of forest ecosystems through responsible management of the forest land of the state and through coordination with the United States secretary of the interior and the United States secretary of agriculture to develop management plans for federal lands within the state of Colorado pursuant to 16 U.S.C. sec. 530, 16 U.S.C. sec. 1604, and 43 U.S.C. sec. 1712, including the use of other pre-suppression activities, such as the harvest and profitable utilization of materials, in order to: Preserve forest and other natural resources; enhance the growth and maintenance of forests; conserve forest cover on watersheds; protect recreational, wildlife, and other values; promote stability of forest-using industries; and prevent loss of life and damage to property from wildfires and other conflagrations.

(b) In addition to any other powers and duties conferred upon the Colorado state forest service by law, the Colorado state forest service may:

(I) Value forest materials on state lands using lowest market value as an incentive to maximize the utilization of these products; and

(II) Collaborate with the United States forest service and the bureau of land management to contract for a reliable source of feedstock consistent with Colorado communities' plans for utilization of forest biomass described in section 23-31-312 (3.5).

Source: L. 2007: Entire article amended with relocations, p. 533, § 2, effective August 3. **L. 2012:** (2) amended, (HB 12-1283), ch. 240, p. 1068, § 6, effective July 1. **L. 2013:** (1)(i.5) added and (2) amended, (SB 13-273), ch. 406, p. 2373, § 2, effective June 5. **L. 2014:** (2)(a) amended, (HB 14-1363), ch. 302, p. 1267, § 19, effective May 31. **L. 2015:** (2)(a) amended, (SB 15-264), ch. 259, p. 957, § 57, effective August 5.

Editor's note: This section is similar to former § 23-30-301 as it existed prior to 2007.

Cross references: For the legislative declaration in the 2012 act amending subsection (2), see section 1 of chapter 240, Session Laws of Colorado 2012. For the legislative declaration in the 2013 act adding subsection (1)(i.5) and amending subsection (2), see section 1 of chapter 406, Session Laws of Colorado 2013.

23-31-302. Forestry function named. The forestry function of the board of governors of the Colorado state university system shall be known as the "Colorado state forest service".

Source: L. 2007: Entire article amended with relocations, p. 534, § 2, effective August 3.

Editor's note: This section is similar to former § 23-30-302 as it existed prior to 2007.

23-31-303. Funds available.

(1) Repealed.

(2) The beetle mitigation fund is hereby created in the state treasury to be administered by the Colorado state forest service for the purpose of removing trees infested by beetles from forests on state-owned land and otherwise mitigating the effects of beetle infestation on state-owned land. The fund shall consist of donations received pursuant to subsection (3) of this section.

(3) The Colorado state forest service shall create and maintain one or more web pages on its official website that provide information on the beetle mitigation fund to the public and that allow the public to donate to the fund online. Websites operated by other interested state departments shall add prominent links referring the public to the Colorado state forest service's beetle mitigation fund web page to encourage voluntary contributions to the fund. The Colorado state forest service shall transmit all such contributions to the state treasurer, who shall deposit them in the fund.

Source: L. 2007: Entire article amended with relocations, p. 534, § 2, effective August 3. **L. 2008:** Entire section amended, p. 1553, § 1, effective August 5. **L. 2009:** (1) amended, (SB 09-020), ch. 189, p. 828, § 2, effective April 30. **L. 2012:** (1) repealed, (HB 12-1283), ch. 240, p. 1137, § 55, effective July 1.

Editor's note: (1) This section is similar to former § 23-30-303 as it existed prior to 2007.

(2) Subsection (1) was relocated to § 24-33.5-1220 in 2012.

Cross references: For the legislative declaration in the 2012 act repealing subsection (1), see section 1 of chapter 240, Session Laws of Colorado 2012.

23-31-304. State responsibility determined. (Repealed)

Source: L. 2007: Entire article amended with relocations, p. 535, § 2, effective August 3. **L. 2009:** Entire section amended, (SB 09-020), ch. 189, p. 828, § 3, effective April 30. **L. 2012:** Entire section repealed, (HB 12-1283), ch. 240, p. 1137, § 55, effective July 1.

Editor's note: (1) This section was similar to former § 23-30-304 as it existed prior to 2007.

(2) This section was relocated to § 24-33.5-1221 in 2012.

Cross references: For the legislative declaration in the 2012 act repealing this section, see section 1 of chapter 240, Session Laws of Colorado 2012.

23-31-305. Cooperation by counties. (Repealed)

Source: L. 2007: Entire article amended with relocations, p. 535, § 2, effective August 3. **L. 2012:** Entire section repealed, (HB 12-1283), ch. 240, p. 1137, § 55, effective July 1.

Editor's note: (1) This section was similar to former § 23-30-305 as it existed prior to 2007.

(2) This section was relocated to § 24-33.5-1222 in 2012.

Cross references: For the legislative declaration in the 2012 act repealing this section, see section 1 of chapter 240, Session Laws of Colorado 2012.

23-31-306. Sheriffs to enforce. (Repealed)

Source: L. 2007: Entire article amended with relocations, p. 535, § 2, effective August 3. **L. 2012:** Entire section repealed, (HB 12-1283), ch. 240, p. 1137, § 55, effective July 1.

Editor's note: (1) This section was similar to former § 23-30-306 as it existed prior to 2007.

(2) This section was relocated to § 24-33.5-1223 in 2012.

Cross references: For the legislative declaration in the 2012 act repealing this section, see section 1 of chapter 240, Session Laws of Colorado 2012.

23-31-307. Limitation of state responsibility. (Repealed)

Source: L. 2007: Entire article amended with relocations, p. 535, § 2, effective August 3. **L. 2012:** Entire section repealed, (HB 12-1283), ch. 240, p. 1137, § 55, effective July 1.

Editor's note: (1) This section was similar to former § 23-30-307 as it existed prior to 2007.

(2) This section was relocated to § 24-33.5-1224 in 2012.

Cross references: For the legislative declaration in the 2012 act repealing this section, see section 1 of chapter 240, Session Laws of Colorado 2012.

23-31-308. Emergencies. (Repealed)

Source: L. 2007: Entire article amended with relocations, p. 535, § 2, effective August 3. **L. 2012:** Entire section repealed, (HB 12-1283), ch. 240, p. 1137, § 55, effective July 1.

Editor's note: (1) This section was similar to former § 23-30-308 as it existed prior to 2007.

(2) This section was relocated to § 24-33.5-1225 in 2012.

Cross references: For the legislative declaration in the 2012 act repealing this section, see section 1 of chapter 240, Session Laws of Colorado 2012.

23-31-309. Wildfire emergency response fund - creation - wildfire preparedness fund - creation. (Repealed)

Source: L. 2007: Entire article amended with relocations, p. 535, § 2, effective August 3. **L. 2009:** (6) added, (SB 09-001), ch. 30, p. 127, § 3, effective August 5. **L. 2012:** Entire section repealed, (HB 12-1283), ch. 240, p. 1137, § 55, effective July 1.

Editor's note: (1) This section was similar to former § 23-30-310 as it existed prior to 2007.

(2) This section was relocated to § 24-33.5-1226 in 2012.

Cross references: For the legislative declaration in the 2012 act repealing this section, see section 1 of chapter 240, Session Laws of Colorado 2012.

23-31-310. Forest restoration and wildfire risk mitigation grant program - technical advisory panel - legislative declaration - definitions - repeal. (1) **Short title.** The short title of this section is the "Forest Restoration and Wildfire Risk Mitigation Act".

(1.5) **Legislative declaration.** The general assembly hereby:

(a) Finds that:

(I) Colorado's forests are fundamentally important to its citizens in providing clean air and water, recreation and tourism opportunities, wildlife habitat, and wood products;

(II) Damaging wildfires occur regularly in Colorado due in part to fire suppression efforts and drought, the result of which are unhealthy, fire-prone forests; and

(III) Colorado has experienced a significant increase in damaging wildfires that have destroyed homes, property, and other essential community infrastructure;

(b) Determines that:

(I) It is critical that we invest in measures that reduce the probability of catastrophic fires spreading uncontrollably into our communities in areas of the wildland-urban interface and reduce the financial costs of wildfire in Colorado;

(II) Increasing our efforts to thin or otherwise manage to improve the forests in Colorado would keep our forests healthy and help mitigate risks associated with catastrophic wildfires that endanger lives, property, watersheds, and critical infrastructure;

(III) Consolidating existing state grant programs will provide the necessary resources to the Colorado state forest service to allow the agency to continue to address watershed wildfire risks and forest health conditions in Colorado; augment its technical capacity to assess and

reduce wildfire risk to people, property, and infrastructure; support implementation of community wildfire protection plans; enhance its technical outreach capabilities; and provide loans and grants for market-based forest treatment solutions to reduce wildfire risk, protect watersheds, and improve forest health;

(IV) Maintaining proper funding for a combined grant program will ensure that necessary resources are available to both reduce wildfire risk and improve forest health; and

(V) Given the challenging conditions of Colorado's forests and the imminent risks of catastrophic wildfire, it is critical that state funding of the grants program be increased for the 2019-20 state fiscal year and that grant money be expended on an expedited basis to the greatest extent practicable to fulfill the purposes of this section; and

(c) Declares that it intends to provide aid and guidance for catastrophic wildfire risk mitigation and forest health improvements by authorizing a competitive grant program to assist with funding community-level actions across the entire state that are implemented to protect populations and property in the wildland-urban interface and to promote forest health and the utilization of woody material, including traditional forest products and biomass energy.

(2) **Definitions.** As used in this section, unless the context otherwise requires:

(a) "Accredited Colorado youth corps" means a youth corps organization that is accredited by the Colorado youth corps association.

(b) "Director" means the director of the forest service.

(c) "Forest service" means the Colorado state forest service identified in section 23-31-302 and the division of forestry created in section 24-33-104.

(d) "Fuel" means living and dead combustible vegetation that can feed a fire, including grass, leaves, pine boughs, shrubs, and trees.

(e) "Hazardous fuel reduction treatment" means a treatment that removes or reduces vegetative fuel, including mechanical, manual, broadcast burning, and pile burning fire treatments, or reduces structural ignitability in order to:

(I) Diminish the potential damage arising from a catastrophic wildfire;

(II) Enhance the ability of emergency personnel to safely influence the spread of wildfire; or

(III) Improve landscape-scale forest health conditions.

(f) "Wildland-urban interface" or "WUI" means an area where:

(I) Human development is close to wildland vegetation; and

(II) There exists a high potential for a wildland fire.

(3) **Grant projects.** The forest service shall issue a statewide request for proposals for cost-share grants for projects that are designed through a collaborative community process. The projects may be entirely on, or on any combination of, private, state, county, or municipal forest lands. The grant share of an individual project cost must not exceed fifty percent of the total cost of the project or exceed one million dollars per project. In the case of a project that is located in an area with fewer economic resources, the grant share of an individual project cost must not exceed seventy-five percent of the total cost of the project or exceed one million dollars per project. The remaining portion of the project's funding may be in the form of cash, stumpage, or in-kind contribution. In meeting the match requirements under this subsection (3), a project may be funded, in whole or in part, from gifts, grants, or donations received from any organization, entity, or individual. In measuring an in-kind contribution for purposes of meeting the fifty percent and twenty-five percent matches required by this subsection (3), "in-kind contribution"

may include volunteer hours provided by the staff of an entity or organization applying for grant funding and the time for which staff receives monetary compensation in the form of salary or other financial benefits. Such compensated time that counts toward the in-kind contribution is limited to the estimated time of paid staff in planning and implementing the mitigation project. The forest service shall establish a policy that specifies the criteria by which a particular project will satisfy the requirement of this subsection (3) that it is located in an area with fewer economic resources, as applicable.

(4) **Eligibility requirements.** To be eligible to receive funding under this section, a project must:

(a) Reduce the risk to people and property in the wildland-urban interface and promote forest health;

(b) Address one or more of the following objectives for the purpose of protecting water supplies:

(I) Reducing the threat of large, high-intensity wildfires and the negative effects of excessive competition between trees by restoring ecosystem functions, structures, and species composition, including the reduction of nonnative species populations;

(II) Preserving old and large trees to the extent consistent with ecological values and science;

(III) Replanting trees in deforested areas if such areas exist in the proposed project area; and

(IV) Improving the use of, or adding value to, small diameter trees;

(c) Comply with all applicable federal and state environmental laws;

(d) Repealed.

(e) Incorporate current scientific forest restoration information;

(f) Include an assessment to:

(I) Identify both the existing ecological condition of the proposed project area and the desired future condition; and

(II) Report, upon project completion, to the forest service on the number of acres treated, cost per acre to treat, tonnage of material generated, number of jobs created, and use of any forest products generated; and

(g) Leverage state funding through in-kind, stumpage, or cash matching contributions.

(4.3) In addition to satisfying subsection (4) of this section, a grant project that receives funding under this section may also support ongoing maintenance efforts by eligible recipients to reduce the threat of large, high-intensity wildfires.

(4.4) **Additional funding objectives.** As part of the submission of grant applications under this section, the forest service encourages applicants to include on their grant application information that indicates whether the project is supported by a diverse and balanced group of stakeholders as well as appropriate federal, state, county, and municipal government representatives in the design, implementation, and monitoring of the project.

(4.5) **Eligible recipients.** Eligible grant recipients include:

(a) Local community groups, including homeowners' associations or neighborhood associations, that are within close proximity to the WUI;

(b) Local government entities within or adjacent to the WUI;

(c) Public or private utilities, including water providers, with infrastructure or land ownership in areas of high risk for catastrophic wildfires;

(d) State agencies, such as the state land board or the division of parks and wildlife, that own lands or property in areas of high risk for catastrophic wildfires;

(e) Nonprofit groups that promote hazardous fuel reduction treatment projects in partnership with local, state, or private entities;

(f) A fire protection district, as defined in section 32-1-103 (7); and

(g) A nonprofit organization or entity engaged in firefighting or fire management activities.

(5) **Technical advisory panel.** The director shall convene a technical advisory panel to evaluate the proposals for forest restoration and wildfire risk mitigation grants and provide recommendations regarding which proposals would best meet the objectives of this section. The panel shall consider eligibility criteria established in subsections (4) and (4.5) of this section, a project's effect on long-term forest management, and the number of acres treated for state dollars spent and seek to use a consensus-based decision-making process to develop such recommendations. A panel member shall recuse himself or herself if he or she has an actual or potential conflict of interest with respect to a grant applicant. The panel is composed of ten to eleven members, to be appointed by the director. The composition of the panel includes:

(a) An official to represent the department of natural resources;

(b) At least one representative from federal land management agencies;

(c) At least one independent scientist with experience in forest ecosystem restoration;

(d) An official to represent the department of public safety;

(e) At least one member who represents a county or municipal government with jurisdiction over an area of the WUI;

(f) At least one member who represents the traditional forest products industry;

(g) At least one member who represents the biomass energy products industry;

(h) At least one member who represents a nonprofit collaborative group involved with the mitigation of catastrophic wildfires in Colorado and the maintenance and improvement of ecological health; and

(i) At least two members with expertise in water and watershed management.

(6) **Proposal selection.** After consulting with the technical advisory panel established in subsection (5) of this section, the forest service shall select the proposals that will receive funding through this section. In carrying out approved projects, the project proponents shall, whenever feasible, contract with the Colorado youth corps association or an accredited Colorado youth corps to provide labor. The general assembly encourages the forest service to modify its administrative policies and procedures under this section to enable funding to be provided to grant recipients in March to enable wildfire mitigation to commence before the prime wildfire season starts in June.

(7) Repealed.

(8) **Administrative costs.** The forest service may utilize no more than three percent of any amounts appropriated in any fiscal year for its direct and indirect costs in administering the program.

(8.2) **Community watershed restoration and wildfire risk mitigation.** (a) In order to support communities and land managers in efforts to reduce risk to people and property and in support of long-term ecological restoration so that the underlying condition of Colorado's forests supports a variety of values, particularly public water supply and high-quality wildlife habitat, the forest service shall:

(I) Hire additional temporary field capacity to support the implementation of forest restoration and wildfire risk mitigation program grants awarded pursuant to this section;

(II) In awarding grants pursuant to this section, give additional emphasis to projects that substantially leverage additional financial resources or that have been identified through a community-based collaborative process.

(b) (I) The forest service may use the unencumbered balance of the forest restoration and wildfire risk mitigation grant program cash fund created in subsection (8.5) of this section for the purpose of complying with this subsection (8.2).

(II) This subsection (8.2)(b) is repealed, effective September 1, 2023.

(8.3) **Grant program.** (a) The forest service shall develop and administer the program in consultation with the technical advisory panel created in subsection (5) of this section. In developing the program, the forest service shall:

(I) Dedicate up to twenty-five percent of the money available in the forest restoration and wildfire risk mitigation grant program cash fund, created in subsection (8.5) of this section, to fund capacity-building efforts to provide local governments, community groups, and collaborative forestry groups with the resources necessary to provide site-based hazardous fuel reduction treatments, including neighborhood slash piles and community equipment for use by landowners;

(II) Dedicate up to five percent of the money available in the fund to be used by the forest service to:

(A) Monitor grant recipients' compliance with the grant program; and

(B) Measure the grant program's effectiveness;

(III) Require a grant applicant to demonstrate that:

(A) The grant applicant has available, or will have available before implementation of the project, matching funds in the form of a dollar-for-dollar match or the value of in-kind contributions for the project. A project's matching funds may come from federal sources or state sources, but no more than fifty percent of the matching funds may come from state sources; except that, if the grant applicant is a state agency, more than fifty percent of the matching funds may come from other state sources.

(B) The proposed project includes a plan for utilizing any woody material generated by the project, including traditional forest products and biomass energy products. The forest service shall offer technical support to grant applicants to assist with the development of the applicant's plan for utilizing forest products. The forest service shall inform applicants of the availability of its technical support.

(IV) Encourage a grant applicant, where feasible, to utilize the labor of:

(A) Youth and young adults participating in a Colorado youth corps organization accredited by the Colorado youth corps association; or

(B) Veterans participating in an accredited Colorado corps program serving veterans;

(V) In consultation with the technical advisory panel created in subsection (5) of this section, establish the information to be included in the grant application, including a description of the proposed project; and

(VI) Establish a plan for administering the grant program, including the development of:

(A) Periodic reporting requirements;

(B) Tools for monitoring and tracking grant projects; and

(C) Measures for assessing the progress of grant projects.

(b) Annually and in a final report to be presented before the end of the regular session in 2018, the forest service shall report to the agriculture, livestock, and natural resources committee in the Colorado house of representatives and the agriculture, natural resources, and energy committee in the Colorado senate, or their successor committees, regarding the progress of the grant program, including information concerning the:

(I) Number of acres treated;

(II) Cost per acre to treat;

(III) Tonnage of material generated;

(IV) Number of jobs created;

(V) Use of any forest products generated; and

(VI) The grant program's ability to achieve its stated goals.

(c) On and after the repeal of part 4 of article 7 of title 36, the forest service shall administer pursuant to this section all grants made pursuant to that part 4 before its repeal.

(8.5) **Forest restoration and wildfire risk mitigation grant program cash fund.** (a) There is hereby created in the state treasury the forest restoration and wildfire risk mitigation grant program cash fund. The department of higher education shall administer the fund, which consists of:

(I) All money transferred by the treasurer as specified in section 39-29-109.3 (2)(k) and subsection (8.7) of this section;

(II) All money that was in the wildfire risk reduction fund created in section 36-7-405 prior to the repeal of that fund. As soon as possible after December 31, 2017, the state treasurer shall transfer the unencumbered fund balance of the wildfire risk reduction fund as of month-end close on December 31, 2017, to the forest restoration and wildfire risk mitigation grant program cash fund.

(III) Any other money appropriated or transferred to the fund by the general assembly.

(b) All money in the fund is continuously appropriated to the department of higher education for allocation to the board of governors of the Colorado state university system for the forest restoration and wildfire risk mitigation grant program specified in this section. All money in the fund at the end of each fiscal year remains in the fund and does not revert to the general fund or any other fund. The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund.

(8.7) On July 1, 2017, and July 1, 2018, the state treasurer shall transfer nine hundred fifty-four thousand five hundred forty-five dollars from the general fund to the forest restoration and wildfire risk mitigation grant program cash fund.

(8.8) It is the intent of the general assembly that any additional amount of money appropriated for the 2019-20 state fiscal year to the fund created in subsection (8.5)(a) of this section be expended on grants that will support the maximum number of effective forest management fuels reduction projects to reduce the impacts to life, property, and critical infrastructure caused by wildfire.

(9) **Repeal.** This section is repealed, effective September 1, 2029.

Source: L. 2007: Entire section added, p. 1324, § 1, effective May 29. **L. 2008:** (8.5) added and (9) amended, pp. 1535, 1534, §§ 6, 1, effective May 28. **L. 2012:** (6), (8), (8.5), and (9) amended and (7) repealed, (HB 12-1032), ch. 69, p. 238, § 1, effective March 24. **L. 2017:** (8.5)(a)(I) amended and (8.7) added, (SB 17-259), ch. 190, p. 689, § 1, effective May 3; (1), (2),

(3), IP(4), (4)(a), (4)(f)(II), (5), (6), (8.5), and (9) amended and (1.5), (4.5), (8.2), and (8.3) added, (SB 17-050), ch. 34, p. 99, § 4, effective July 1. **L. 2018:** (8.7) amended, (HB 18-1338), ch. 201, p. 1308, § 1, effective May 4. **L. 2019:** (1.5)(b)(V) and (8.8) added and (8.5)(a) amended, (HB 19-1006), ch. 398, p. 3537, § 1, effective May 31; (8.3)(a)(III)(B) amended, (SB 19-241), ch. 390, p. 3467, § 21, effective August 2. **L. 2020:** (3), (4.5)(d), (6), and (9) amended, (4)(d) repealed, and (4.3), (4.4), (4.5)(f), and (4.5)(g) added, (HB 20-1057), ch. 78, p. 318, § 1, effective September 14.

Editor's note: This section was numbered as § 23-30-311 in House Bill 07-1130 but was harmonized with House Bill 07-1254 and relocated.

23-31-311. Watershed protection projects and forest health projects. (1) The Colorado state forest service, representing the state of Colorado, shall, in consultation with the governmental agencies participating in such projects, identify watershed protection projects and forest health projects that will use moneys received pursuant to section 37-95-112.5, C.R.S., including, but not limited to, the harvesting of trees infested with beetles.

(2) The Colorado state forest service shall collaborate with water providers; federal, state, and local governments; educational institutions; landowners; and other interested public and private entities to recommend the use of moneys made available pursuant to section 37-95-112.5, C.R.S. This process shall consider:

(a) Areas that have the highest priority for ecological or wildfire hazard reduction restoration;

(b) Areas that have been prioritized for treatment by a local or regional forest collaborative process or through a comparable stakeholder process; or

(c) (I) Watershed protection projects and forest health projects on private, state, and federal lands, including national forest and other federal lands that serve as the primary source of water to communities and municipalities and for agricultural purposes.

(II) In identifying such watershed protection projects and forest health projects, consideration shall be made to effectively use available resources by:

(A) Applying the principles of the state of Colorado good neighbor authority programs entered into between the Colorado state forest service and the United States forest service and between the Colorado state forest service and the United States bureau of land management;

(B) Combining available resources with federal grant money, if any, and other complementary funding resources that are available for such projects or similar projects; and

(C) Partnering on such projects being planned or conducted by governmental agencies with land management jurisdiction in community and municipal watersheds.

(3) In carrying out such watershed protection projects and forest health projects, the Colorado state forest service shall, whenever feasible, contract with the Colorado youth corps association or an accredited Colorado youth corps to provide labor. For purposes of this section:

(a) "Accredited Colorado youth corps" means a youth corps organization that is accredited by the Colorado youth corps association.

(b) "Forest health project" has the meaning set forth in section 37-95-103, C.R.S.

(c) "Governmental agencies" has the meaning set forth in section 37-95-112.5 (4), C.R.S.

(d) "Watershed protection project" has the meaning set forth in section 37-95-103, C.R.S.

Source: L. 2008: Entire section added, p. 1542, § 6, effective July 1. **L. 2009:** (3)(c) amended, (SB 09-292), ch. 369, p. 1966, § 72, effective August 5.

23-31-312. Community wildfire protection plans - biomass utilization plans - county governments - guidelines and criteria - legislative declaration - definitions. (1) (a) The general assembly hereby finds, determines, and declares that:

(I) Community wildfire protection plans, or CWPPs, are authorized and defined in section 101 of Title I of the federal "Healthy Forests Restoration Act of 2003", Pub.L. 108-148, referred to in this section as "HFRA". Title I of HFRA authorizes the secretaries of agriculture and the interior to expedite the development and implementation of hazardous fuel reduction projects on federal lands managed by the United States forest service and the bureau of land management when these agencies meet certain conditions. HFRA emphasizes the need for federal agencies to work collaboratively with local communities in developing hazardous fuel reduction projects, placing priority on treatment areas identified by the local communities themselves in a CWPP. The wildland-urban interface area is one of the identified property areas that qualify under HFRA for the use of this expedited environmental review process.

(II) The development of a CWPP can assist a local community in clarifying and refining its priorities for the protection of life, property, and critical infrastructure in its wildland-urban interface area. The CWPP brings together diverse federal, state, and local interests to discuss their mutual concerns for public safety, community sustainability, and natural resources. The CWPP process offers a positive, solution-oriented environment in which to address challenges such as local fire-fighting capability, the need for defensible space around homes and housing developments, the effect of fire ratings and combustibility standards for building materials used in wildland-urban interface areas, and where and how to prioritize land management on both federal and nonfederal lands. CWPPs can be as simple or complex as a local community desires.

(III) The adoption of a CWPP brings many benefits to the state and adopting local community, including:

(A) The opportunity to establish a locally appropriate definition and boundary for the wildland-urban interface area;

(B) The establishment of relations with other state and local government officials, local fire chiefs, state and national fire organizations, federal land management agencies, private homeowners, electric, gas, and water utility providers in the subject area, and community groups, thereby ensuring collaboration among these groups in initiating a planning dialogue and facilitating the implementation of priority actions across ownership boundaries;

(C) Specialized natural resource knowledge and technical expertise relative to the planning process, particularly in the areas of global positioning systems and mapping, vegetation management, assessment of values and risks, and funding strategies; and

(D) Statewide leadership in developing and maintaining a list or map of communities at risk within the state and facilitating work among federal and local partners to establish priorities for action.

(IV) CWPPs give priority to projects that provide for the protection of at-risk communities or watersheds or that implement recommendations in the CWPP.

(V) CWPPs assist local communities in influencing where and how federal agencies implement fuel reduction projects on federal lands, how additional federal funds may be distributed for projects on nonfederal lands, and in determining the types and methods of treatment that, if completed, would reduce the risk to the community.

(VI) The development of CWPPs promotes economic opportunities in rural communities.

(b) By enacting this section, the general assembly intends to facilitate and encourage the development of CWPPs in counties with fire hazard areas in their territorial boundaries and to provide more statewide uniformity and consistency with respect to the content of CWPPs in counties needing protection against wildfires.

(2) As used in this section, unless the context otherwise requires:

(a) "CWPP" means a community wildfire protection plan as authorized and defined in section 101 of Title I of the federal "Healthy Forests Restoration Act of 2003", Pub.L. 108-148.

(b) "Fire hazard area" means an area mapped by the Colorado state forest service, identified in section 23-31-302, as facing a substantial and recurring risk of exposure to severe fire hazards.

(c) "Red zone" means a wildland-urban interface area of high wildfire risk in Colorado, identified by the red zone map originally created in September 2004 by the Colorado state forest service and periodically updated to show areas where a high risk of catastrophic wildfire endangers homes, communities, utilities, and watersheds.

(3) Not later than November 15, 2009, the state forester, in collaboration with representatives of the United States forest service, the Colorado department of natural resources, county governments, municipal governments, local fire departments or fire protection districts, electric, gas, and water utility providers in the subject area, and state and local law enforcement agencies, shall establish guidelines and criteria for counties to consider in preparing their own CWPPs to address wildfires in fire hazard areas within the unincorporated portion of the county.

(3.5) When a community within a red zone adopts or updates a CWPP, the community is encouraged to include, as an element of the CWPP, a plan for community-based and sustainable utilization of forest biomass for the production of energy, fuels, forest products, and other applications, developed in consultation with the Colorado state forest service. As part of the plan, the state forester or the state forester's designee may offer assistance to the communities in identifying, contracting for, and securing primarily from high-risk areas a reliable source of feedstock in support of forest products industries.

(4) The adoption of a CWPP by a county government shall be governed by the requirements of section 30-15-401.7, C.R.S.

(5) The state forester shall send timely notice of the guidelines and criteria established pursuant to subsection (3) of this section to the department of local affairs and to statewide organizations representing Colorado counties and municipalities and shall post such information on the website of the Colorado state forest service.

(6) Nothing in this section affects section 23-31-309 or the wildfire preparedness plan developed pursuant to section 24-33.5-1227, C.R.S.

Source: L. 2009: Entire section added, (SB 09-001), ch. 30, p. 123, § 1, effective August 5. **L. 2013:** (6) amended, (SB 13-270), ch. 250, p. 1317, § 7, effective May 23; (2)(c) and (3.5) added, (SB 13-273), ch. 406, p. 2374, § 3, effective June 5.

Cross references: For the legislative declaration in the 2013 act adding subsections (2)(c) and (3.5), see section 1 of chapter 406, Session Laws of Colorado 2013.

23-31-313. Healthy forests - vibrant communities - funds created - repeal. (1) **Short title.** This section shall be known and may be cited as the "Colorado Healthy Forests and Vibrant Communities Act of 2009".

(2) **Legislative declaration.** The general assembly hereby declares that addressing the wildfire risk in Colorado and the development of community wildfire protection plans to bring together federal, state, and local interests, including nongovernmental entities such as electric, gas, and water utilities, to address wildfire risk to life, property, and infrastructure in Colorado is a matter of statewide concern.

(3) **Definitions.** As used in this section, unless the context otherwise requires:

(a) "Community-based collaborative process" means a process in which a diverse range of governmental and nongovernmental stakeholders, representing a wide variety of perspectives, are meaningfully engaged in analyzing and identifying forest management needs for their community.

(b) "Community wildfire protection plan" or "CWPP" means a plan that meets the definition of a community wildfire protection plan in the federal "Healthy Forests Restoration Act of 2003", 16 U.S.C. sec. 6511, including the minimum requirements for collaboration with local and state government representatives, including conservation districts created pursuant to article 70 of title 35, C.R.S., and county noxious weed program administrators and consultation with federal agencies and other interested nongovernmental parties, including any electric, gas, and water utilities in the affected area, and the minimum requirements for approval by representatives of local government, local fire authorities, and the forest service.

(c) "Forest service" means the Colorado state forest service identified in section 23-31-302.

(d) "GIS" means a geographical information system, a systematic integration of computer hardware, software, and spatial data, for capturing, storing, displaying, updating, manipulating, and analyzing geographical information in order to solve complex management problems.

(e) "Good neighbor authority" means the authority of the state of Colorado pursuant to section 331 of the federal "Department of Interior and Related Agencies Appropriation Act of 2001", Pub.L. 106-291, 114 Stat. 922, or any analogous successor authority.

(f) "Temporary field capacity" means full-time, temporary field support hired by the forest service to implement projects until such time that program funding is no longer available.

(g) "Wildfire risk mitigation" or "fuel mitigation treatments" means preventive forest management projects or actions, which meet or exceed forest service standards or any other applicable state rules, that are designed to reduce the potential for unwanted impacts caused by wildfires, including:

(I) The creation of a defensible space around structures;

(II) The establishment of fuel breaks;

(III) The thinning of woody vegetation for the primary purpose of reducing risk to structures from wildland fire;

(IV) The secondary treatment of woody fuels by lopping and scattering, piling, chipping, removing from the site, broadcast burning, or prescribed burning; and

(V) Other nonemergency preventive activities designed to reduce the unwanted impacts caused by wildfires that the forest service may deem to be risk reduction or fuel mitigation treatments.

(4) **Community and firefighter planning and preparedness.** To help ensure that communities and firefighters have sufficient resources, technical support, and training to adequately assess wildfire risks, the forest service shall:

(a) Facilitate the CWPP process with communities and other entities seeking to prepare a CWPP to ensure that state and federal CWPP standards are met;

(b) Work with conservation districts created pursuant to article 70 of title 35, C.R.S., county noxious weed program administrators, and other state, local, federal, and nongovernmental partners, including any electric, gas, and water utilities in the affected area, to provide CWPP standards for Colorado that promote greater consistency among CWPPs in the state and ensure that communities address community risks and values, identify protection priorities, assess their ability to respond to wildland fire, establish fuels treatment projects, and identify ways to minimize wildland-urban interface risk in the future;

(c) Provide technical assistance to communities seeking to prepare, update, or implement a CWPP and track the progress of CWPPs and implementation practices through GIS web-based applications;

(d) Provide technical assistance to the board of county commissioners of each county to determine whether there are fire hazard areas within the unincorporated areas of the county and to assist the board of county commissioners of each county with developing CWPPs for those areas; and

(e) Repealed.

(5) **Community wildfire risk mitigation.** To help communities address the urgent need to reduce wildfire risks by supporting implementation of risk mitigation treatments that focus on protecting lives, homes, and essential community infrastructure, and by improving inventory and monitoring of forest conditions, the forest service shall:

(a) Expand its fuels mitigation program through sixty percent cost-share grants to address needs expressed by landowners or utility easement owners in the wildland-urban interface. In order to qualify for these funds, projects shall be included in or provide for implementation of an approved CWPP that meets the standards established pursuant to paragraph (b) of subsection (4) of this section. In awarding these grants, the forest service shall establish evaluation criteria that emphasize projects that reduce risks to the public, firefighters, and community infrastructure; that improve forest health; and that substantially leverage additional financial resources. In making grant awards, the forest service shall also prioritize projects that provide an opportunity to implement Colorado's good neighbor authority or that have been identified through a community-based collaborative process.

(b) Hire additional temporary field capacity to support the implementation and monitoring of fuels mitigation grant awards;

(c) Provide sufficient resources to conduct enhanced aerial surveys to annually assess forest conditions, identify emerging and existing insect and disease epidemics, and make timely management decisions; and

(d) Provide sufficient resources to assess and incorporate forest pathology information into analysis of forest conditions and trends.

(6) **Community watershed restoration.** (a) In order to support communities and land managers in efforts to reduce risk to people and property and increase firefighter safety, and in support of long-term ecological restoration so that the underlying condition of Colorado's forests supports a variety of values, including public water supply and high-quality wildlife habitat, the forest service shall:

(I) Repealed.

(II) Facilitate and work collaboratively with the division of fire prevention and control, landowners, local governments, including conservation districts created pursuant to article 70 of title 35, C.R.S., and county noxious weed program administrators and other appropriate parties, including any electric, gas, and water utilities in the affected area, to design prescribed fire and fuel mitigation treatment projects and to encourage increased responsible use of prescribed fire and fuel mitigation treatments as a tool for restoring healthy forest conditions consistent with programs established pursuant to section 25-7-106 (7) and (8), C.R.S., and section 24-33.5-1217, C.R.S. The forest service shall emphasize providing training and technical assistance for landowners, local communities, and state agencies.

(III) Repealed.

(IV) Conduct, or contract with one or more entities to conduct, one or more demonstration projects that utilize Colorado's good neighbor authority with the United States forest service to implement forest management treatments that improve forest health and resilience and supply forest products to Colorado businesses. In overseeing a project, the forest service shall:

(A) Use a collaborative approach;

(B) Leverage state resources to accomplish work across land ownership boundaries in order to treat more acres at reduced cost;

(C) Target a Colorado watershed to implement forest management treatments that will protect and enhance forest resilience, reduce the potential for catastrophic wildfire, salvage insect- and disease-impacted trees, and provide forest products for businesses in Colorado; and

(D) Consider locations that have already been subject to review under the federal "National Environmental Policy Act of 1969", 42 U.S.C. sec. 4321 et seq., including the Alpine plateau in Gunnison county and areas in the Grand Mesa, Uncompahgre, and Gunnison national forests that are subject to the spruce beetle epidemic and aspen decline draft environmental impact statement.

(b) (I) The forest service may use up to one million dollars of the unencumbered balance of the forest restoration and wildfire risk mitigation grant program cash fund created in section 23-31-310 (8.5) that result from appropriations for fiscal years that end on or before June 30, 2017, for the purpose of complying with this subsection (6), of which at least two hundred thousand dollars shall be used to implement subsection (6)(a)(IV) of this section.

(II) This subsection (6)(b) is repealed, effective September 1, 2023.

(7) **Enhanced economic opportunities.** In order to support local business development and job creation through the implementation of forest treatments, the forest service shall:

(a) Administer a revolving loan fund to support woody biomass utilization and the development and marketing of traditional and nontraditional timber products as specified in subsection (8) of this section;

(b) Work with the air quality control commission created in section 25-7-104 to support the appropriately increased use of woody biomass in bio-heating.

(8) **Wildfire risk mitigation loan program.** (a) The forest service shall issue a statewide request for proposals for loans to businesses to provide start-up capital for new facilities or equipment to harvest, remove, use, and market beetle-killed and other timber taken from private, federal, state, county, or municipal forest lands as part of a wildfire risk reduction or fuels mitigation treatment.

(b) The forest service shall solicit applications for and make loans under this section. In deciding whether to make a loan, the forest service shall consider the extent to which the applicant:

(I) Helps retain or expand other local businesses;

(II) Helps maintain or increase the number of jobs in the area;

(III) Contributes to the stability of rural communities;

(IV) Demonstrates operational experience and a good reputation;

(V) Promotes and publicizes the efforts undertaken pursuant to this section; and

(VI) Helps recruit new business activity in the area.

(c) No later than July 1, 2010, the state forester shall submit a report to the governor that shall include an assessment of whether, and to what extent, projects funded by loans under this subsection (8) have achieved the purposes identified in this subsection (8).

(d) There is hereby created in the state treasury the wildfire risk mitigation revolving fund, which shall be administered by the forest service. All moneys in the fund are continuously appropriated to the department of higher education for allocation to the board of governors of the Colorado state university system for loans specified in this subsection (8). All moneys in the fund at the end of each fiscal year shall be retained in the fund and shall not revert to the general fund or any other fund.

(9) **Improved outreach and technical assistance.** In order to ensure that the forest service has the capacity to deliver key funding and technical assistance that will be needed to guide and support implementation of wildfire preparedness, risk mitigation, watershed restoration, and economic development initiatives in a way that adds value to these efforts at the state level and across community boundaries, the forest service shall:

(a) Secure full-time temporary staff for developing, revising, and implementing CWPPs; developing and implementing risk mitigation and watershed restoration plans; strengthening the responsible use of prescribed fire; and supporting economically beneficial uses of woody biomass;

(b) Secure sufficient GIS capacity to assist with wildfire, insect, and disease risk assessments, as well as landscape-scale prioritization and planning; and emphasize making data available to and usable by local entities and other interested parties, including any electric, gas, and water utilities in the affected area;

(c) Develop a web-based clearinghouse for technical assistance and funding resources relevant to the initiatives established in this section; and

(d) Repealed.

(10) **Healthy forests and vibrant communities fund.** (a) (I) There is hereby created in the state treasury the healthy forests and vibrant communities fund. The fund consists of all money that may be appropriated thereto by the general assembly, all private and public money received through gifts, grants, reimbursements, or donations that are transmitted to the state treasurer and credited to the fund, and all money transferred to the fund pursuant to section 39-29-109.3 (2)(n) and subsection (10)(a)(II) of this section. All interest earned from the investment

of money in the fund is credited to the fund. The money in the fund is hereby continuously appropriated for the purposes specified in this subsection (10) and remains available until expended. Any money not expended at the end of the fiscal year shall remain in the fund and shall not be transferred to or revert to the general fund.

(II) On July 1, 2017, and July 1, 2018, the state treasurer shall transfer one million one hundred eighty-six thousand three hundred sixty-three dollars from the general fund to the healthy forests and vibrant communities fund.

(b) By executive order or proclamation, the governor may access and designate moneys in the healthy forests and vibrant communities fund for healthy forests and vibrant communities activities, subject to paragraph (c) of this subsection (10). The state forest service shall implement the directives set forth in such executive order or proclamation.

(c) Of the money transferred to the fund pursuant to section 39-29-109.3 (2)(n):

(I) Three hundred eighty thousand dollars may be expended for purposes specified in subsection (4) of this section;

(II) Two hundred thousand dollars may be expended for purposes specified in subsection (5) of this section;

(III) One hundred thousand dollars may be expended for purposes specified in subsection (6) of this section;

(IV) Sixty-five thousand dollars may be expended for purposes specified in subsection (7) of this section;

(V) Two hundred thousand dollars may be expended for purposes specified in subsection (8) of this section;

(VI) Three hundred sixty thousand dollars may be expended for purposes specified in subsection (9) of this section; and

(VII) The unencumbered balance may be used for any purpose specified in this subsection (10)(c).

(d) Repealed.

(11) **Reporting.** No later than January 1, 2011, the state forester shall submit a report to the joint budget committee of the general assembly, the agriculture, livestock, and natural resources committee of the house of representatives, and the agriculture and natural resources committee of the senate, or any successor committees, on the use of moneys in the healthy forests and vibrant communities fund.

(12) Notwithstanding any other provision of this section, the forest service's duties pursuant to this section shall be reduced pro rata with any reduction in the funding specified in this section.

(13) In carrying out projects pursuant to this section, the forest service shall, whenever feasible, contract with the Colorado youth corps association or an accredited Colorado youth corps to provide labor. For purposes of this subsection (13), "accredited Colorado youth corps" means a youth corps organization that is accredited by the Colorado youth corps association.

Source: L. 2009: Entire section added, (HB 09-1199), ch. 411, p. 2271, § 1, effective June 3; (10)(c)(II), (10)(c)(IV), (10)(c)(V), and (10)(c)(VI) amended, (SB 09-293), ch. 370, p. 2009, § 2, effective June 1. **L. 2010:** (6)(a)(III) added, (SB 10-102), ch. 101, p. 343, § 1, effective April 15. **L. 2012:** (6)(a)(I)(A) and (6)(b) amended, (HB 12-1032), ch. 69, p. 239, § 2, effective March 24; (4)(e) and (6)(a)(III) repealed, (HB 12-1283), ch. 240, p. 1137, §§ 56, 55,

effective July 1; (7)(b) amended, (HB 12-1315), ch. 224, p. 961, § 12, effective July 1. **L. 2013:** (6)(a)(II) amended, (SB 13-083), ch. 249, p. 1308, § 10, effective May 23; (6)(a)(II) amended, (HB 13-1300), ch. 316, p. 1680, § 44, effective August 7. **L. 2014:** (10)(c)(I) amended and (10)(d) added, (SB 14-154), ch. 313, p. 1355, § 1, effective May 31. **L. 2016:** (3)(g)(IV) and (6)(a)(II) amended, (HB 16-1019), ch. 39, p. 97, § 1, effective March 22; (6)(a)(IV) added and (6)(b)(I) and (9) amended, (HB 16-1255), ch. 113, p. 318, § 1, effective April 21. **L. 2017:** (10)(a) amended, (SB 17-259), ch. 190, p. 689, § 2, effective May 3; IP(6)(a), (6)(b), IP(10)(c), and (10)(c)(VII) amended and (6)(a)(I) repealed, (SB 17-050), ch. 34, p. 97, § 2, effective July 1. **L. 2018:** (10)(a)(II) amended, (HB 18-1338), ch. 201, p. 1308, § 2, effective May 4; (7)(b) amended, (SB 18-003), ch. 359, p. 2132, § 3, effective June 1.

Editor's note: (1) Subsection (6)(a)(III) was relocated to § 24-33.5-1217 in 2012.

(2) Amendments to subsection (6)(a)(II) by Senate Bill 13-083 and House Bill 13-1300 were harmonized.

(3) Subsection (10)(d)(II) provided for the repeal of subsection (10)(d), effective July 1, 2015. (See L. 2014, p. 1355.)

(4) Subsection (9)(d)(III) provided for the repeal of subsection (9)(d), effective September 1, 2018. (See L. 2016, p. 318.)

Cross references: For the legislative declaration in the 2012 act repealing subsections (4)(e) and (6)(a)(III), see section 1 of chapter 240, Session Laws of Colorado 2012. In 2013, subsection (6)(a)(II) was amended by the "Colorado Prescribed Burning Act". For the short title and legislative declaration, see sections 1 and 2 of chapter 249, Session Laws of Colorado 2013.

23-31-314. Colorado forest biomass use work group - repeal. (Repealed)

Source: L. 2011: Entire section added, (SB 11-267), ch. 302, p. 1451, § 2, effective June 8. **L. 2012:** (1)(e), IP(2)(b)(I), and (4) amended, (HB 12-1315), ch. 224, p. 961, § 13, effective July 1.

Editor's note: Subsection (5) provided for the repeal of this section, effective July 1, 2012. (See L. 2011, p. 1451.)

23-31-315. Technical support for the Colorado wildfire risk reduction grant program - repeal. (Repealed)

Source: L. 2013: Entire section added, (SB 13-269), ch. 235, p. 1137, § 2, effective May 17.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2018. (See L. 2013, p. 1137.)

23-31-316. Forest health advisory council - repeal. (1) There is hereby created within the Colorado state forest service the forest health advisory council to provide a collaborative

forum to advise the state forester on a broad range of issues, opportunities, and threats with regard to Colorado's forests. The council consists of the following twenty-four members:

(a) Eight members appointed by the governor as follows:

(I) The state forester, who is the chair of the council;

(II) A senior-level executive branch policy advisor on water or natural resources;

(III) Two members who are employed by or associated with an environmental organization;

(IV) Two members who own or are employed by a wood products business;

(V) One member who is employed by or associated with a wildlife organization; and

(VI) One member who is a scientist or is employed in a scientific research position;

(b) Four members appointed by the speaker of the house of representatives as follows:

(I) Two county commissioners, one of whom must represent a county west of the continental divide and both of whom must be selected from a list provided by a statewide association of counties; and

(II) Two members who are employed by a public utility that owns or operates transmission facilities;

(c) Four members appointed by the minority leader of the house of representatives as follows:

(I) One member who owns a ranch;

(II) One member who is a fire chief;

(III) One member who is an enrolled member of a tribe that has a reservation within Colorado; and

(IV) One member who is employed by an insurance company;

(d) Four members appointed by the president of the senate as follows:

(I) Two members who are employed by a municipal drinking water supplier;

(II) One member who is employed by an irrigation water supplier; and

(III) One member who is employed by or associated with a conservation organization;

(e) Four members appointed by the minority leader of the senate as follows:

(I) One member who is employed by or associated with an economic development organization;

(II) One member who is employed by or associated with a sportsman organization; and

(III) Two members who are employed by or associated with recreation advocacy organizations, of which one organization must advocate for motorized recreation and one organization must advocate for nonmotorized recreation.

(2) The term of each council member is five years; except that:

(a) On and after September 1, 2021, the term of each council member is four years; and

(b) The initial terms of half of the members specified in paragraphs (b), (c), (d), and (e) of subsection (1) of this section are two years, as specified by the corresponding appointing authority.

(3) This section is repealed, effective September 1, 2021. Before its repeal, this section is scheduled for review in accordance with section 2-3-1203, C.R.S.

Source: L. 2016: Entire section added, (HB 16-1255), ch. 113, p. 320, § 2, effective April 21.

PART 4

FOREST PRODUCTS

23-31-401. Definitions. As used in this part 4, unless the context otherwise requires:

(1) "Forest product" means any natural part of any plant including, but not limited to, firewood, logs, trees, evergreen boughs, and transplants in commercial quantities.

(2) "Person" means an individual, partnership, corporation, firm, or association.

(3) "Transplant" means any live plant that has been excavated and moved for the purpose of planting in a different location.

Source: L. 2007: Entire article amended with relocations, p. 537, § 2, effective August 3.

Editor's note: This section is similar to former § 23-30-401 as it existed prior to 2007.

23-31-402. Owner's permission required - when. It is unlawful for any person to harvest and remove any forest product on land of another without first securing written permission from the owner of the land or the owner of the growth thereon, or his or her authorized agent. Only one permit shall be required of persons working in a crew.

Source: L. 2007: Entire article amended with relocations, p. 537, § 2, effective August 3.

Editor's note: This section is similar to former § 23-30-402 as it existed prior to 2007.

23-31-403. Proof of ownership required - when. (1) It is unlawful for any person to transport or possess any forest product in the state of Colorado without proof of ownership. Said proof of ownership shall be signed by the person transferring possession of said forest products and shall contain the date of the transfer of possession, the name and address of the transferee, the location at which the forest products were obtained, and the quantity of forest product transferred. Such proof of ownership may consist of one or more of the following:

(a) A permit, contract, or other writing issued by the landowner or proper state or federal agencies;

(b) A bill of sale or sales receipt showing title thereto;

(c) A log or product load receipt or inventory;

(d) A ticket issued by the seller authorizing removal of forest products; or

(e) Any written statement by a person transporting forest products harvested or removed from property owned by such person.

(2) Any person who transports or possesses any forest product intended for resale shall, upon request of any sheriff, undersheriff, deputy sheriff, police officer, town marshal, Colorado state patrol officer, parks and recreation officer, Colorado wildlife officer, or an agent of the Colorado bureau of investigation, exhibit valid proof of ownership.

Source: L. 2007: Entire article amended with relocations, p. 537, § 2, effective August 3.

Editor's note: This section is similar to former § 23-30-403 as it existed prior to 2007.

23-31-404. Violation - penalty - defense. (1) Any person who violates any provision of this part 4 is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine equal to twice the retail value of the forest products involved.

(2) Proof of ownership shall be an affirmative defense.

Source: L. 2007: Entire article amended with relocations, p. 538, § 2, effective August 3.

Editor's note: This section is similar to former § 23-30-404 as it existed prior to 2007.

PART 5

COOPERATION WITH THE UNITED STATES

23-31-501. Acceptance of congressional grant of 1862. Full and complete acceptance, ratification, and assent is made and given by the state of Colorado to all of the provisions, terms, grants, and conditions and purposes of the grants made and prescribed by the act of the congress of the United States entitled "An Act to apply a portion of the proceeds of the public lands to the more complete endowment and support of the colleges for the benefit of agriculture and the mechanic arts.", established under the provisions of an act of congress, approved July 2, 1862.

Source: L. 2007: Entire article amended with relocations, p. 538, § 2, effective August 3.

Editor's note: This section is similar to former § 23-32-101 as it existed prior to 2007.

23-31-502. Board of governors of the Colorado state university system to control fund. The board of governors of the Colorado state university system has the control of the fund appropriated by the said act of congress and shall disburse the same for the use and benefit of the Colorado state university and in accordance with the terms and provisions of said act of congress.

Source: L. 2007: Entire article amended with relocations, p. 538, § 2, effective August 3.

Editor's note: This section is similar to former § 23-32-102 as it existed prior to 2007.

23-31-503. Acceptance of congressional act of 1883. Full and complete acceptance, ratification, and assent is made and given by the state of Colorado to all the provisions, terms, grants, and conditions and the purposes of the grants made and prescribed by the act of congress of the United States entitled "An Act donating public lands to the several states and territories which may provide colleges for the benefit of agriculture and mechanic arts.", approved July 2, 1862, as well as the amendments thereto, as made by the act of congress passed and adopted March 3, 1883, entitled "An Act to amend an act donating public lands to the several states and territories which may provide colleges for the benefit of agriculture and mechanic arts.", and all acts amendatory or supplementary to said acts.

Source: L. 2007: Entire article amended with relocations, p. 538, § 2, effective August 3.

Editor's note: This section is similar to former § 23-32-103 as it existed prior to 2007.

23-31-504. Control, investment, and expending of funds. (1) The board of governors of the Colorado state university system has control of the funds derived from the sale of lands donated by the said act of congress of 1862, and shall invest the same in securities which yield a fair and reasonable rate of return, and shall disburse the income therefrom for the use and benefit of the Colorado state university as required in the said act of congress. Said funds derived from the sale of lands donated by said act of 1862, and from lease or rental of unsold lands of such land grant, and from coal, oil, and mineral royalties from said lands may be invested in bonds of the United States; in state, county, municipal, and school district bonds; in state, county, and municipal registered warrants; in registered warrants of school districts; and in state anticipation building levy warrants, or in any or all of these, in the discretion of the board of governors of the Colorado state university system.

(2) The warrants of the board of governors of the Colorado state university system to purchase such bonds, registered warrants, and anticipation warrants shall be approved and paid when accompanied by favorable opinion of the attorney general. All bonds, registered warrants, and anticipation warrants so purchased shall be registered in the name of the "treasurer of the state of Colorado for the account of the 'land grant fund of the Colorado state university'" and deposited with the state treasurer.

(3) The general assembly of the state of Colorado engages that the principal of such fund forever remains unimpaired and the income thereof is applied without diminution to the uses and purposes prescribed in said act of congress; except that, as prescribed in said act of congress, a sum not exceeding ten percent of the principal of such fund may be expended by the board of governors of the Colorado state university system for the purchase or exchange of lands for sites or experimental stations, subject to the provisions of sections 24-75-301 to 24-75-303, C.R.S., and the approval of the governor.

Source: L. 2007: Entire article amended with relocations, p. 539, § 2, effective August 3. **L. 2014:** (3) amended, (HB 14-1387), ch. 378, p. 1836, § 35, effective June 6.

Editor's note: This section is similar to former § 23-32-104 as it existed prior to 2007.

Cross references: (1) For experiment stations, see part 6 of this article.

(2) For the legislative declaration in HB 14-1387, see section 1 of chapter 378, Session Laws of Colorado 2014.

23-31-505. Other funds - investment. The board of governors of the Colorado state university system has the right to invest in the same manner as provided in section 23-31-504 any other permanent funds, the principal of which is not subject to use, that may be held by or granted to the state for the use of the Colorado state university or other institutions under the control of the board of governors of the Colorado state university system.

Source: L. 2007: Entire article amended with relocations, p. 539, § 2, effective August 3.

Editor's note: This section is similar to former § 23-32-106 as it existed prior to 2007.

23-31-506. Report on condition - appropriation. The board of governors of the Colorado state university system, on or before the fifteenth day of December immediately preceding the convening of the general assembly, shall make a report to the governor and the joint budget committee showing the condition of said fund, the investment thereof, the security taken therefor, and the amount of income derived therefrom. The report shall be submitted by the governor to the general assembly. If the report shows any loss in such funds, the amount of the loss shall be included in the governor's budget in order that the general assembly may fulfill the contractual obligations assumed by the state in accepting the provisions and grants of said act of congress of 1862 through an appropriation to repay the loss and keep the principal of such fund unimpaired.

Source: L. 2007: Entire article amended with relocations, p. 539, § 2, effective August 3.

Editor's note: This section is similar to former § 23-32-107 as it existed prior to 2007.

23-31-507. Management of funds. The board of governors of the Colorado state university system is designated to receive, manage, and disburse all funds not permanent in character derivable and derived under the several acts of congress supplementary to the act of congress of 1862.

Source: L. 2007: Entire article amended with relocations, p. 540, § 2, effective August 3.

Editor's note: This section is similar to former § 23-32-108 as it existed prior to 2007.

23-31-508. Purpose of sections. It is the design of the general assembly in passing sections 23-31-503 to 23-31-508 to supplement and make more definite previous acts of acceptance of said several grants and the conditions thereof, and particularly to definitely provide for the management and investment of the permanent funds so derived, to the end that the engagements of the state with reference thereto may be kept.

Source: L. 2007: Entire article amended with relocations, p. 540, § 2, effective August 3.

Editor's note: This section is similar to former § 23-32-109 as it existed prior to 2007.

23-31-509. Acceptance of congressional act of 1928. Full and complete acceptance, ratification, and assent is made and given by the state of Colorado to all the provisions, terms, grants, and conditions and purposes of the grants made and prescribed by the act of congress of the United States entitled "An Act to provide for the further development of agricultural extension work at the agricultural colleges in the several states, receiving the benefit of the act entitled 'An Act donating public lands to the several states and territories which may provide colleges for the benefit of agriculture and mechanic arts', approved July 2, 1862, and all acts supplementary thereto, and the United States department of agriculture, approved May 22, 1928". The action of the governor of the state in accepting in behalf of the state of Colorado the provisions of the said act of congress for the period from its approval to the adjournment of the present session of the general assembly as authorized by said act of congress is ratified.

Source: L. 2007: Entire article amended with relocations, p. 540, § 2, effective August 3.

Editor's note: This section is similar to former § 23-32-110 as it existed prior to 2007.

23-31-510. Control of funds. The board of governors of the Colorado state university system has the control of the funds appropriated by the said act of congress and shall disburse the same in accordance with the terms and provisions of the act of congress.

Source: L. 2007: Entire article amended with relocations, p. 540, § 2, effective August 3.

Editor's note: This section is similar to former § 23-32-111 as it existed prior to 2007.

23-31-511. Congressional act of 1914 accepted. Full and complete acceptance and assent is made and given by the state of Colorado to the provisions, terms, and conditions made and prescribed by the act of congress of the United States entitled "An Act to provide for cooperative agricultural extension work between the agricultural colleges in the several states receiving the benefits of an act of congress approved July 2, 1862, and of acts supplementary thereto, and the United States department of agriculture, known as the Smith-Lever Act, approved May 8, 1914". The Colorado state university in the state of Colorado is designated as the beneficiary of said act under the direction of the board of governors of the Colorado state university system.

Source: L. 2007: Entire article amended with relocations, p. 540, § 2, effective August 3.

Editor's note: This section is similar to former § 23-32-112 as it existed prior to 2007.

23-31-512. Board to receive and expend funds. The board of governors of the Colorado state university system is designated as the officer of the state of Colorado duly authorized to receive and expend the funds available under said act of congress to the state of Colorado for the uses and purposes therein prescribed.

Source: L. 2007: Entire article amended with relocations, p. 541, § 2, effective August 3.

Editor's note: This section is similar to former § 23-32-113 as it existed prior to 2007.

23-31-513. Acceptance of congressional act of 1935. Full and complete acceptance, ratification, and assent is made and given by the state of Colorado to all the provisions, terms, grants, and conditions and purposes of the grants made and prescribed by the act of congress of the United States entitled "An Act to provide for research into basic laws and principles relating to agriculture and to provide for the further development of cooperative agricultural extension work and the more complete endowment and support of land-grant colleges", approved June 29, 1935. The action of the governor of the state in accepting in behalf of the state of Colorado the provisions of the said act of congress for the period from its approval to the adjournment of the thirty-first session of the general assembly as authorized by said act of congress is ratified.

Source: L. 2007: Entire article amended with relocations, p. 541, § 2, effective August 3.

Editor's note: This section is similar to former § 23-32-114 as it existed prior to 2007.

23-31-514. Control of funds from 1935 act. The board of governors of the Colorado state university system has the control of the funds appropriated by the said act of congress and shall disburse the same for the use and benefit of the Colorado state university for instruction, for research and investigations, and for cooperative agricultural extension work in accordance with the terms and provisions of said act of congress.

Source: L. 2007: Entire article amended with relocations, p. 541, § 2, effective August 3.

Editor's note: This section is similar to former § 23-32-115 as it existed prior to 2007.

PART 6

EXPERIMENT STATIONS

23-31-601. Acceptance of congressional act of 1862. Full and complete acceptance, ratification, and assent is made and given by the state of Colorado to all of the provisions, terms, grants, and conditions and purposes of the grants made and prescribed by the act of congress of the United States entitled "An Act to establish agricultural experiment stations in connection with the colleges established in the several states, under the provisions of an act approved July 2, 1862, and of the acts supplementary thereto".

Source: L. 2007: Entire article amended with relocations, p. 541, § 2, effective August 3.

Editor's note: This section is similar to former § 23-33-101 as it existed prior to 2007.

23-31-602. Control of fund. The board of governors of the Colorado state university system has the control of the fund appropriated by the said act of congress and shall disburse the same for the use and benefit of the agricultural experiment station department of the Colorado state university in accordance with the terms and provisions of said act of congress.

Source: L. 2007: Entire article amended with relocations, p. 541, § 2, effective August 3.

Editor's note: This section is similar to former § 23-33-102 as it existed prior to 2007.

23-31-603. Acceptance of congressional act of 1906. Full and complete acceptance, ratification, and assent is made and given by the state of Colorado to all the provisions, terms, grants, and conditions and purposes of the grants made and prescribed by the act of congress of the United States entitled "An Act to provide for an increased annual appropriation for agricultural experiment stations and regulate the expenditure thereof", approved March 16, 1906.

Source: L. 2007: Entire article amended with relocations, p. 541, § 2, effective August 3.

Editor's note: This section is similar to former § 23-33-103 as it existed prior to 2007.

23-31-604. Board to control fund. The board of governors of the Colorado state university system has the control of the fund appropriated by the said act of congress and shall disburse the same for the use and benefit of the agricultural experiment station department of the Colorado state university in accordance with the terms and provisions of said act of congress.

Source: L. 2007: Entire article amended with relocations, p. 541, § 2, effective August 3.

Editor's note: This section is similar to former § 23-33-104 as it existed prior to 2007.

23-31-605. Board to cooperate with counties. The board of governors of the Colorado state university system is authorized to cooperate with the several counties of the state in research work and in investigations of matters pertaining to the agricultural and industrial development of the counties and state upon such terms and in such manner as may be mutually agreed upon by the respective boards of county commissioners and the board of governors of the Colorado state university system.

Source: L. 2007: Entire article amended with relocations, p. 542, § 2, effective August 3.

Editor's note: This section is similar to former § 23-33-105 as it existed prior to 2007.

23-31-606. Employees and specialists. The board of governors of the Colorado state university system is vested with the power to employ and to discharge, as in its opinion the interests of the service require, all employees and specialists engaged to carry out the provisions of this section and section 23-31-605.

Source: L. 2007: Entire article amended with relocations, p. 542, § 2, effective August 3.

Editor's note: This section is similar to former § 23-33-106 as it existed prior to 2007.

23-31-607. Stations established. For the furtherance and promotion of the agricultural interests of this state, agricultural experimental stations are established. The precise locations shall be determined as provided in section 23-31-608.

Source: L. 2007: Entire article amended with relocations, p. 542, § 2, effective August 3.

Editor's note: This section is similar to former § 23-33-107 as it existed prior to 2007.

23-31-608. Board to secure lands. The board of governors of the Colorado state university system is authorized to select the necessary lands, secure the same either by lease or purchase, make all necessary improvements in the way of buildings and fences, and take such steps as it deems necessary to successfully establish said stations.

Source: L. 2007: Entire article amended with relocations, p. 542, § 2, effective August 3.

Editor's note: This section is similar to former § 23-33-108 as it existed prior to 2007.

23-31-609. Board to supervise. The board of governors of the Colorado state university system has the control and supervision of said station. It shall appoint a superintendent and such other officers and employees as necessary to carry on the said station successfully. It shall have power to fix salaries and all compensation of employees and is empowered to fix such rules and regulations necessary for the successful attainment of the object for which said station is established and maintained. It shall also appoint three resident trustees who shall act without compensation; except that, when it becomes necessary, they may be allowed traveling expenses in attending to the discharge of their duties.

Source: L. 2007: Entire article amended with relocations, p. 542, § 2, effective August 3.

Editor's note: This section is similar to former § 23-33-109 as it existed prior to 2007.

23-31-610. Objects of stations. The object of the agricultural experimental stations is to determine the adaptability of crops of grain, grasses, root crops, and all other growths which may grow in this latitude and the most economical method of producing the best results in growing such crops with and without irrigation.

Source: L. 2007: Entire article amended with relocations, p. 542, § 2, effective August 3.

Editor's note: This section is similar to former § 23-33-110 as it existed prior to 2007.

23-31-611. Proceeds from station. The proceeds arising from the sale of products of agricultural experimental stations shall be applied in the liquidation of the running expenses. All moneys so accruing shall be credited as coming from the state and applied as part or whole payment of any amount which may be appropriated from the funds of the state for the maintenance of the stations.

Source: L. 2007: Entire article amended with relocations, p. 543, § 2, effective August 3.

Editor's note: This section is similar to former § 23-33-111 as it existed prior to 2007.

23-31-612. Expenses - how paid. To enable the board of governors of the Colorado state university system to carry out the provisions of sections 23-31-607 to 23-31-612, it is authorized to expend such amount as it may deem necessary in establishing agricultural experimental stations, out of any moneys which may accrue to the state by action of the congress of the United States for the purpose of establishing agricultural experimental stations in the various states and territories of the United States.

Source: L. 2007: Entire article amended with relocations, p. 543, § 2, effective August 3.

Editor's note: This section is similar to former § 23-33-112 as it existed prior to 2007.

PART 7

COLORADO COOPERATIVE EXTENSION SERVICE

23-31-701. Short title. This part 7 shall be known and may be cited as the "Colorado Cooperative Extension Service Act".

Source: L. 2007: Entire article amended with relocations, p. 543, § 2, effective August 3.

Editor's note: This section is similar to former § 23-34-101 as it existed prior to 2007.

23-31-702. Acknowledgment of related federal laws. (1) Section 23-31-511, accepting and assenting to the provisions, terms, and conditions of the act of congress known as the "Smith-Lever Act" (38 Stat. 372) providing for cooperative extension programs, is acknowledged.

(2) Subsequent congressional enactments, including the "National Agricultural Research, Extension, and Teaching Policy Act of 1977" (Title XIV, Public Law 95-113, September 29, 1977), the "International Food and Agricultural Development Act of 1975" (Title XII, Public Law 94-161, December 20, 1975), and the "Rural Development Act of 1972" (Title V, Public Law 92-419, October 3, 1972), are acknowledged as authorizing, supplementing, expanding, and redefining the federal role in cooperative extension programs, including those conducted in cooperation with the Colorado cooperative extension service.

(3) Nothing in this section shall be construed to oblige the state in any way to institute or maintain with state funds any program in contravention of the laws of Colorado or the interest of the general assembly in providing for the education needs of the people.

Source: L. 2007: Entire article amended with relocations, p. 543, § 2, effective August 3.

Editor's note: This section is similar to former § 23-34-102 as it existed prior to 2007.

23-31-703. Responsibility and objectives. (1) Primary responsibility, according to section 23-31-702, for statewide programs of educational noncredit, informal extension conducted through cooperative federal, state, and county relationships and as more particularly authorized in this part 7 shall continue to lie with the Colorado state university cooperative extension service, referred to in this part 7 as the "service".

(2) The objectives of the service's programs shall continue to be the dissemination of information to the people of this state in order to assist them in applying the results of scientific research and technological developments, as well as lessons from practical experience, to the solution of individual, family, and community problems, drawing on relevant knowledge from various fields, including but not limited to agriculture, natural resources, home economics, nutrition, health, citizenship, and community and economic development.

Source: L. 2007: Entire article amended with relocations, p. 543, § 2, effective August 3.

Editor's note: This section is similar to former § 23-34-103 as it existed prior to 2007.

23-31-704. Organization - cooperative relationships. (1) The service is an organizational unit of the Colorado state university, under the supervision and control of the university's administration and the board of governors of the Colorado state university system.

(2) Programs of the service shall reflect and respond to problems, needs, and opportunities in the state and its regions as formulated and articulated through the participation and involvement of the people, and said programs shall be conducted in accordance with program plans pursuant to agreements with federal and state agencies and with local governments and shall be consistent with authorizations of the congress, the general assembly, and local governments.

(3) In support of program objectives, the service is authorized, pursuant to the policies of the university and the service's governing board, to enter into contracts and agreements with the United States department of agriculture, other federal departments and agencies, state departments, agencies, and institutions, county and other local governments, and private organizations and associations to further extension programs and to provide for funding and administration of said programs.

(4) The service is authorized to establish a state advisory committee, which shall consist of no more than eighteen members who shall equitably represent all regions of the state, to assist in the planning, implementation, and evaluation of the extension programs statewide; is authorized to cooperate with boards of county commissioners in the creation of county or area advisory committees to assist local extension personnel in planning, developing, implementing, and evaluating programs and performance; may establish administrative standards, operating procedures, and methods for utilizing such advisory committees; and may make the utilization of said standards, operating procedures, and methods for utilizing such advisory committees a basis for program cooperation and coordination.

Source: L. 2007: Entire article amended with relocations, p. 544, § 2, effective August 3.

Editor's note: This section is similar to former § 23-34-104 as it existed prior to 2007.

23-31-705. Authority to accomplish purposes of part. (1) The service is authorized, pursuant to applicable university, state, and federal policies and procedures, to spend appropriated funds, to collect and expend reasonable and proper service fees, to employ personnel, purchase materials and supplies, and to take other necessary action to facilitate the accomplishment of the purposes of this part 7, including but not limited to the following:

(a) Training of group leaders and directing of group educational activities;

(b) Conduct of workshops, institutes, conferences, and noncredit short courses at Colorado state university or at convenient locations in the state;

(c) Use of demonstrations and other appropriate educational methods and dissemination of information by appropriate means, including press, radio, television, and other forms of communication;

(d) Cooperation with federal, state, and local agencies, other universities and colleges, private organizations, and institutions to further program objectives; and

(e) Development of interstate and multicounty administrative or program arrangements, memoranda of understanding, and agreements to achieve state extension objectives.

Source: L. 2007: Entire article amended with relocations, p. 544, § 2, effective August 3.

Editor's note: This section is similar to former § 23-34-105 as it existed prior to 2007.

23-31-706. Reporting and accountability. (1) In addition to such reports as may be required under federal laws and agreements, the service shall:

(a) Provide annual reports to the governor reviewing activities and goal accomplishments, assessing the value and significance of extension program activities, and indicating problems, needs, and opportunities, especially such as might require the attention of the general assembly and the governor. Six copies of each report shall be filed with the legislative council.

(b) Prepare such other information as may be requested by the general assembly or the governor in areas of the service's concern and responsibility.

Source: L. 2007: Entire article amended with relocations, p. 545, § 2, effective August 3.

Editor's note: This section is similar to former § 23-34-106 as it existed prior to 2007.

PART 8

COLORADO WATER INSTITUTE

Editor's note: This part 8 was added in 2007. It was repealed in 2017 and was subsequently recreated and reenacted in 2019, resulting in the addition, relocation, or elimination of sections as well as subject matter. For amendments to this part 8 prior to 2017, consult the 2016 Colorado Revised Statutes and the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

23-31-801. Colorado water institute - creation. (1) There is created the Colorado water institute, referred to in this part 8 as the "institute", for the following purposes:

(a) Developing, implementing, and coordinating water and water-related research programs in collaboration with other state institutions of higher education and transferring the results of research and new technologies to potential users;

(b) Creating and operating a water research information and education center as a statewide clearinghouse and archive for water resources, water quality, and water-related policy issues, including the training of future generations of water scientists, managers, planners, and educators; and

(c) Conducting scientific research and policy analysis in areas including but not limited to water development and storage and surface water and groundwater hydrology, water resources management, water quality and aquatic habitat management and protection, water history and paleohydrology, drought planning and mitigation, and climate change and adaptation.

(2) The institute is a unit of the Colorado state university under the supervision and control of the university's administration and the board of governors of the Colorado state university system.

(3) The principal administrative officer of the institute is a director, who is appointed by the president of Colorado state university with the approval of the board of governors of the Colorado state university system and who is under the direct supervision of the president of Colorado state university or a vice-president designated by the president. To meet the purposes of the institute, the director, with the advice of the advisory committee established pursuant to section 23-31-802, shall develop appropriate policies and procedures for identification of priority research problems; collaborate with water managers and user associations, drought and climate change planning organizations, other universities, federal, state, and local government agencies, and the general assembly in the formulation of its research program; select projects to be funded; and disseminate information and transfer technology that is produced by the research.

(4) It is the duty of the institute to:

(a) Consult with state and local government agencies, water managers and user associations, drought and climate change planning organizations, water quality planning organizations, the general assembly, and other potential users of research in identifying and prioritizing the state's scientific and policy-related water research needs;

(b) Negotiate and administer contracts with other state institutions of higher education for research projects;

(c) Disseminate new information and facilitate transfer and application of new technologies as they are developed;

(d) Provide a liaison between Colorado and the federal research funding agencies to act as an advocate for Colorado's water research needs;

(e) Facilitate and stimulate scientific research and policy analysis that:

(I) Deals with policy issues facing the general assembly;

(II) Supports state water, public health, and water quality protection agencies' missions with water research on statewide water-related problems encountered and expected, including but not limited to the effects of climate change on water quality, water availability, run-off timing, drought planning, and future compact compliance;

(III) Provides water planning and management organizations with tools to increase efficiency and effectiveness of water planning and management;

(IV) Engages and trains future generations of the state's water professionals and educators; and

(V) Examines the interconnections between climate change, water supply, and water quality and provides tools water managers and policymakers need to adapt to global climate change; and

(f) Establish and maintain a clearinghouse and archive of water research, water quality, and climate projection data.

(5) The institute is authorized to employ professional, clerical, and other personnel to implement the provisions of this part 8.

(6) The institute is authorized to expend state money appropriated by the general assembly for cost-sharing on projects funded with federal or private money.

(7) State money granted, appropriated, or otherwise made available for water research conducted at the state's institutions of higher education may pass through the administrative

control of the institute if the grant, appropriation, or other funding document specifies. If particular money is restricted, the institute may serve as an administrative entity of the money for state agencies that seek to utilize Colorado universities or colleges for water research. The institute has the power to accept gifts, grants, donations, appropriations, and other funding from any entity. The institute may provide oversight for the funding by ensuring research projects commence and are completed within the scope of agreements, invoices, contracts, purchase orders, intergovernmental agreements, or other fiscal devices used to fund research. The institute is authorized to assess a fee to implement its administrative authority. The fee may not exceed twenty percent of the total cost of the project being administered by the institute. The advisory committee created in section 23-31-802 shall annually review and establish the administration fee.

Source: L. 2019: Entire part RC&RE, (HB 19-1015), ch. 7, p. 30, § 1, effective February 1.

23-31-802. Advisory committee on water research policy. (1) There is created the advisory committee on water research policy, which consists of at least eleven members. Eight of the members are appointed by the director of the institute. The remaining members are the executive director of the department of public health and environment, the executive director of the department of natural resources, and the commissioner of agriculture, or their designees.

(2) Appointed members of the advisory committee serve terms of four years. Members serve without compensation and are not entitled to reimbursement of expenses incurred in the performance of their duties.

(3) The advisory committee recommends policy guidelines for implementing the functions of the institute; confers with state governmental agencies, nongovernmental agencies, and state institutions of higher education to set Colorado's water research priorities; and evaluates the programs of the institute. The advisory committee also advises and counsels the director of the institute and makes recommendations to assist the director in implementing this part 8.

Source: L. 2019: Entire part RC&RE, (HB 19-1015), ch. 7, p. 32, § 1, effective February 1.

23-31-803. Water research fund. There is established in the state treasury the water research fund, referred to in this part 8 as the "fund". The fund consists of money remaining in the water research fund as it existed prior to the repeal of section 23-31-803 in 2017, fees received by the institute pursuant to section 23-31-801 (7), and gifts, grants, and donations accepted by the institute. The money in the fund is continuously appropriated to the institute, and the institute may expend money from the fund for any purpose consistent with this part 8. Any interest derived from the deposit and investment of money in the fund is credited to the fund. At the end of any fiscal year, all unexpended and unencumbered money in the fund remains in the fund and is not credited or transferred to the general fund or any other fund.

Source: L. 2019: Entire part RC&RE, (HB 19-1015), ch. 7, p. 33, § 1, effective February 1.

PART 9

FINANCING OF NATIONAL WESTERN
CENTER FACILITIES

23-31-901. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) The national western stock show has been held annually in Denver for one hundred nine years, and it provides many important benefits to the state because it:

(I) Is a showcase event for the western agricultural industry and related industries that promotes, supports, and helps to preserve the rural western lifestyle in our increasingly urbanized society and provides opportunities for dissemination of agricultural industry innovations and best practices locally, regionally, nationally, and internationally;

(II) Funds scholarships for students studying agriculture, rural medicine, and veterinary science at institutions of higher education in the state and in Wyoming; and

(III) Has an estimated annual economic impact to the state of about one hundred fifteen million dollars, hosting more national-level competitions than any other regional venue, and is considered one of the largest annual agricultural conventions and trade shows in the United States;

(b) It is important to sustain and grow the national western stock show in Denver for the next one hundred years so that the state can continue to realize the benefits that it provides and additional benefits estimated to accrue from its transformational redevelopment, which include but are not limited to:

(I) The significant economic benefit to the state that will result from the redevelopment and transformation of the site; and

(II) The following significant economic impacts, which an economic analysis by strategic advisory group estimates, of developing the Colorado state university facilities at the national western center based upon the current ten-year build-out of the site without the use of lease-purchase agreements:

(A) An additional one hundred million dollars in economic impact to the state, which the center will generate upon completion;

(B) An increase to over two million two hundred thousand in total attendance annually;

(C) Nine hundred sixty thousand five hundred new visitors annually, forty percent of whom will come from outside of Colorado;

(D) Three thousand nine hundred twenty construction jobs; and

(E) Five billion nine hundred million dollars in net new visitor spending over thirty years;

(c) The existing grounds and facilities where the national western stock show is held are currently difficult to access, poorly integrated with surrounding neighborhoods, and functionally limited;

(d) In order to ensure that the national western stock show can remain and thrive in Denver for the foreseeable future, and that additional, broad-based benefits of year-round activity can be realized, the national western stock show, the city and county of Denver, Colorado state university, the Denver museum of nature and science, and history Colorado formed the national western center partnership;

(e) The purpose of the national western center partnership is to redevelop and better integrate with surrounding neighborhoods the existing one hundred thirty acres of land on and near the existing site of the Denver coliseum and national western stock show grounds and to build and operate a new two-hundred-seventy-acre state-of-the-art, multi-purpose national western center to:

(I) House the national western stock show;

(II) Serve as a hub for year-round creative, P-20 experiential educational, research and commercial activity that promotes, supports, and helps to preserve the western lifestyle while highlighting innovation and global issues of health, food systems, food security, water, and the environment; and

(III) Provide an attractive environment for additional agricultural business and science investments that will increase other economic and workforce development activity in the surrounding neighborhoods, encourage the revitalization of those neighborhoods, and position the state as an agricultural innovations cluster leader; and

(f) At least twenty-four front range cities and towns already support the development of the national western center.

(2) The general assembly further finds and declares that:

(a) Agriculture is a forty-two billion dollar per year industry in the state, agricultural innovation has been growing at a rate that is four times the overall state economic growth rate, and agriculture continues to drive economic growth as a major driver of technological advancement, patent development, and entrepreneurship, much of which has global applicability;

(b) Colorado ranked third in the nation in federal spending on agricultural research and development in 2011, with much of the funding being directed to universities and United States department of agriculture laboratories on the front range;

(c) The involvement of Colorado state university at the national western center is a critical element of continued growth in agricultural innovation because it will create research and development opportunities, showcase Colorado's innovation economy on national and international stages, and create public-private partnerships with major industries that will advance science, technology, engineering, and mathematics (STEM) disciplines and have significant economic and scientific impact;

(d) As Colorado's land-grant university, a substantial part of Colorado state university's educational mission is to provide agriculture-related research, education, and outreach and support Colorado's agricultural industry, and it does so by:

(I) Offering a wide variety of highly respected agriculture-related undergraduate and graduate degree programs;

(II) Operating several research centers and institutes and a veterinary teaching hospital; and

(III) Providing accurate and unbiased information to the public regarding agriculture, gardening, nutrition, and natural resources-related topics through Colorado state university extension and its programs;

(e) In furtherance of its mission as Colorado's land-grant university and one of the nation's premier agricultural and veterinary institutions, Colorado state university's focus at the national western center will be to advance academic, research, and outreach initiatives related to the state's broad-based economy in agriculture, food systems, health, and western culture, but it will not issue undergraduate or graduate academic degrees from the national western center;

(f) The national western center master plan provides for an integrated facilities program that includes a variety of facilities for Colorado state university, including an equine sports medicine clinic, a collaborative community outreach veterinary clinic and clinical trials center, a water resources center, and a Colorado state university center that may include: a food systems innovation and learning center; a Denver urban extension center; an educational urban farm with demonstration fields; classrooms; laboratories; a test kitchen and administrative space; and other facilities that are consistent with the national western center master plan vision and guiding principles that may be added as the site develops. In addition, the national western center needs support from and integration with Colorado state university's on-campus programs that support the national western center vision and proposed activities, including teaching, research, and outreach. An on-campus equine veterinary teaching hospital, the Malone center for biologic and translational therapies, and the anatomy teaching laboratory expansion or other facilities that are supportive of activity at the national western center as the site develops will be critically connected to the national western center project.

(g) At full build-out of the two-hundred-seventy-acre national western center, there will be abundant opportunities for complementary co-location to advance food production, food safety, animal health, nutrition, natural resource conservation, and a broad range of related agricultural industries, resulting in estimated direct employment of six thousand people and indirect employment of an additional ten thousand people;

(h) The national western center's centralized location relative to the state's main population centers and its relationship to the state's greatest concentration of agricultural production, commodity processing, and food manufacturing to the north, including but not limited to the availability of a skilled workforce pipeline and proximity to several public and private universities, will help it drive future agricultural innovations; and

(i) It is necessary, appropriate, and in the best interests of the state to authorize the state, acting by and through the state treasurer, to enter into lease-purchase agreements for the purpose of providing financing for the construction of facilities for Colorado state university at the national western center and on-campus affiliated facilities, and such financing is contingent upon approval, through established state executive and legislative branch capital construction project review and approval processes, of specific projects to be financed and the voters of the city and county of Denver approving an extension of the lodging and car rental taxes or another similar tax, which would generate necessary funding for the national western center. Further, it is in the best interests of the state to accelerate the development of the Colorado state university educational facilities resulting in the following economic benefits to the state:

(I) The state will realize the economic impact of the national western center sooner;

(II) Overall facility costs will be reduced if design and construction is started sooner; and

(III) Overall facility costs will also be reduced by taking advantage of historically low interest rates that are currently available.

Source: L. 2015: Entire part added, (HB 15-1344), ch. 207, p. 746, § 1, effective August 5.

23-31-902. Annual project report - national western center trust fund - creation - use. (1) No later than August 1, 2016, and no later than August 1 of each year thereafter, the national western center partnership shall submit an annual national western center project report

to the offices of the governor, the speaker and minority leader of the house of representatives, and the president and minority leader of the senate. The report must include an update on the national western center project work plan and a general progress report. If the national western center is requesting state funding based upon the phased development schedule for the national western center project, it must provide information regarding necessary facility programming and an estimated budget.

(2) The national western center trust fund is created in the state treasury. The trust fund consists of moneys transferred from the general fund to the trust fund pursuant to subsection (3) of this section. Interest and income derived from the deposit and investment of the trust fund is credited to the trust fund. All unexpended and unencumbered moneys in the trust fund at the end of a fiscal year remains in the trust fund and shall not be credited to the general fund or any other fund. Subject to annual appropriation by the general assembly, the board of governors of Colorado state university may expend money from the trust fund to make lease payments payable under the terms of lease-purchase agreements entered into as authorized by section 23-31-903. The principal and interest of the trust fund shall not be expended or appropriated for any other purpose.

(3) If, in order to contribute to the financing of the phased development of the national western center, the state enters into one or more lease-purchase agreements as authorized by section 23-31-903, on July 1 of any fiscal year commencing on or after July 1, 2019, for which money is due to a lessor under such a lease-purchase agreement, the state treasurer shall transfer from the general fund to the national western center trust fund the lesser of twenty million dollars or the amount due to any lessor during the fiscal year.

Source: L. 2015: Entire part added, (HB 15-1344), ch. 207, p. 750, § 1, effective August 5.

23-31-903. Authorization for lease-purchase agreements. (1) (a) Subject to the requirements specified in paragraph (c) of this subsection (1), the state of Colorado, acting by and through the state treasurer, may execute one or more lease-purchase agreements for up to twenty years of principal and interest payments for the state to finance the construction of facilities for Colorado state university at the national western center and affiliated facilities at the Colorado state university campus. The total amount of the principal component of said lease-purchase agreement shall not exceed two hundred fifty million dollars, plus reasonable and necessary administrative, monitoring, and closing costs and interest, including capitalized interest.

(b) Enactment of this part 9 satisfies the requirements of sections 24-82-102 (1)(b) and 24-82-801, C.R.S., which require authorization of a lease-purchase agreement by a bill other than an annual general appropriation bill or a supplemental appropriation bill.

(c) The state shall not enter into a lease-purchase agreement as authorized by this section unless the specific facilities to be financed by the lease-purchase agreement have been included in the unified, five-year capital improvements report prepared and transmitted by the Colorado commission on higher education pursuant to section 23-1-106, prioritized for funding by the office of state planning and budgeting in its submission to the capital development committee made pursuant to section 24-37-304 (1)(c.3)(I)(C), C.R.S., recommended for funding by the capital development committee pursuant to section 2-3-1305, C.R.S., and included in the

governor's annual executive budget proposed to the general assembly pursuant to section 24-37-301, C.R.S. Prior to closing, the state controller must approve all agreements relating to the financing of the facilities, and the voters of the city and county of Denver must approve an extension of the lodging and car rental taxes or another similar tax.

(2) (a) A lease-purchase agreement authorized in subsection (1) of this section must provide that all of the obligations of the state under the agreement are subject to the action of the general assembly in annually making moneys available for all payments thereunder. Payments under any lease-purchase agreement shall be made only from such action of the general assembly. No lease-purchase agreement authorized in subsection (1) of this section creates any liability or indebtedness of Colorado state university. Such an agreement must also provide that the obligations do not create an indebtedness of the state within the meaning of any provision of the state constitution or the laws of the state of Colorado concerning or limiting the creation of indebtedness by the state of Colorado and do not constitute a multiple fiscal-year direct or indirect debt or other financial obligation of the state within the meaning of section 20 (4) of article X of the state constitution. If the state of Colorado does not renew a lease-purchase agreement authorized in subsection (1) of this section, the sole security available to the lessor is the real property that is the subject of the nonrenewed lease-purchase agreement.

(b) (I) A lease-purchase agreement authorized in subsection (1) of this section may contain such terms, provisions, and conditions as the state treasurer may deem appropriate, including all optional terms; except that the lease-purchase agreement must specifically authorize the state of Colorado to:

(A) Receive fee title to all real and personal property that is the subject of the lease-purchase agreement on or prior to the expiration of the terms of the lease-purchase agreement; and

(B) Reduce the term of the lease through prepayment of rental and other payments.

(II) Any title to property received by the state on or prior to the expiration of the terms of the lease-purchase agreement will be held by the state for the benefit and use of Colorado state university.

(c) Any lease-purchase agreement authorized in subsection (1) of this section may provide for the issuance, distribution, and sale of instruments evidencing rights to receive rentals and other payments made and to be made under the lease-purchase agreement. The instruments may be issued, distributed, or sold only by the lessor or any person designated by the lessor and not by the state. The instruments do not create a relationship between the purchasers of the instruments and the state or create any obligation on the part of the state to the purchasers. The instruments are not notes, bonds, or any other evidence of indebtedness of the state within the meaning of any provision of the state constitution or the law of the state concerning or limiting the creation of indebtedness of the state and do not constitute a multiple fiscal-year direct or indirect debt or other financial obligation of the state within the meaning of section 20 (4) of article X of the state constitution.

(d) Interest paid under a lease-purchase agreement authorized in subsection (1) of this section, including interest represented by the instruments, is exempt from state tax.

(e) The state of Colorado, acting through the state treasurer, is authorized to enter into such ancillary agreements and instruments as are deemed necessary or appropriate in connection with the lease-purchase agreements, including but not limited to ground leases, easements, or other instruments relating to the facilities to be purchased.

(3) The provisions of section 24-30-202 (5)(b), C.R.S., do not apply to a lease-purchase agreement authorized in subsection (1) of this section or to any ancillary agreement entered into pursuant to paragraph (c) of subsection (2) of this section. The state controller or his or her designee may waive any provision of the fiscal rules promulgated pursuant to section 24-30-202 (1) and (13), C.R.S., that the state controller deems to be incompatible or inapplicable with respect to such a lease-purchase agreement or ancillary agreement.

Source: L. 2015: Entire part added, (HB 15-1344), ch. 207, p. 751, § 1, effective August 5.

23-31-904. Cooperative agreements for regional economic development not limited. Nothing in this part 9 limits the ability of Colorado state university and the city and county of Denver to enter into cooperative agreements, including intergovernmental agreements with adjoining entities, for the purpose of facilitating regional economic development and project enhancement.

Source: L. 2015: Entire part added, (HB 15-1344), ch. 207, p. 753, § 1, effective August 5.

23-31-905. National western center partnership - open meetings and open records laws apply - audit. (1) To the extent that such laws are not already applicable, upon the final approval of state funding for any national western center project pursuant to section 23-31-903:

(a) The national western center partnership is subject to the open meetings provisions of the "Colorado Sunshine Act of 1972" contained in part 4 of article 6 of title 24, C.R.S., and the "Colorado Open Records Act", part 2 of article 72 of title 24, C.R.S. For purposes of the "Colorado Open Records Act", part 2 of article 72 of title 24, C.R.S., the records of the national western center partnership are public records.

(b) The state auditor may, at any time thereafter, audit the national western center partnership.

Source: L. 2015: Entire part added, (HB 15-1344), ch. 207, p. 753, § 1, effective August 5.

PART 10

VETERINARY EDUCATION LOAN REPAYMENT PROGRAM

23-31-1001. Legislative declaration. (1) The general assembly finds and determines that:

(a) More than one-third of rural communities in Colorado have at most one livestock-oriented veterinarian, thus leaving the owners of hundreds of thousands of livestock with little or no access to veterinary medicine;

(b) Food security and safety are directly linked to animal health;

(c) Colorado plays a key role in meeting our growing population's increasing demand for protein;

(d) According to nationwide market statistics developed for the American Veterinary Medical Association, less than five percent of veterinarians in the United States practice predominantly on livestock;

(e) Rural veterinarians play a critical role in protecting the health of animals and humans;

(f) Many graduates of Colorado state university's college of veterinary medicine and biomedical sciences were raised in rural areas and are interested in livestock-oriented practice; however, these graduates often feel limited to practice in areas of the state with higher starting salaries due to their loan repayment obligations; and

(g) Loan forgiveness and repayment programs in other states have improved veterinarians' ability to pursue veterinary practices in rural areas.

(2) Therefore, the general assembly determines and declares that a veterinary education loan repayment program would benefit Colorado by providing financial incentives for veterinarians to practice in rural areas in which veterinary needs are not currently being met.

Source: L. 2017: Entire part added, (HB 17-1282), ch. 322, p. 1733, § 1, effective August 9.

23-31-1002. Definitions. As used in this part 10, unless the context otherwise requires:

(1) "Council" means the state veterinary education loan repayment council created in section 23-31-1003.

(2) "Licensed veterinarian" has the same meaning as set forth in section 12-315-104 (11).

(3) "Program" means the state veterinary education loan repayment program created in section 23-31-1004.

(4) "Rural" means:

(a) A county with a population of fewer than thirty thousand; or

(b) A municipality with a population of fewer than twenty thousand if the municipality is not contiguous to a municipality with a population of twenty thousand or more.

(5) "Veterinarian" has the same meaning as set forth in section 12-315-104 (18).

(6) "Veterinary shortage area" means a rural area that the council determines has a shortage of veterinarians practicing in the area.

Source: L. 2017: Entire part added, (HB 17-1282), ch. 322, p. 1734, § 1, effective August 9. **L. 2019:** (2) and (5) amended, (HB 19-1172), ch. 136, p. 1684, § 121, effective October 1.

23-31-1003. State veterinary education loan repayment council - creation - membership. (1) There is hereby created in Colorado state university's college of veterinary medicine and biomedical sciences the veterinary education loan repayment council, referred to in this part 10 as the "council". The council shall be under the direct supervision of the dean of Colorado state university's college of veterinary medicine and biomedical sciences or the dean's designee. The dean or the dean's designee may authorize staff assistance to provide

administrative support for the council if such staff assistance can be provided within Colorado state university's existing appropriations.

(2) (a) The council consists of five directors appointed by the governor. A director of the council:

(I) Must not be an elected official;

(II) May serve up to three consecutive terms; and

(III) Shall not receive compensation for his or her membership on the council but may be reimbursed for any necessary and reasonable expenses incurred while performing his or her duties as a director of the council.

(b) (I) On or before October 1, 2017, the governor shall appoint the initial five directors of the council. The council must include the following representatives:

(A) At least one director must be a member of the faculty or staff of Colorado state university's college of veterinary medicine and biomedical sciences;

(B) The commissioner of agriculture or his or her designee;

(C) At least one director must be associated with, and able to represent the interests of, the Colorado livestock industries; and

(D) At least one director must be associated with, and able to represent the interests of, the Colorado Veterinary Medical Association.

(II) Of the initial five directors, three serve for four-year terms and two serve for two-year terms. All subsequent terms are four-year terms.

(III) Unless extenuating circumstances such as illness or death require otherwise, each director shall hold office until his or her successor is appointed.

(3) The governor, at his or her pleasure, may remove a director of the council at any time. If a director vacates his or her seat on the council during the term for which the director was appointed, the governor shall fill the resultant vacancy by appointing a director for the remainder of that term. The successor director must meet the same qualifications under this section as his or her predecessor.

(4) (a) At the first meeting of the council, and as necessary thereafter, the directors shall appoint from their membership a chair and vice-chair of the council, who have joint authority over the council's financial matters, including loan repayment authorizations based on the council's approval of loan repayment applications.

(b) Pursuant to section 24-6-402, the council shall conduct all business at regular or special meetings that are open to the public. The council shall meet as often as necessary to perform its duties under this part 10.

(c) Council action requires the affirmative vote of a majority of the total membership of the council.

Source: L. 2017: Entire part added, (HB 17-1282), ch. 322, p. 1734, § 1, effective August 9.

23-31-1004. State veterinary education loan repayment program - creation - purpose. The council shall administer the veterinary education loan repayment program to provide financial incentives to licensed veterinarians to practice veterinary medicine in veterinary shortage areas of the state through assistance with the repayment of veterinary education loans.

Source: L. 2017: Entire part added, (HB 17-1282), ch. 322, p. 1736, § 1, effective August 9.

23-31-1005. Council powers and duties. (1) To implement this part 10, the council shall:

(a) Pursuant to the criteria set forth in section 23-31-1006, determine the eligibility and qualifications of an applicant for loan repayment under the program;

(b) With respect to the veterinary shortage areas that are in need of veterinary medical services:

(I) Identify and designate the veterinary shortage areas that will participate in the program pursuant to the criteria established by the council as set forth in section 23-31-1007;

(II) Establish a priority ranking for the designated veterinary shortage areas participating in the program based on level of need; and

(III) Annually update the list of designated veterinary shortage areas and the priority rankings;

(c) In accordance with the maximum amounts set forth in section 23-31-1009, determine the amount of loan repayment money to which an applicant selected under the program is eligible, based on the unpaid amount of any outstanding education loan that meets the criteria set forth in section 23-31-1006 (2); and

(d) Upon selecting an applicant, enter into a renewable contract with the selected applicant and the designated veterinary shortage area to which the selected applicant has been matched to provide loan repayment money on the selected applicant's behalf in exchange for the selected applicant's agreement to actively practice veterinary medicine in the veterinary shortage area.

(2) In furtherance of its duties under this part 10, the council may:

(a) Receive and use money appropriated for or donated to the program to be used in furtherance of the program;

(b) With respect to any contract that the council has entered into with a selected applicant and a designated veterinary shortage area under the program:

(I) Enforce the contract; or

(II) Cancel the contract for good cause based on a determination that the applicant is not complying with the terms of the contract;

(c) Monitor federal programs that support the repayment of education loans incurred by veterinarians; and

(d) Accept property from another entity to be used in furtherance of the program.

Source: L. 2017: Entire part added, (HB 17-1282), ch. 322, p. 1736, § 1, effective August 9.

23-31-1006. Program applicant eligibility - criteria. (1) Each year, the council shall select up to four qualified veterinarian applicants to participate in the program. The number of applicants that the council may choose in a given year is dependent on the amount of money available in that year for the council to award under the program.

(2) To be eligible for repayment under the program, an applicant must:

(a) Be a licensed veterinarian who:

(I) Agrees, in the form and manner determined by the council, to practice veterinary medicine in a veterinary shortage area, as designated by the council pursuant to section 23-31-1007; and

(II) Graduated from an accredited doctor of veterinary medicine school in 2017 or later;

(b) Currently live in Colorado or, at some point, have lived in Colorado for at least three years; and

(c) Have an outstanding education loan:

(I) That was incurred in relation to the applicant's attendance at an accredited doctor of veterinary medicine school located in the United States;

(II) For which the applicant is not in default; and

(III) That has not been consolidated with any loans incurred by a spouse.

(3) An applicant selected for loan repayment under the program:

(a) Is eligible for an amount:

(I) Up to seventy thousand dollars pursuant to the maximum yearly repayment amounts set forth in section 23-31-1009; and

(II) That correlates to the applicant's outstanding veterinary education loans;

(b) Shall contract with the council to provide veterinary medical services in one or more designated veterinary shortage areas for a period up to four years.

(4) In establishing the applicant eligibility criteria for loan repayment under the program, the council shall consider the following factors with respect to the applicant's compatibility with a designated veterinary shortage area:

(a) An applicant's training with respect to, ability to provide, and willingness to engage in, food animal veterinary medicine and the extent to which the designated veterinary shortage area needs food animal veterinary medical services;

(b) An applicant's commitment to practice veterinary medicine in the designated veterinary shortage area;

(c) An applicant's date of availability to practice veterinary medicine in the designated veterinary shortage area; and

(d) An applicant's competence, as determined by the state board of veterinary medicine created in section 12-315-106, and ability to fulfill the duties identified in the application.

(5) The council shall give priority to eligible applicants who:

(a) Have graduated from Colorado state university's college of veterinary medicine and biomedical sciences; and

(b) With respect to a designated veterinary shortage area:

(I) Have lived in the veterinary shortage area or a nearby area;

(II) Have family in the veterinary shortage area or a nearby area; or

(III) Live, or have lived, in a substantially similar rural area of the state.

Source: L. 2017: Entire part added, (HB 17-1282), ch. 322, p. 1737, § 1, effective August 9. **L. 2019:** (4)(d) amended, (HB 19-1172), ch. 136, p. 1685, § 122, effective October 1.

23-31-1007. Designated veterinary shortage areas - criteria. (1) In designating a community a veterinary shortage area, the council shall consider:

(a) The veterinary service needs identified by the community, giving priority to communities that demonstrate the potential for significant negative food animal health impacts within Colorado if their veterinary service needs are not met;

(b) The number of veterinarians practicing in the community and its surrounding area;

(c) The existing access residents of the community and its surrounding areas have to veterinary services; and

(d) The degree to which residents or livestock producers support the addition of a veterinarian within the community.

(2) For communities that the council identifies as veterinary shortage areas based on their demonstrated need for veterinary services, the council, in designating which veterinary shortage areas to match with veterinarians through the program, shall prioritize the veterinary shortage areas based on their demonstrated level of need for veterinary services.

(3) In evaluating a veterinary shortage area to determine whether to designate the veterinary shortage area for participation in the program, the council may consult with public and private entities and visit the veterinary shortage area.

Source: L. 2017: Entire part added, (HB 17-1282), ch. 322, p. 1738, § 1, effective August 9.

23-31-1008. Release from contract obligation. (1) The council shall release a veterinarian selected for repayment under the program from his or her veterinary loan repayment contract without penalty if:

(a) The veterinarian has completed the service requirements of the contract;

(b) The veterinarian is unable to complete the service requirement of the contract because of a permanent physical disability;

(c) The veterinarian demonstrates to the council extreme hardship or other good cause justifying release from the contract; or

(d) The veterinarian dies.

(2) A decision by the council not to release a veterinarian from the veterinarian's loan repayment contract without penalty is a final agency action that is reviewable by a district court.

Source: L. 2017: Entire part added, (HB 17-1282), ch. 322, p. 1739, § 1, effective August 9.

23-31-1009. Loan repayment. (1) The council shall make all payments under the program on a veterinarian's behalf to the issuer or purchaser of the veterinarian's student loan.

(2) As required by a selected veterinarian's contract under the program, the veterinarian is eligible for the following amounts of loan repayment:

(a) Upon completion of six months of the first year of service under the program, ten thousand dollars;

(b) Upon completion of a second year of service under the program, an additional fifteen thousand dollars;

(c) Upon completion of a third year of service under the program, an additional twenty thousand dollars; and

(d) Upon completion of a fourth year of service under the contract, an additional twenty-five thousand dollars.

(3) A veterinarian is not entitled to receive more than seventy thousand dollars under the program.

(4) If, for any of the years of service for which a veterinarian selected under the program is contracted to provide service, the veterinarian fails to complete the entire year of service, the council shall prorate the amount of loan repayment on the veterinarian's behalf for that year.

Source: L. 2017: Entire part added, (HB 17-1282), ch. 322, p. 1739, § 1, effective August 9.

23-31-1010. Veterinary education loan repayment fund - creation - gifts, grants, and donations. (1) (a) The veterinary education loan repayment fund, referred to in this part 10 as the "fund", is hereby created in the state treasury.

(b) On September 1, 2017, the state treasurer shall transfer one hundred forty thousand dollars from the general fund to the fund.

(c) The fund also consists of money credited to it pursuant to subsection (5) of this section and any additional money that the general assembly may appropriate or transfer to the fund.

(2) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund.

(3) The state treasurer shall credit any unexpended and unencumbered money remaining in the fund at the end of a fiscal year to the fund.

(4) Money in the fund is continuously appropriated to the council for implementation of the program under this part 10.

(5) (a) The council may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this part 10. The council shall transmit all money received through gifts, grants, or donations to the state treasurer, who shall credit the money to the fund.

(b) The council may contract with a public or private entity and may expend money available to the council to obtain matching funds for the purpose of this part 10.

(c) If an entity desires to provide a gift, grant, or donation of money to the council for the placement of a veterinarian in a specific veterinary shortage area, the entity shall commit to provide the full amount required under the program for placement of a veterinarian in that veterinary shortage area for four years.

(d) For purposes of this subsection (5), "gifts, grants, or donations" include money from an endowment.

(6) In accordance with section 24-75-402 (2)(a) and for each fiscal year, the alternative maximum reserve for the fund is thirty-three and three-tenths percent of the amount expended from the fund during the fiscal year.

Source: L. 2017: Entire part added, (HB 17-1282), ch. 322, p. 1740, § 1, effective August 9.

PART 11

COLORADO FOOD SYSTEMS
ADVISORY COUNCIL

Editor's note: This part 11 was added with relocations in 2019. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated.

23-31-1101. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) In September 2009, the federal centers for disease control and prevention reported that no state in the country was meeting national goals for the amount of fruits and vegetables that Americans should be eating. As a result, the centers for disease control and prevention identified, as a first strategy, the creation of food policy councils to improve the food environment and economies at the local, regional, and state levels.

(b) Food policy councils consist of multistakeholder organizations that employ a food systems approach that facilitates evaluation and program development at every stage of the food process from farm to table. By 2016, there were over two hundred twenty food policy councils throughout the United States addressing issues such as healthy food access, economic development, and food procurement. Colorado's food systems advisory council, which was created in 2010, has focused primarily on strengthening healthy food access for all Coloradans through the growth of Colorado agriculture and local food systems and economies.

(c) In 2017, Colorado state university, in partnership with the council and others, released the Colorado blueprint of food and agriculture that identified key assets, emerging issues, and shared priorities for future investments in food and agriculture throughout Colorado. The blueprint and the existing work of the council demonstrate that building local, regional, and state food economies will create jobs, stimulate statewide economic development, and circulate money from local food sales within local communities.

(d) The continuation and enhancement of the council is necessary to address the recommendations in the blueprint to support food system changes designed to grow local, regional, and statewide food economies within which agricultural producers have access to new markets and Colorado's population has improved access to fresh, affordable, and healthy foods; and

(e) Building robust, resilient, and long-term local and regional food economies in Colorado will preserve and protect the natural environment; increase consumer access to fresh, healthy, and safe foods; and provide greater food security for all Coloradans.

Source: L. 2019: Entire part added with relocations, (HB 19-1202), ch. 403, p. 3565, § 1, effective May 31.

Editor's note: This section is similar to former § 24-37.3-101 as it existed prior to 2019.

23-31-1102. Colorado food systems advisory council - created - membership - terms - vacancies. (1) There is hereby established within Colorado state university the Colorado food systems advisory council, referred to in this part 11 as the "council". The council is created as an advisory committee to provide recommendations regarding increasing healthy food access for all

Colorado residents, creating economic opportunities for Colorado agricultural producers and food-related businesses, and strengthening local and regional food systems.

(2) The council consists of:

(a) The following six members appointed as indicated:

(I) One representative of the department of education, appointed by the commissioner of education;

(II) One representative of the department of public health and environment, appointed by the executive director of the department of public health and environment;

(III) One representative of the department of agriculture, appointed by the commissioner of agriculture;

(IV) One representative of the department of human services, appointed by the executive director of the department of human services;

(V) One representative of the Colorado state university extension, appointed by the director of the Colorado state university extension; and

(VI) One representative of the Colorado office of economic development, created in section 24-48.5-101, appointed by the director of the office of economic development; and

(b) Sixteen members appointed by the governor or the governor's designee as follows:

(I) Two members who are recipients of a federal food assistance program, at least one of whom is a recipient of the supplemental nutrition assistance program;

(II) Two members who represent different sectors of agricultural production, one of whom is a specialty crop producer and at least one of whom sells agricultural products to a public school or school district;

(III) Two members who represent food wholesalers or food retailers, one of whom must be a direct market retailer;

(IV) One member who represents a statewide anti-hunger organization;

(V) Two members who are knowledgeable about federal agencies, one of whom has expertise in federal food and nutrition service programs and one of whom has expertise in rural community and regional development programs or community and economic development programs;

(VI) One member from an academic institution who specializes in economic systems, agriculture, or health care;

(VII) Two members who represent institutional procurement, one of whom is from an educational setting and one of whom is from a health care setting;

(VIII) One member who represents a local, nonprofit, community organization engaged in a farm-to-school program or local food systems;

(IX) One member who represents a food distributor or a food hub;

(X) One member who is knowledgeable about nutrition, preferably a physician licensed in this state or a registered dietician; and

(XI) One member who is a representative of a statewide healthy food systems organization.

(3) In making appointments to the council, the appointing authorities shall ensure, to the extent possible, that the membership of the council includes geographic and social diversity, as well as a balance of expertise, both governmental and nongovernmental, in issues relating to Colorado's food systems.

(4) Each member of the council serves at the pleasure of the appointing authority who appointed the member. Each member of the council serves a three-year term; except that the governor or the governor's designee shall appoint six members to serve two-year terms and four members to serve four-year terms. An appointing authority may reappoint the member for one additional three-year term.

(5) Repealed.

(6) Any vacancy on the council shall be filled in the same manner in which the original appointment was made, and the term is for the balance of the unexpired term of the member whose position on the council is vacant.

(7) A majority of the members of the council shall elect a chair and a vice-chair, who shall serve for two-year terms. A member of the council who is an executive director or commissioner of a state department or the executive director's or commissioner's designee may be elected to be a chair or a vice-chair of the council, but both positions shall not be held at the same time by members who are executive directors or commissioners of state departments or their designees.

(8) Each member of the council serves without compensation but may be reimbursed from the food systems advisory council fund created in section 23-31-1105 for actual and necessary subsistence and travel expenses incurred in the performance of the member's duties as a member of the council.

(9) The chair shall hold meetings as often as the chair deems necessary but not less than four times each calendar year. The council shall adopt policies and procedures necessary to carry out its duties. If needed, and if funding is available, Colorado state university may staff the council.

Source: L. 2019: Entire part added with relocations, (HB 19-1202), ch. 403, p. 3566, § 1, effective May 31.

Editor's note: (1) This section is similar to former § 24-37.3-102 as it existed prior to 2019.

(2) Subsection (5)(b) provided for the repeal of subsection (5), effective September 1, 2020. (See L. 2019, p. 3566.)

23-31-1103. Council - purpose and duties. (1) The purposes of the council include:

(a) Growing local, regional, and statewide food economies within which producers have access to new markets and low-income populations have access to fresh, affordable, and healthy foods. The council will collaborate and coordinate with agricultural producers, relevant state and federal educational institutions, nongovernmental organizations, and consumers to connect state and federal agencies and to provide Colorado agricultural producers, including fruit and vegetable producers, with viable market opportunities. Areas of focus include:

(I) Connecting Colorado agricultural producers to federal food assistance programs by functioning as an interagency liaison between relevant state and federal agencies;

(II) Leveraging the purchasing power of the state's institutions to create new and reliable markets for Colorado agricultural products and support the growth of robust and resilient food systems while providing fresh, affordable, and healthy foods to vulnerable populations; and

(III) Supporting the implementation of the recommendations in the Colorado blueprint of food and agriculture project, ensuring that the recommendations in the blueprint, or its successor project, are updated as needed, and ensuring alignment with other state or local food plans if relevant.

(b) Conducting research regarding national best practices regarding food and nutrition assistance, direct and intermediated market development, institutional procurement, and farm-to-school programs as well as other priorities determined by the council;

(c) Collaborating with, serving as a resource to, and receiving input from local and regional food policy councils in the state; and

(d) Exploring methods of collecting and assessing statewide data relating to council activities and reporting the relevant information and data regarding council activities as required by section 23-31-1106.

(2) The department of agriculture, department of education, department of human services, and department of public health and environment shall cooperate with the council with respect to the council's duties specified in subsection (1) of this section.

Source: L. 2019: Entire part added with relocations, (HB 19-1202), ch. 403, p. 3569, § 1, effective May 31.

Editor's note: This section is similar to former § 24-37.3-103 as it existed prior to 2019.

23-31-1104. Subcommittees of the council. (1) (a) The council may create subcommittees, as the council deems necessary, to carry out the work of the council.

(b) If created, the subcommittees must include representatives of the council and may include persons appointed by the chair and the vice-chair of the council who are not members of the council.

(2) The council may engage in any other activity the council determines is necessary to accomplish the purposes outlined in this part 11.

Source: L. 2019: Entire part added with relocations, (HB 19-1202), ch. 403, p. 3571, § 1, effective May 31.

Editor's note: This section is similar to former § 24-37.3-104 as it existed prior to 2019.

23-31-1105. Fund - acceptance of gifts, grants, or donations. (1) For the purposes of carrying out the duties of the council, the council is authorized to seek and accept gifts, grants, or donations, including in-kind donations, from private or public sources for the purposes of this part 11; except that the council may not accept a gift, grant, or donation that is subject to conditions that are inconsistent with this part 11 or any other law of the state. The council may accept in-kind donations of staff services from the private sector to staff the council. The council is also authorized to accept and expend federal money available for its activities. All private and public money received through gifts, grants, or donations shall be transmitted to the state treasurer, who shall credit it to the food systems advisory council fund, which fund is created in the state treasury and referred to in this section as the "fund". The money in the fund is continuously appropriated to Colorado state university for allocation to the council for the direct

and indirect costs associated with implementing this part 11. Any money in the fund not expended for the purpose of this part 11 may be invested by the state treasurer as provided by law. The state treasurer shall credit all interest and income derived from the investment and deposit of money in the fund to the fund.

(2) Money in the fund may be used for the following purposes:

(a) The actual and necessary expenses incurred by members of the council for serving on the council;

(b) The costs of staffing the council, if staffed by Colorado state university; and

(c) The costs of funding programs initiated by the council or council staff.

Source: L. 2019: Entire part added with relocations, (HB 19-1202), ch. 403, p. 3571, § 1, effective May 31.

Editor's note: This section is similar to former § 24-37.3-105 as it existed prior to 2019.

23-31-1106. Reports - recommendations. Notwithstanding section 24-1-136 (11)(a)(I), no later than January 31, 2021, and January 31 every other year thereafter, the council shall report the information specified in section 23-31-1103 (1)(d) to the house rural affairs and agriculture committee and the senate agriculture and natural resources committee, or their successor committees.

Source: L. 2019: Entire part added with relocations, (HB 19-1202), ch. 403, p. 3572, § 1, effective May 31.

Editor's note: This section is similar to former § 24-37.3-106 as it existed prior to 2019.

23-31-1107. Repeal of part. This part 11 is repealed, effective September 1, 2023. Before the repeal, this part 11 is scheduled for review in accordance with section 2-3-1203.

Source: L. 2019: Entire part added with relocations, (HB 19-1202), ch. 403, p. 3573, § 1, effective May 31.

Editor's note: This section is similar to former § 24-37.3-107 as it existed prior to 2019.

ARTICLE 31.3

Colorado State University - Global Campus

23-31.3-101. University established - role and mission. (1) (a) There is established an online university to be known as Colorado state university - global campus, referred to in this article 31.3 as "CSU global campus". CSU global campus is a baccalaureate and graduate online university with the mission in Colorado of offering baccalaureate degree programs for nontraditional students in partnership with the Colorado community college system and selected master-level graduate programs. For baccalaureate degree students residing in Colorado, CSU

global campus shall have moderately selective admission standards. CSU global campus shall comply with all applicable statutes and rules.

(b) CSU global campus shall not offer associate of arts, associate of science, or associate of applied science degrees, bachelor of applied science degrees, or career and technical certificate programs. Additionally, CSU global campus will not offer concurrent enrollment programs, state-funded supplemental academic instruction, or state-funded developmental education courses.

(2) (a) Online baccalaureate degree programs that will be offered to students residing in Colorado and that did not exist prior to August 6, 2014, are subject to review and approval by the Colorado commission on higher education. In determining whether to approve an online baccalaureate degree program, the Colorado commission on higher education shall consider:

(I) Whether the program is in the best interests of the state of Colorado;

(II) Whether the program is cost-effective for Colorado students; and

(III) Whether the program is sufficiently distinguishable from an existing online baccalaureate degree program being delivered by a state four-year institution of higher education, a state two-year institution of higher education, or jointly by a state two-year and state four-year institution of higher education.

(b) In determining whether to approve an online baccalaureate degree program pursuant to paragraph (a) of this subsection (2), the Colorado commission on higher education may consult with other state institutions of higher education.

Source: L. 2012: Entire article added, (HB 12-1220), ch. 100, p. 332, § 1, effective August 8. **L. 2014:** Entire section amended, (SB 14-114), ch. 144, p. 491, § 1, effective August 6. **L. 2018:** (1)(a) amended, (SB 18-101), ch. 49, p. 485, § 1, effective August 8. **L. 2019:** (1)(b) amended, (HB 19-1206), ch. 133, p. 605, § 18, effective April 25.

Cross references: For the legislative declaration in HB 19-1206, see section 1 of chapter 133, Session Laws of Colorado 2019.

23-31.3-102. Board of governors of the Colorado state university system to supervise. The board of governors of the Colorado state university system has the general supervision of CSU global campus and the control and direction of the funds and appropriations made thereto. The board has the power to receive, demand, and hold for the uses and purposes of CSU global campus all money, lands, and other property that may be donated, devised, or conveyed thereto and to utilize the same in such manner as shall best serve the objects and interests of CSU global campus.

Source: L. 2012: Entire article added, (HB 12-1220), ch. 100, p. 332, § 1, effective August 8.

23-31.3-103. Academic policy. The president of CSU global campus, referred to in this article as the "president", in consultation with the governing council and the faculty, has the responsibility for making academic policy and governing the academic affairs of the institution.

Source: L. 2012: Entire article added, (HB 12-1220), ch. 100, p. 333, § 1, effective August 8.

23-31.3-104. President - duties. The president is chief executive officer of CSU global campus, and it is the duty of the president to see that the rules of the board of governors of the Colorado state university system are observed and executed.

Source: L. 2012: Entire article added, (HB 12-1220), ch. 100, p. 333, § 1, effective August 8.

23-31.3-105. Board of governors - personnel power. The board of governors of the Colorado state university system has authority over all personnel matters relating to the system, including CSU global campus. In accordance with section 23-5-117, the board may delegate all or part of its power over personnel matters. If such personnel powers are delegated to the president, then all employees of CSU global campus are under the direction and control of the president and shall be removable at the president's discretion. The president may fill vacancies of all employee positions as deemed necessary, subject to his or her personnel power.

Source: L. 2012: Entire article added, (HB 12-1220), ch. 100, p. 333, § 1, effective August 8.

23-31.3-106. President may be an instructor. The president may perform the duties of an instructor, as the board of governors of the Colorado state university system shall determine.

Source: L. 2012: Entire article added, (HB 12-1220), ch. 100, p. 333, § 1, effective August 8.

23-31.3-107. Power to acquire land. The board of governors of the Colorado state university system has the power to take and hold, by gift, devise, or purchase, so much land as may become necessary for the location and construction of buildings, structures, and other facilities as may be required for the uses and purposes of Colorado.

Source: L. 2012: Entire article added, (HB 12-1220), ch. 100, p. 333, § 1, effective August 8.

ARTICLE 31.5

Colorado State University - Pueblo

Editor's note: This article was added with relocations in 2007 containing relocated provisions of some sections formerly located in article 55 of this title. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this article, see the comparative tables located in the back of the index.

23-31.5-101. University established - role and mission. There is hereby established a university at Pueblo, to be known as Colorado state university - Pueblo, which shall be a regional, comprehensive university, with moderately selective admissions standards. The university shall offer a broad array of baccalaureate programs with a strong professional focus and a firm grounding in the liberal arts and sciences. The university shall also offer a limited number of graduate programs.

Source: L. 2007: Entire article added with relocations, p. 547, § 3, effective August 3. **L. 2011:** Entire section amended, (SB 11-204), ch. 308, p. 1509, § 1, effective August 10.

Editor's note: This section is similar to former § 23-55-101 as it existed prior to 2007.

23-31.5-102. Board of governors of the Colorado state university system to supervise. The board of governors of the Colorado state university system has the general supervision of the Colorado state university - Pueblo and the control and direction of the funds and appropriations made thereto and has the power to receive, demand, and hold for the uses and purposes of said university all money, lands, and other property that may be donated, devised, or conveyed thereto and to apply the same in such manner as shall best serve the objects and interests of the said university.

Source: L. 2007: Entire article added with relocations, p. 547, § 3, effective August 3.

Editor's note: This section is similar to former § 23-55-103 as it existed prior to 2007.

23-31.5-103. Who shall constitute faculty. The president and the faculty shall constitute the faculty of the Colorado state university - Pueblo.

Source: L. 2007: Entire article added with relocations, p. 547, § 3, effective August 3.

23-31.5-104. Duty of the faculty. The faculty shall have the responsibility for making academic policy and governing the academic affairs of the institution.

Source: L. 2007: Entire article added with relocations, p. 547, § 3, effective August 3.

23-31.5-105. President - duties. The president shall be chief executive officer of the Colorado state university - Pueblo, and it is his or her duty to see that the rules and regulations of the board of governors of the Colorado state university system and the faculty are observed and executed.

Source: L. 2007: Entire article added with relocations, p. 548, § 3, effective August 3.

23-31.5-106. President may remove officers. The subordinate officers and employees, but not members of the faculty or those employees for which the board has reserved personnel powers, shall be under the direction of the president and shall be removable at his or her

discretion. The president may fill vacancies of such subordinate officers and employees subject to his or her personnel power.

Source: L. 2007: Entire article added with relocations, p. 548, § 3, effective August 3.

23-31.5-107. President may be professor. The president may or may not perform the duties of a professor, as the board of governors of the Colorado state university system shall determine.

Source: L. 2007: Entire article added with relocations, p. 548, § 3, effective August 3.

23-31.5-108. Power to acquire land. The board of governors of the Colorado state university system has the power to take and hold, by gift, devise, or purchase or through exercise of the power of eminent domain pursuant to law, so much additional land as may become necessary for the location and construction of such additional buildings, structures, and other facilities as may be required for the uses and purposes of Colorado state university - Pueblo.

Source: L. 2007: Entire article added with relocations, p. 548, § 3, effective August 3.

Editor's note: This section is similar to former § 23-55-104 as it existed prior to 2007.

23-31.5-109. Effect of name change. The legal effect of any statute heretofore designating the Colorado state university - Pueblo by any other name, or property rights heretofore acquired and obligations heretofore incurred under any other name, shall not be impaired.

Source: L. 2007: Entire article added with relocations, p. 548, § 3, effective August 3.

Editor's note: This section is similar to former § 23-55-105 as it existed prior to 2007.

23-31.5-110. Additional powers of board. (1) The board of governors of the Colorado state university system has the power to lease portions of the grounds of the Colorado state university - Pueblo to private persons and corporations for the construction of dormitory, living, dining, or cottage buildings and to rent, lease, maintain, operate, and purchase such buildings at such university, all in the manner provided by and subject to the limitations contained in sections 23-56-105 to 23-56-111; except that none of such grounds or improvements shall be used in any manner that discriminates against anyone because of race, creed, color, religion, national origin, ancestry, sex, or sexual orientation.

(2) In exercising the powers conferred by subsection (1) of this section, the board of governors of the Colorado state university system is authorized to enter into agreements which establish fixed building rental rates for the full term of any building lease, to let individual rooms and quarters within leased buildings at such rental rates as are approved by the board and prescribed in the lease, and to enter into agreements not to alter such rates during the term of any lease agreement without the prior consent of the building lessor or his or her assigns.

(3) In addition to those powers conferred elsewhere in this article, the board of governors of the Colorado state university system has the power to:

(a) Appoint a president of the Colorado state university - Pueblo who shall hold the office until removed by the board or until he or she resigns;

(b) Appoint such other executive officers of the university as may be required;

(c) Appoint such faculty and employees as the necessities of the university demand;

(d) Determine the compensation to be paid to the president, executive officers, faculty, and professional staff.

Source: L. 2007: Entire article added with relocations, p. 548, § 3, effective August 3. **L. 2008:** (1) amended, p. 1602, § 27, effective May 29.

Editor's note: This section is similar to former § 23-55-106 as it existed prior to 2007.

Cross references: For the legislative declaration contained in the 2008 act amending subsection (1), see section 1 of chapter 341, Session Laws of Colorado 2008.

23-31.5-111. Board of governors of the Colorado state university system - powers relating to real property. The board of governors of the Colorado state university system shall have the powers specified in section 23-30-102 regarding the sale, lease, or exchange of real property, or any interest therein, the ownership of which is vested in the board of governors of the Colorado state university system or the Colorado state university - Pueblo.

Source: L. 2007: Entire article added with relocations, p. 549, § 3, effective August 3.

Editor's note: This section is similar to former § 23-55-107 as it existed prior to 2007.

23-31.5-112. Institute of cannabis research - governing board - powers relating to the receipt and use of certain tax revenues - definitions. (1) For purposes of this section, unless the context otherwise requires:

(a) "Governing board" means the institute of cannabis research governing board created in subsection (3) of this section.

(b) "Host institution" means the not-for-profit research entity or institution of higher education where the institute of cannabis research is based.

(c) "Institute" means the institute of cannabis research created pursuant to subsection (2) of this section.

(d) "Institution of higher education" or "institution" has the same meaning as in section 23-3.1-102 (5).

(2) (a) There is created the institute of cannabis research, to be housed at Colorado state university - Pueblo, unless a relocation occurs pursuant to subsection (7) of this section.

(b) The role and mission of the institute is to conduct research related to cannabis, including clinical research, biotechnologies, clinical studies, the efficacies of medical marijuana, and economic development associated with cannabis in Colorado, and to publicly disseminate the results of the research.

(3) (a) There is created the institute of cannabis research governing board. The governing board consists of:

(I) The chancellor of the Colorado state university system or his or her designee;

(II) The executive director of the Colorado commission on higher education or his or her designee;

(III) The president of the University of Colorado or his or her designee;

(IV) The executive director of the department of public health and environment or his or her designee;

(V) The following seven members appointed by the governor, with the consent of the senate:

(A) Three scientists from relevant fields who have been employed at appropriate research-oriented institutions or entities who support the mission of the institute; and

(B) Four members associated with cannabis-related industries within Colorado.

(b) The governor shall name the chair of the governing board, with the consent of the senate.

(c) The governing board shall oversee and guide the role and mission of the institute. The governing board shall direct the spending of the money received by the institute pursuant to subsection (4) of this section.

(d) The governing board shall advise any Colorado institution of higher education that seeks to develop a cannabis-specific curriculum. The Colorado commission on higher education shall seek input from the governing board before approving any cannabis-related degrees or certification.

(4) (a) The general assembly may allocate revenues from the marijuana tax cash fund created in section 39-28.8-501 to support the institute. The institute may spend the money received from the general assembly for institute personnel, to conduct research, to produce an annual symposium, and for routine facility and administrative costs consistent with federal standards.

(b) The institute may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this section. The institute may accept and expend other revenue generated by the institute, including any fees or interest earned on the money and revenue generated from the sale or license of intellectual property as approved by the governing board. The governing board may solicit, accept, expend, and disburse all money collected for the institute from the sources specified in this subsection (4)(b) for the purposes of conducting research related to cannabis and to disseminating the results of such research publicly, consistent with the role and mission of the institute. Such money may be expended for the purpose of funding activities initiated during any state fiscal year that are to be completed in subsequent state fiscal years and reported annually to the joint budget committee.

(c) The governing board shall approve the institute's annual budget.

(d) The governing board, in consultation with the institute's director:

(I) Must fund research through an open, competitive process using national best practices; and

(II) May award research funds to:

(A) Any not-for-profit Colorado-based research entity;

(B) Any Colorado institution of higher education and any research entity associated with such institution; or

(C) A research entity that has a marijuana research and development license pursuant to section 44-11-408, that is operating in compliance with the requirements of section 44-11-408, and is conducting the research with a Colorado institution of higher education.

(e) An entity or institution of higher education that receives research funding from the institute shall present its research results at the institute's annual symposium in the year after the research is concluded and shall submit any reports required by the governing board.

(5) (a) There is a director of the institute. The director is an employee of the institution of higher education that serves as the host institution. The governing board is the search committee to the host institution's chief executive officer, who is the hiring authority. The governing board shall provide feedback to the hiring authority for use in the annual evaluation of the director.

(b) The director's responsibilities include management of the institute's budget and oversight of its employees, implementation of the research funding process, and delivery of the symposium.

(6) (a) The institute director shall annually produce a report for the joint budget committee and the education committees of the house of representatives and the senate, or any successor committees, that includes the following information:

(I) A description of the research funded through the institute in the previous year; and

(II) An accounting of the institute's spending for the previous year.

(b) The governing board shall submit the annual report to the joint budget committee and the education committees of the house of representatives and the senate, or any successor committees, and shall comment on the annual report to advise the general assembly on the efficacy of the institute related to its role and mission.

(c) Notwithstanding the provisions of section 24-1-136 (11)(a)(I), the reporting requirements pursuant to this subsection (6) continue indefinitely.

(7) (a) The institute's host institution may opt out of the management of the institute by:

(I) Providing at least one fiscal year's notice to the governing board, joint budget committee, and the education committees of the house of representatives and the senate, or any successor committees; and

(II) Supporting the institute during the transition year, during which time the governing board shall conduct an open search for a Colorado not-for-profit research entity or institution of higher education wishing to host the institute.

(b) The governing board shall notify the joint budget committee and the education committees of the house of representatives and the senate, or any successor committees, if it determines that the host institution should be relocated. If the host institution is to be relocated, the governing board shall conduct a search using national best practices and complete the transition in one fiscal year. The host institution shall continue to support the institute during the transition. A new host institution must host the institute for at least five years before any subsequent relocation, unless there is good cause to change the host institution.

Source: L. 2016: Entire section added, (SB 16-191), ch. 214, p. 825, § 2, effective July 1. **L. 2019:** Entire section amended, (HB 19-1311), ch. 344, p. 3190, § 1, effective August 2.

ARTICLE 32

Cooperation with United States

23-32-101 to 23-32-115. (Repealed)

Source: L. 2007: Entire article repealed, p. 550, §§ 7, 8, effective August 3.

Editor's note: This article was numbered as article 12 of chapter 124, C.R.S. 1963. For amendments to this article prior to its repeal in 2007, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. The provisions of this article were relocated to part 5 of article 31 of this title. For the location of specific provisions, see the editor's notes following those sections relocated to part 5 and the comparative tables located in the back of the index.

ARTICLE 33

Experiment Stations

23-33-101 to 23-33-123. (Repealed)

Source: L. 2007: Entire article repealed, p. 550, §§ 7, 8, effective August 3.

Editor's note: This article was numbered as article 13 of chapter 124, C.R.S. 1963. For amendments to this article prior to its repeal in 2007, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. The provisions of this article were relocated to part 6 of article 31 of this title. For the location of specific provisions, see the editor's notes following those sections relocated to part 6 and the comparative tables located in the back of the index.

ARTICLE 34

Colorado Cooperative
Extension Service

23-34-101 to 23-34-106. (Repealed)

Source: L. 2007: Entire article repealed, p. 550, § 7, effective August 3.

Editor's note: This article was added in 1979. For amendments to this article prior to its repeal in 2007, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. The provisions of this article were relocated to part 7 of article 31 of this title. For the location of specific provisions, see the editor's notes following those sections relocated to part 7 and the comparative tables located in the back of the index.

ARTICLE 35

Colorado Water Resources
Research Institute

23-35-101 to 23-35-103. (Repealed)

Source: L. 2007: Entire article repealed, p. 550, § 7, effective August 3.

Editor's note: This article was added in 1981. For amendments to this article prior to its repeal in 2007, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. The provisions of this article were relocated to part 8 of article 31 of this title. For the location of specific provisions, see the editor's notes following those sections relocated to part 8 and the comparative tables located in the back of the index.

ARTICLE 40

University of Northern Colorado

23-40-101. University established - role and mission. (1) There is hereby established a university at Greeley, to be known as the university of northern Colorado. The university shall be a comprehensive baccalaureate and specialized graduate research university with selective admission standards.

(2) The university of northern Colorado shall be the primary institution for undergraduate and graduate degree programs for educational personnel preparation in the state of Colorado. The university shall offer master's and doctoral programs primarily in the field of education. The university has the responsibility to offer on a statewide basis, utilizing where possible and appropriate the faculty and facilities of other educational institutions, those graduate-level programs needed by professional educators and education administrators. The Colorado commission on higher education shall include in its funding recommendations an appropriate level of general fund support for those programs.

(3) As part of its mission as a graduate research university specializing in programs for educational personnel, the university of northern Colorado shall include the education innovation institute created in section 23-40-106 for the purposes described in section 23-40-106 (2).

Source: L. 1889: p. 409, § 1. **R.S. 08:** § 6125. **C.L.** § 8153. **CSA:** C. 155, § 1. **CRS 53:** § 124-6-1. **C.R.S. 1963:** § 124-6-1. **L. 85:** Entire section R&RE, p. 763, § 7, effective July 1. **L. 2003:** Entire section amended, p. 2595, § 3, effective July 1. **L. 2009:** Entire section amended, (SB 09-032), ch. 13, p. 80, § 2, effective August 5.

Cross references: For the legislative declaration contained in the 2009 act amending this section, see section 1 of chapter 13, Session Laws of Colorado 2009.

23-40-102. Name of institution changed. (1) The state school at Greeley, referred to under the name and title of the "Colorado state college of education at Greeley" by article 6 of chapter 124, CRS 53, and amendments thereto, and under the name and title of the "Colorado state college" by this article, after May 1, 1970, shall be designated under the name and title of the "university of northern Colorado"; but the legal effect of any statute designating such institution by any other name or property rights acquired and obligations incurred under any other name prior to May 1, 1970, shall not be impaired hereby.

(2) The intent of the general assembly in making the name change provided for in subsection (1) of this section is to recognize and affirm the university status of what was formerly known as Colorado state college and to be known in the future as the university of northern Colorado without changing the present function of such institution as an institution of higher education primarily concerned with the preparation of teachers at all educational levels.

Source: L. 57: p. 713, § 1. **CRS 53:** § 124-6-16. **C.R.S. 1963:** § 124-6-8. **L. 70:** p. 350, § 1.

23-40-103. Funds for maintenance. The funds and revenues for the establishment and maintenance of the university of northern Colorado, for the payment of its officers, teachers, and employees, and for all purposes incident thereto or necessary for the proper founding, continuance, and successful conduct thereof shall be appropriated and apportioned in such manner as the general assembly provides by law.

Source: L. 1889: p. 413, § 15. **R.S. 08:** § 6126. **C.L.** § 8155. **CSA:** C. 155, § 4. **CRS 53:** § 124-6-2. **C.R.S. 1963:** § 124-6-2.

23-40-103.5. Board of trustees for the university of northern Colorado fund - creation - control - use. (1) There is hereby created in the state treasury the board of trustees for the university of northern Colorado fund which shall be under the control of and administered by the board of trustees for the university of northern Colorado in accordance with the provisions of this article. Except as otherwise allowed by section 24-36-103 (2), C.R.S., all moneys received or acquired by the board of trustees for the university of northern Colorado or by the university of northern Colorado, whether by appropriation, grant, contract, or gift, by sale or lease of surplus real or personal property, or by any other means, whose disposition is not otherwise provided for by law, and all interest derived from the deposit and investment of moneys in the fund shall be credited to said fund. The moneys in the fund are hereby continuously appropriated to the board of trustees for the university of northern Colorado 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.

(2) The moneys in the board of trustees for the university of northern Colorado fund shall be used by the board of trustees for the university of northern Colorado for the payment of salaries and operating expenses of the board of trustees and of the university of northern Colorado and for the payment of any other expenses incurred by the board of trustees in carrying out its statutory powers and duties.

(3) Moneys in the board of trustees for the university of northern Colorado fund which are not needed for immediate use by the board of trustees for the university of northern Colorado

may be invested by the state treasurer in investments authorized by sections 24-36-109, 24-36-112, and 24-36-113, C.R.S. The board shall determine the amount of moneys in the fund which may be invested and shall notify the state treasurer in writing of such amount.

Source: L. 97: Entire section added, p. 316, § 1, effective July 1. **L. 98:** (1) amended, p. 369, § 4, effective September 1.

23-40-104. Board of trustees. (1) (a) There is hereby established the board of trustees for the university of northern Colorado, which shall consist of nine members and shall be the governing authority for the university of northern Colorado. The board created by this subsection (1) shall be and is hereby declared to be a body corporate and, as such and by the names designated in this section, may hold property for the use of the university which it governs, be a party to all suits and contracts, and do all things lawfully appertaining to such university in like manner as municipal corporations of this state. The trustees of the board created by this section and their successors shall have perpetual succession, shall have a seal, may make bylaws and regulations for the well-ordering and government of the university within their jurisdiction, and may conduct the business of said university in a manner not repugnant to the constitution and laws of this state. Staff support for said board of trustees shall be provided by the staff of the university of northern Colorado.

(b) (I) The governor shall appoint, with the consent of the senate, seven members of the board of trustees created by this subsection (1). The initial members of the board shall take office on July 1, 1973. The terms of the seven members of the board of trustees appointed prior to June 15, 1987, shall be six years; except that appointments of members to take office on July 1, 1973, shall be made so that two members of the board have terms expiring on June 30, 1975, two members of the board have terms expiring on June 30, 1977, and three members of the board have terms expiring on June 30, 1979. Persons who are appointed members and who are holding office on June 15, 1987, are subject to the provisions of section 24-1-137, C.R.S. Thereafter the terms of the seven members of the board of trustees appointed by the governor shall be four years; except that a member of the board who is appointed by the governor shall continue to serve until a successor is appointed and confirmed by the senate.

(II) Notwithstanding any other provision of this section, the term of each member serving on the board of trustees as of May 26, 2006, shall be extended to expire on December 31 of the calendar year in which the member's appointed term would otherwise expire. Members appointed on or after January 1, 2007, shall serve terms of up to four years, expiring on December 31 of the third calendar year following the calendar year in which the member is appointed. For terms ending on or after December 31, 2006, the governor shall appoint a succeeding member on or before March 1 immediately following the expiration of the term.

(III) Notwithstanding any other provision of this section, the appointments to succeed members whose terms expire on December 31, 2011, shall be as follows:

(A) Two members who shall serve four-year terms;

(B) Two members who shall serve three-year terms; and

(C) One member who shall serve a one-year term.

(IV) Notwithstanding any other provision of this section, the appointments to succeed members whose terms expire on or after December 31, 2013, shall be for four-year terms.

(V) Of the seven members appointed by the governor, no more than four members shall be from the same political party.

(VI) The eighth office shall be filled by an elected member of the student body who is a full-time junior or senior student at the university of northern Colorado. The term of said elected office shall be one year, beginning July 1. The elected student office shall be advisory, without the right to vote. The elected student member of the board shall have resided in the state of Colorado not less than three years prior to his or her election. For purposes of this paragraph (b), "full-time student" means the equivalent of the definition of "full-time equivalent student" used by the joint budget committee of the general assembly. The ninth office shall be filled by an elected member of the faculty at large elected by other members of the faculty at large for a term of one year, beginning July 1, and such office shall be advisory, without the right to vote.

(VII) All vacancies in the office of any member appointed by the governor shall be filled by appointment by the governor for the unexpired term, and any vacancy in either of the elected offices on the board shall be filled by reelection for the unexpired term.

(VIII) Each trustee shall take an oath or affirmation in accordance with section 24-12-101.

(c) Repealed.

(2) Repealed.

Source: L. 75: Entire section added, p. 211, § 32, effective July 16; entire section added, p. 738, § 3, effective January 1, 1976. **L. 81:** (1) amended, p. 1121, § 1, effective June 4. **L. 83:** (1)(c) repealed, p. 807, § 1, effective March 22. **L. 87:** (1)(b) amended, p. 908, § 16, effective June 15. **L. 88:** (2) amended, p. 858, § 8, effective July 1. **L. 2003:** (2) repealed, p. 793, § 19, effective July 1. **L. 2006:** (1)(b) amended, p. 1230, § 2, effective May 26. **L. 2011:** (1)(b) amended, (HB 11-1060), ch. 31, p. 87, § 1, effective August 10. **L. 2018:** (1)(b)(VIII) amended, (HB 18-1138), ch. 88, p. 694, § 11, effective August 8.

Editor's note: Amendments to this section by House Bill 75-1232 and Senate Bill 75-453 were harmonized.

Cross references: For the legislative declaration in HB 18-1138, see section 1 of chapter 88, Session Laws of Colorado 2018.

23-40-104.5. Tuition - repeal. (Repealed)

Source: L. 2010: Entire section added, (SB 10-003), ch. 391, p. 1843, § 10, effective June 9.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2016. (See L. 2010, p. 1843.)

23-40-105. Granting of degrees and diplomas. The university of northern Colorado is authorized to grant degrees and diplomas to the students who have completed the full course of instruction in said university and who have been recommended for such diplomas by the faculty of said university. Any such diploma, when signed by the president of said university, the

commissioner of education, and the president and secretary of the board of trustees for the university of northern Colorado, shall be evidence that the receiver thereof is a graduate of said university and is entitled to all the honors and privileges of a graduate.

Source: L. 75: Entire section added, p. 212, § 32, effective July 16.

23-40-106. Education innovation institute established - purposes - appropriations - report. (1) There is hereby established within the university of northern Colorado the education innovation institute, referred to in this section as the "institute". The university shall administer the institute.

(2) The purposes of the institute shall include, but not be limited to:

(a) Collaborating with institutions to leverage research, funding, expertise, and other resources;

(b) Discovering and studying innovations in teaching and learning;

(c) Creating, piloting, and advocating for innovations in educational delivery methods;

(d) Producing data and analyses concerning issues including, but not limited to, the following:

(I) Existing or nascent problems in education;

(II) Models of innovative educational solutions; and

(III) Financing and governance models for educational settings;

(e) Providing public policy makers with data and analyses concerning:

(I) Educational program effectiveness; and

(II) Innovative options for public and private educational settings;

(f) Identifying innovative uses of existing school facilities in the state for the purpose of collaboration between elementary, secondary, and higher education institutions; and

(g) Identifying key issues and setting research priorities in consultation with education experts, business and community leaders, and public officials.

(3) (a) The general assembly may appropriate moneys to the board of trustees of the university of northern Colorado for the administration of the institute.

(b) The board of trustees of the university may solicit and accept gifts, grants, and donations from public and private sources to fund the institute.

(4) Notwithstanding section 24-1-136 (11)(a)(I), on or before January 10, 2011, and on or before January 10 each year thereafter, the institute shall prepare and submit a report to the education committees of the house of representatives and the senate, or any successor committees, concerning the activities of the institute in the previous calendar year. The report shall include, at a minimum, information concerning the efforts of the institute to fulfill its purposes as described in subsection (2) of this section.

Source: L. 2009: Entire section added, (SB 09-032), ch. 13, p. 81, § 3, effective August 5. **L. 2017:** (4) amended, (HB 17-1251), ch. 253, p. 1061, § 14, effective August 9.

Cross references: For the legislative declaration contained in the 2009 act adding this section, see section 1 of chapter 13, Session Laws of Colorado 2009.

ARTICLE 41

PART 1

COLORADO SCHOOL OF MINES

23-41-101. Location - powers. The state school of mines, located at Golden in the county of Jefferson, is declared to be a body corporate under the name of "Colorado school of mines"; and, by that name, it may sue and be sued; may take and hold real and personal property by gift, bequest, devise, or purchase for the state; and may sell and dispose of the same when authorized so to do by law.

Source: G.L. § 2427. **G.S.** § 3098. **R.S. 08:** § 6015. **C.L.** § 8034. **CSA:** C. 145, § 1. **L. 37:** p. 1107, § 1. **CRS 53:** § 124-9-1. **C.R.S. 1963:** § 124-9-1.

23-41-102. Board of trustees - term. (1) (a) There shall be a board of trustees of the Colorado school of mines to be composed of nine persons. The five members serving on the board on July 1, 1973, shall continue to serve the terms for which they were appointed. On or before July 1, 1973, the governor shall appoint two additional members of the board, of which one shall be appointed for a term to expire on March 1, 1975, and one shall be appointed for a term to expire on March 1, 1977. Prior to June 15, 1987, the governor shall fill the vacancies in appointed offices occurring every two years by appointments of members of the board for terms of six years each, in accordance with this arrangement. Persons who are appointed members and who are holding office on June 15, 1987, are subject to the provisions of section 24-1-137, C.R.S. Thereafter the terms of such appointed members shall be four years. Notwithstanding any other provision of this section, the term of each member serving on the board of trustees as of May 26, 2006, shall be extended to expire on December 31 of the calendar year in which the member's appointed term would otherwise expire. Members appointed on or after January 1, 2007, shall serve terms of up to four years, expiring on December 31 of the third calendar year following the calendar year in which the member is appointed. For terms ending on or after December 31, 2006, the governor shall appoint a succeeding member on or before March 1 immediately following the expiration of the term. Of the seven members appointed by the governor, no more than four members shall be from the same political party. The two remaining member positions shall be filled by:

(I) An elected member of the student body who is a full-time junior or senior student at the Colorado school of mines, and the term of said elected office shall be one year, beginning July 1. The elected student member shall be advisory, without the right to vote. For the purposes of this subsection (1), "full-time student" means the equivalent of the definition of "full-time equivalent student" used by the joint budget committee of the general assembly.

(II) A full-time member of the academic faculty of the Colorado school of mines elected by a majority of at least sixty-seven percent of the academic faculty. The initially elected faculty board member shall be elected at a special election to be held during the spring semester of 2008. The term of office for the initially elected faculty member shall end December 31, 2010. Subsequently elected faculty members shall serve two-year terms commencing January 1 of each

odd-numbered year thereafter. The elected faculty member shall be advisory, without the right to vote.

(b) For the purpose of further staggering the terms of office held by members of the Colorado school of mines board of trustees, the terms of two of the board members holding office on July 1, 1994, whose terms expire in 1995, and one of the members holding office on July 1, 1994, whose term expires in 1997, are extended for one year. The governor shall select those members whose terms are extended.

(2) Said trustees shall hold their offices for the terms for which they have been appointed and until their successors are appointed and qualified. Any four of the members of said board appointed by the governor shall constitute a quorum for the transaction of business. The said board has such powers and shall perform such duties as specified in the laws creating the institution and providing for its maintenance.

(3) In appointing persons to the Colorado school of mines board of trustees on or after July 1, 2010, the governor shall ensure that no more than two of the members serving on the board of trustees at any one time reside outside the state of Colorado. In addition, the governor shall base his or her appointments on considerations of:

(a) An appointee's professional background related to the industries and fields for which the Colorado school of mines prepares students for employment and in which the faculty of the institution conduct research;

(b) Other areas of professional expertise that an appointee may bring to his or her service on the board of trustees; and

(c) The appointee's commitment to using his or her personal time and efforts to serve and support the Colorado school of mines.

Source: G.L. § 2428. **G.S.** § 3099. **R.S. 08:** § 6016. **C.L.** § 8035. **L. 35:** p. 1024, § 1. **CSA:** C. 145, § 2. **CRS 53:** § 124-9-2. **C.R.S. 1963:** § 124-9-2. **L. 73:** p. 1327, § 1. **L. 75:** Entire section amended, p. 739, § 4, effective January 1, 1976. **L. 87:** (1) amended, p. 909, § 17, effective June 15. **L. 94:** (1) amended, p. 488, § 1, effective March 31. **L. 2006:** (1)(a) amended, p. 1231, § 3, effective May 26. **L. 2008:** (1)(a) amended, p. 621, § 2, effective April 24. **L. 2010:** (3) added, (SB 10-003), ch. 391, p. 1859, § 39, effective June 9.

Cross references: For the legislative declaration contained in the 2008 act amending subsection (1)(a), see section 1 of chapter 176, Session Laws of Colorado 2008. For the legislative declaration in the 2010 act adding subsection (3), see section 1 of chapter 391, Session Laws of Colorado 2010.

23-41-103. Oath or affirmation of trustees. Every trustee shall take an oath or affirmation in accordance with section 24-12-101.

Source: G.L. § 2430. **G.S.** § 3100. **R.S. 08:** § 6017. **C.L.** § 8036. **CSA:** C. 145, § 3. **CRS 53:** § 124-9-3. **C.R.S. 1963:** § 124-9-3. **L. 2018:** Entire section amended, (HB 18-1138), ch. 88, p. 695, § 12, effective August 8.

Cross references: For the legislative declaration in HB 18-1138, see section 1 of chapter 88, Session Laws of Colorado 2018.

23-41-103.5. The Colorado school of mines fund - creation - control - use. (1) There is hereby created in the state treasury the Colorado school of mines fund which shall be under the control of and administered by the board of trustees of the Colorado school of mines in accordance with the provisions of this article. The board of trustees shall have authority and responsibility for all moneys of the board of trustees and of Colorado school of mines. The board of trustees shall designate, pursuant to its constitutional and statutory authority, those moneys received or acquired by the board of trustees or by the Colorado school of mines, whether by appropriation, grant, contract, or gift, by sale or lease of surplus real or personal property, or by any other means, whose disposition is not otherwise provided for by law, that shall be credited to the fund. All interest derived from the deposit and investment of moneys in the fund must be credited to the fund. The moneys in the fund are hereby continuously appropriated to the board of trustees and shall remain in the fund under the control of the board of trustees and shall not be transferred or revert to the general fund of the state at the end of any fiscal year.

(2) The moneys in the Colorado school of mines fund shall be used by the board of trustees of the Colorado school of mines in carrying out its statutory powers and duties.

(3) Moneys in the Colorado school of mines fund that are not needed for immediate use by the board of trustees of the Colorado school of mines may be invested by the state treasurer in investments authorized by sections 24-36-109, 24-36-112, and 24-36-113, C.R.S. The board of trustees shall determine the amount of moneys in the fund that may be invested and shall notify the state treasurer in writing of such amount.

(4) If the board of trustees votes to invest Colorado school of mines assets pursuant to sections 23-41-103.6 and 23-41-103.7, the board shall establish an investment advisory committee consisting of at least five members to make recommendations to the board regarding investments. The investment advisory committee may include the treasurer of the board and up to three representatives from the financial community.

Source: L. 2000: Entire section added, p. 396, § 1, effective August 2. **L. 2013:** (1) amended and (4) added, (HB 13-1297), ch. 260, p. 1371, § 1, effective August 7.

23-41-103.6. Investments in consolidated funds. Unless otherwise restrained by the terms of a will, trust agreement, or other instrument of gift, the board of trustees may hold investments in one or more consolidated investment funds in which the participating trusts or accounts have undivided interests. To the extent permitted by law, the board may also transfer money for investment in consolidated funds held by a related entity so long as the investments are separately accounted for.

Source: L. 2013: Entire section added, (HB 13-1297), ch. 260, p. 1372, § 2, effective August 7.

23-41-103.7. Corporate stock in name of nominee authorized. (1) In order to facilitate the investment, reinvestment, sale, and disposition of corporate stocks, the board of trustees may hold certificates of stock in the name of a nominee of its selection without disclosing the fact that the certificates are held by the board of trustees or are held in a fiduciary capacity if:

(a) The records of the board of trustees and all reports or accounts rendered by it clearly show the ownership of the stock by the board and the facts regarding the board's holding; and

(b) The nominee deposits with the board of trustees a signed statement showing the trust ownership, endorses the stock certificate in blank, and does not have possession of or access to the stock certificate except under the immediate supervision of the treasurer of Colorado school of mines or another person that the board of trustees has designated.

(2) The board of trustees shall maintain a list of certificates of stock held in the names of nominees pursuant to this section and shall make the list available for public inspection during normal business hours.

(3) The board of trustees shall report to the joint budget committee of the general assembly at each regular session, beginning after August 7, 2013, regarding the investments made and the earnings or losses derived therefrom under the provisions of this section and section 23-41-103.6. The report must include information indicating the extent to which the investment managers hired by the board of trustees have achieved or failed to achieve the performance benchmarks established pursuant to section 23-41-103.8 (1)(b).

Source: L. 2013: Entire section added, (HB 13-1297), ch. 260, p. 1372, § 2, effective August 7.

23-41-103.8. Investment policy - fiduciary responsibility. (1) If the board of trustees votes to invest Colorado school of mines assets pursuant to sections 23-41-103.6 and 23-41-103.7, then the board of trustees shall develop and annually review a written investment policy for Colorado school of mines, which policy shall include:

(a) An acknowledgment by the board of trustees of the board's fiduciary responsibility with respect to oversight of the investment policy of Colorado school of mines; and

(b) The establishment of performance benchmarks for each investment manager hired by the board of trustees pursuant to sections 23-41-103.6 and 23-41-103.7.

(2) If the board of trustees votes to invest moneys pursuant to sections 23-41-103.6 and 23-41-103.7, the board shall require annual financial statements to be submitted to the board of trustees, the state treasurer, the state auditor, and the joint budget committee of the general assembly. The financial statements must include, at a minimum, information concerning investment income, gains, and losses, if any, of Colorado school of mines. The financial statements must report the performance of investments on both a gross-of-fee and a net-of-fee basis.

(3) If the board of trustees votes to invest moneys pursuant to sections 23-41-103.6 and 23-41-103.7, the board shall ensure that, at all times, liquid investment assets remain at a level sufficient to pay for all budgeted, outstanding operational obligations and expenses occurring within the current fiscal year.

(4) Colorado school of mines shall not request from the general assembly any general fund appropriations to replace any losses incurred due to investment activities conducted by the board of trustees pursuant to sections 23-41-103.6 and 23-41-103.7.

Source: L. 2013: Entire section added, (HB 13-1297), ch. 260, p. 1372, § 2, effective August 7.

23-41-104. Control - management. (1) The board of trustees has the control and management of the Colorado school of mines and of the property belonging thereto, subject to the laws of this state, and may make all needful bylaws and regulations for the government of said board and for the management and government of the Colorado school of mines not inconsistent with the laws of this state.

(2) The board of trustees has the power to lease, for terms not exceeding eighty years, real or personal property, or both, to state or federal governmental agencies, persons, or entities, public or private, for the construction, use, operation, maintenance, and improvement of research and development facilities, health and recreation facilities, dormitories, and living, dining, and group housing buildings and facilities or for any of such purposes and to buy land and construct buildings and facilities therefor. None of the grounds so leased nor any of the improvements constructed thereon shall be used in any manner that discriminates against anyone because of race, creed, color, religion, national origin, ancestry, sex, or sexual orientation. The board of trustees has the power to borrow money in conjunction with such construction and leases and to assist in effecting any of such purposes. Any actions taken prior to May 27, 1965, by the board of trustees consistent with any power granted in this subsection (2) are ratified and validated.

(3) The board of trustees has the power to borrow funds, to issue securities and refunding securities, and to pledge income, fees, and revenues, as provided in sections 23-5-102 and 23-5-103. In addition to the purposes therein set forth, it may issue bonds, warrants, or certificates of indebtedness thereunder for constructing, purchasing, or otherwise acquiring, extending, and equipping research and development facilities and land for such purposes to be owned by the Colorado school of mines for the benefit of the Colorado school of mines or for the use of its students and employees. Research and development facilities and land acquired may also be used in part by such state or federal governmental agencies, persons, or entities, public or private, as may contract or enter into leases with the Colorado school of mines. Net income derived or anticipated to be derived from such facilities and land may be pledged, alone or with other sources, as authorized by section 23-5-103, to the payment of any securities or refunding securities issued pursuant to sections 23-5-102 and 23-5-103.

(4) The board of trustees has the power to lease portions of the college grounds to private persons and corporations for the construction of research and development facilities, health and recreation facilities, dormitories, and living, dining, or group housing buildings and facilities and to rent, lease, maintain, operate, and purchase such buildings and facilities. In exercising the powers conferred on it by this subsection (4), the board of trustees is authorized to enter into agreements which establish fixed rental rates for the full term of any lease, to let individual rooms and quarters within leased buildings and facilities at such rental rates as are approved by the board and prescribed in the lease, and to enter into agreements not to alter such rates during the term of any lease agreement without the prior consent of the lessor or his assigns.

(5) Nothing in subsections (2), (3), and (4) of this section shall constitute any authority to enter into any contract which in any way creates any debt or obligation upon the state on account of the construction of such buildings, improvements, or facilities.

(6) The provisions of this section shall not affect the tax liability on property leased as authorized by this section or leasehold interest resulting therefrom of individuals or corporations which do not qualify for tax exemption pursuant to the provisions of sections 39-3-106 to 39-3-113.5 or 39-3-116, C.R.S.

(7) Repealed.

Source: G.L. § 2431. **G.S.** § 3101. **R.S. 08:** § 6018. **C.L.** § 8037. **CSA:** C. 145, § 4. **CRS 53:** § 124-9-4. **C.R.S. 1963:** § 124-9-4. **L. 65:** § p. 1035, § 1. **L. 89:** (6) amended, p. 1482, § 2, effective April 23; (6) amended, p. 1492, § 7, effective June 7. **L. 99:** (7) repealed, p. 195, § 1, effective March 31. **L. 2008:** (2) amended, p. 1602, § 28, effective May 29. **L. 2013:** (6) amended, (HB 13-1300), ch. 316, p. 1680, § 45, effective August 7.

Cross references: For the legislative declaration contained in the 2008 act amending subsection (2), see section 1 of chapter 341, Session Laws of Colorado 2008.

23-41-104.5. Hazardous waste remediation - report. (Repealed)

Source: L. 94: Entire section added, p. 1885, § 4, effective June 1.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 1995. (See L. 94, p. 1885.)

23-41-104.6. Performance contract - authorization - operations. (1) The general assembly hereby finds that the Colorado school of mines is an exemplary institution of higher education that has demonstrated a high degree of responsibility and capability with regard to its academic and administrative functions as evidenced by the following:

(a) The Colorado school of mines retains and graduates over sixty percent of the students who enroll in the institution;

(b) The Colorado school of mines consistently demonstrates that at least ninety percent of its graduates are employed in a field that is relevant to the education they received at the institution and that the average starting salary of those graduates is in excess of the national average for engineering school graduates;

(c) The Colorado school of mines continues to receive accreditation reviews from national accrediting organizations that raise no issues with the quality of the engineering programs offered at the institution;

(d) Senior students at the Colorado school of mines consistently score above the national average on a standardized exam for engineering school students;

(e) Over seventy-five percent of the undergraduate students at the Colorado school of mines receive some form of financial aid;

(f) The Colorado school of mines has an endowment that places it among the top fifteen public institutions of higher education in the amount of endowment per student.

(2) For the reasons specified in subsection (1) of this section, the general assembly hereby authorizes the Colorado school of mines to operate pursuant to a performance contract, as described in this section, with the department of higher education and the Colorado commission on higher education. The Colorado school of mines shall operate pursuant to a performance contract for the period specified in subsection (4) of this section.

(3) The board of trustees of the Colorado school of mines shall negotiate and sign a performance contract with the department of higher education, subject to approval by the Colorado commission on higher education, that specifies the performance goals that the

institution shall achieve during the period that it operates under the performance contract. The specified goals must be measurable and specific to the Colorado school of mines' role and mission and include provisions relating to master plan goals and may also include, but need not be limited to, the following issues:

(a) Appropriate levels of student enrollment, transfer, retention, and graduation rates, and institutional programs specifically designed to assist students in achieving their academic goals;

(b) Student satisfaction and student performance after graduation, including employment and enrollment in graduate programs;

(c) Assessment of the quality of the institution's academic programs, including assessment by external reviewers such as accreditation boards and employers and consideration of student performance on national examinations;

(d) Increasing financial support to sustain and enhance essential functions that are partially state funded, including:

(I) Education, industrial, and federal research capabilities and competitiveness;

(II) Student financial aid;

(III) Capital construction; and

(IV) Technological advancements.

(4) (a) The performance contracts negotiated pursuant to this section shall not take effect until approved by a joint resolution adopted by the general assembly. The grounds for rejection of the performance contracts shall include the effect of the provisions of the contracts on the funding for the Colorado school of mines and funding for the statewide system of higher education.

(b) As early as possible during the 2002 regular session and as early as possible during the 2013 regular session, the Colorado commission on higher education shall present the finalized performance contract for the applicable contract period at a joint session of the education committees of the senate and the house of representatives, or any successor committees, and the joint budget committee of the general assembly. The members of the education committees and the members of the joint budget committee shall review the financial effect of the provisions of the contract with regard to funding for the Colorado school of mines or funding for the statewide system of higher education and may recommend changes to the terms of the performance contract or renegotiation of the performance contract. If a majority of the members of the education committees and the members of the joint budget committee approve the terms of the performance contract, the chairmen of the education committees, in cooperation with the joint budget committee, shall sponsor a joint resolution to recognize and approve the performance contract. The performance contract shall be deemed approved upon final passage of said joint resolution.

(c) The school of mines shall operate pursuant to the performance contract that is approved by joint resolution passed during the 2002 regular session beginning on the date the performance contract is approved and continuing through the date on which the governor signs the joint resolution passed during the 2013 regular legislative session that approves the next performance contract. The school of mines shall operate pursuant to the performance contract that is approved by joint resolution passed during the 2013 regular session beginning on the day after the date on which the governor signs the joint resolution and continuing through the date on

which the governor signs the joint resolution passed during the 2023 regular legislative session that approves the next performance contract.

(5) While operating pursuant to the performance contract negotiated pursuant to this section, the board of trustees of the Colorado school of mines:

(a) Shall continue to operate as the governing board for the institution. In addition, the governor may appoint additional advisory members to the board to sustain and enhance the role and mission of the Colorado school of mines. Any additional members of the board of trustees shall serve as nonvoting members of the board and be representative of national and international industries and research and academic institutions. The role of any such advisory members shall be to improve the trustees' opportunities to develop and enrich the academic and research programs at the institution.

(b) Need not consult with nor obtain approval from the Colorado commission on higher education to create, modify, or eliminate academic and vocational programs offered by the Colorado school of mines, so long as such creations, modifications, and eliminations are consistent with the institution's statutory role and mission;

(c) (I) (A) Shall have sole authority to establish resident and nonresident tuition rates for the Colorado school of mines so long as the school continues to meet the goals specified in the performance contract and to comply with the provisions of section 23-41-104.7.

(B) Notwithstanding any provision of sub-subparagraph (A) of this subparagraph (I) to the contrary, for fiscal years 2011-12 through 2015-16, the board of trustees shall have sole authority to establish resident and nonresident tuition rates for the Colorado school of mines; except that the annual percentage increase in resident tuition rates shall not exceed the greater of a percentage equal to two times the rate of the percentage change in the consumer price index for the Denver metropolitan area or, for fiscal years 2011-12 through 2013-14, nine percent, or, for fiscal years 2014-15 and 2015-16, six percent. For fiscal years 2011-12 through 2013-14, the Colorado commission on higher education may approve a greater tuition increase pursuant to section 23-5-130.5.

(II) Repealed.

(6) While operating pursuant to the performance contract negotiated pursuant to this section, the Colorado school of mines shall:

(a) Remain eligible for state-funded capital construction projects and controlled maintenance projects as provided in section 23-1-106;

(b) Continue to admit all Colorado resident applicants who meet the admissions criteria of the institution and shall provide equal educational opportunities to all students.

(7) and (8) Repealed.

Source: L. 2001: Entire section added, p. 1309, § 1, effective June 5. **L. 2004:** (7)(b) added by revision, pp. 723, 724, §§ 14, 18. **L. 2007:** (5)(c)(II) and (8) repealed, p. 756, § 5, effective May 10. **L. 2010:** IP(3), (4), and (5)(c)(I) amended, (SB 10-003), ch. 391, pp. 1857, 1843, §§ 37, 11, effective June 9. **L. 2011:** (2), IP(3), (4)(b), and (4)(c) amended, (SB 11-052), ch. 232, p. 1000, § 9, effective May 27. **L. 2012:** IP(3), (4)(b), and (4)(c) amended, (HB 12-1155), ch. 255, p. 1280, § 7, effective August 8. **L. 2014:** (5)(c)(I)(B) amended, (SB 14-001), ch. 138, p. 475, § 4, effective May 1. **L. 2017:** IP(3) amended, (SB 17-297), ch. 210, p. 821, § 17, effective May 18.

Editor's note: (1) Subsection (7)(b) provided for the repeal of subsection (7), effective July 1, 2005. (See L. 2004, pp. 723, 724.)

(2) Section 23-5-130.5, referenced in subsection (5)(c)(I)(B), was repealed, effective July 1, 2016, but the reference has been left in for historical purposes.

Cross references: (1) For the legislative declaration contained in the 2004 act, see section 1 of chapter 215, Session Laws of Colorado 2004. For the legislative declaration in the 2010 act amending the introductory portion to subsection (3) and subsections (4) and (5)(c)(I), see section 1 of chapter 391, Session Laws of Colorado 2010. For the legislative declaration in the 2011 act amending subsection (2), the introductory portion to subsection (3), and subsections (4)(b) and (4)(c), see section 1 of chapter 232, Session Laws of Colorado 2011.

(2) For the short title ("College Affordability Act") and the legislative declaration in SB 14-001, see sections 1 and 2 of chapter 138, Session Laws of Colorado 2014.

23-41-104.7. Funding. (1) (a) **[*Editor's note: This version of subsection (1)(a) introductory portion is effective until July 1, 2021.*]** Beginning in the 2011-12 fiscal year, the Colorado school of mines shall use a portion of its fee-for-service funding negotiated pursuant to section 23-18-303 for the following purposes:

(1) (a) **[*Editor's note: This version of subsection (1)(a) introductory portion is effective July 1, 2021.*]** Beginning in the 2011-12 fiscal year, the Colorado school of mines shall use a portion of its fee-for-service funding negotiated pursuant to section 23-18-303.5 for the following purposes:

(I) To provide merit-based scholarships, need-based financial aid, and graduate student support to assist students with in-state classification to attend the institution;

(II) To provide services and programs designed to enhance student success, including but not limited to advising, counseling, academic support, and career services; and

(III) To provide precollegiate programs and services designed to increase and broaden participation in science, technology, engineering, and math fields and enrollment at the Colorado school of mines.

(b) The Colorado school of mines shall increase the portion of fee-for-service funding used to ensure that, no later than the 2020-21 fiscal year and for each fiscal year thereafter, all fee-for-service funding is used for the purposes set forth in subsection (1)(a) of this section, except as otherwise provided in subsection (2)(b) of this section.

(2) (a) (Deleted by amendment, L. 2011, (HB11-1074), ch. 61, p. 159, § 1, effective August 10, 2011.)

(b) Beginning in 2020-21 and in any fiscal year thereafter in which the average discounted tuition rate for undergraduate students with in-state classification enrolled at the Colorado school of mines is greater than thirty percent, the institution may use any amount of fee-for-service funding that is not used to maintain the average discounted tuition rate at thirty percent for other operational purposes. As used in this paragraph (b), "average discounted tuition rate" means the total of the amount of merit-based and need-based scholarships and grants awarded from institution funds to undergraduate students with in-state classification enrolled in the institution divided by the total tuition revenue from undergraduate students with in-state classification.

(3) (Deleted by amendment, L. 2011, (HB11-1074), ch. 61, p. 159, § 1, effective August 10, 2011.)

Source: L. 2010: Entire section added, (SB 10-003), ch. 391, p. 1858, § 38, effective June 9. **L. 2011:** Entire section amended, (HB 11-1074), ch. 61, p. 159, § 1, effective August 10. **L. 2014:** (1) amended, (HB 14-1319), ch. 169, p. 614, § 14, effective May 9. **L. 2017:** (1) amended, (HB 17-1140), ch. 46, p. 137, § 1, effective August 9. **L. 2020:** IP(1)(a) amended, (HB 20-1366), ch. 181, p. 835, § 16, effective July 1, 2021.

Cross references: For the legislative declaration in the 2010 act adding this section, see section 1 of chapter 391, Session Laws of Colorado 2010.

23-41-105. School established - role and mission. There is hereby established a school at Golden, to be known as the Colorado school of mines. The school of mines shall be a specialized baccalaureate and graduate research institution with high admission standards. The Colorado school of mines shall have a unique mission in energy, mineral, and material science and engineering and associated engineering and science fields. The school shall be the primary institution of higher education offering energy, mineral, and material science and mineral engineering degrees at both the graduate and undergraduate levels.

Source: G.L. § 2432. **L. 1881:** p. 219, § 1. **G.S.** § 3102. **R.S. 08:** § 6019. **C.L.** § 8038. **CSA:** C. 145, § 5. **CRS 53:** § 124-9-5. **C.R.S. 1963:** § 124-9-5. **L. 85:** Entire section R&RE, p. 764, § 8, effective July 1.

23-41-106. May procure machinery. The board of trustees is authorized to procure such machinery and other appliances and make such necessary additions to the Colorado school of mines buildings as may be necessary to carry out the object and intention of such institution and to promote the welfare thereof whenever the funds provided for the support of said school will warrant the same.

Source: G.L. § 2433. **G.S.** § 3103. **R.S. 08:** § 6020. **C.L.** § 8039. **CSA:** C. 145, § 6. **CRS 53:** § 124-9-6. **C.R.S. 1963:** § 124-9-6.

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 pursuant to section 23-41-104.6. 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.

Source: G.L. § 2434. **G.S.** § 3104. **R.S. 08:** § 6021. **C.L.** § 8040. **L. 33:** p. 852, § 1. **CSA:** C. 145, § 7. **CRS 53:** § 124-9-7. **C.R.S. 1963:** § 124-9-7. **L. 70:** p. 357, § 12. **L. 93:** Entire section amended, p. 1519, § 27, effective June 6. **L. 2008:** Entire section amended, p. 119, § 5, effective March 19. **L. 2010:** Entire section amended, (SB 10-003), ch. 391, p. 1843, § 12, effective June 9.

Cross references: (1) For classification of students for tuition purposes, see article 7 of this title.

(2) For the legislative declaration in the 2010 act amending this section, see section 1 of chapter 391, Session Laws of Colorado 2010.

23-41-108. Officers - meeting of board. The board, at its first meeting and biennially thereafter, shall elect one of its number president of said board, and shall also appoint a secretary and a treasurer, either from its own number or other suitable persons as it may deem best, and prescribe their duties, and, at any time in its discretion, may remove such secretary or treasurer. The meetings of said board shall be held at Golden, Jefferson county, Colorado; except that, when the work of the board so requires in its discretion, it may hold meetings at any other place in the state of Colorado.

Source: G.L. § 2435. **G.S.** § 3105. **R.S. 08:** § 6022. **C.L.** § 8041. **L. 35:** p. 1026, § 1. **CSA:** C. 145, § 8. **CRS 53:** § 124-9-8. **C.R.S. 1963:** § 124-9-8.

23-41-109. Vacancies. (1) The governor of this state, with the advice and consent of the senate, at each regular session of the general assembly, shall fill, by appointment, all vacancies in offices of members of said board of trustees appointed by the governor occurring either by expiration of their terms of office or otherwise. Any vacancy in an office of a member of such board appointed by the governor which occurs when the general assembly is not in session may be temporarily filled by the governor until the next meeting of the general assembly, but, at all times, at least one appointed member of said board of trustees shall be a graduate of the Colorado school of mines upon whom a degree has been conferred by its board of trustees not less than ten years prior to his appointment.

(2) Commencing with appointments made by the governor in 1977, and at all times thereafter, at least four and not more than five of the appointed members of the board shall be graduates of the Colorado school of mines upon each of whom a degree has been conferred by its board of trustees not less than ten years prior to his appointment.

(3) Any vacancy in the elected office on the board shall be filled by reelection for the unexpired term.

Source: G.L. § 2436. **G.S.** § 3106. **R.S. 08:** § 6023. **L. 09:** p. 501, § 1. **C.L.** § 8042. **CSA:** C. 145, § 9. **CRS 53:** § 124-9-9. **C.R.S. 1963:** § 124-9-9. **L. 75:** Entire section amended, p. 739, § 5, effective January 1, 1976. **L. 81:** (1) amended, p. 2027, § 28, effective July 14.

23-41-110. Treasurer's bond. The board of trustees shall require its treasurer to give such bond as it deems sufficient to protect said institution against loss of any funds which may come into his hands as such treasurer, conditioned for the safekeeping and faithful disbursement thereof. The treasurer of said board shall not pay out any of the funds which shall come into his hands as treasurer, except upon the order of the president of said board countersigned by the secretary thereof.

Source: L. 1883: p. 275, § 3. **G.S.** § 3112. **R.S. 08:** § 6029. **C.L.** § 8051. **CSA:** C. 145, § 18. **CRS 53:** § 124-9-17. **C.R.S. 1963:** § 124-9-10.

23-41-111. Assays and analyses. The president of the faculty of the school of mines, or professor in charge thereof, who shall be appointed by said board of trustees, shall be known as president of the Colorado school of mines. It is lawful for said president to make or have made by any member of the faculty or by students, for residents of Colorado only, assays and analyses of Colorado ores and minerals and to make reports of such results free of charge upon blanks printed for that purpose, which shall, in a conspicuous place, have printed thereon: "The following is the assay or analysis of sample received from ....., and is not to be used in any way for promotion purposes."

Source: G.L. § 2443. **L. 1883:** p. 276, § 4. **G.S.** § 3113. **R.S. 08:** § 6030. **L. 13:** p. 577, § 1. **C.L.** § 8052. **CSA:** C. 145, § 19. **CRS 53:** § 124-9-18. **C.R.S. 1963:** § 124-9-11.

23-41-112. Transfer of property. All property, both real and personal, belonging to the Colorado school of mines, shall be vested in the trustees, in trust for the use and benefit of the state of Colorado.

Source: G.L. § 2444. **G.S.** § 3114. **R.S. 08:** § 6031. **C.L.** § 8053. **CSA:** C. 145, § 20. **CRS 53:** § 124-9-19. **C.R.S. 1963:** § 124-9-12.

23-41-113. Fund used exclusively for school. The school of mines fund shall be used solely for the support of the Colorado school of mines and for no other purpose, notwithstanding any provision in the law to establish the office of commissioner of mines.

Source: G.L. § 2445. **G.S.** § 3115. **R.S. 08:** § 6032. **C.L.** § 8054. **CSA:** C. 145, § 21. **CRS 53:** § 124-9-20. **C.R.S. 1963:** § 124-9-13.

23-41-114. Colorado energy research institute - creation. (1) There is hereby created at the Colorado school of mines the Colorado energy research institute, which shall be referred to in this section as the "institute". It is the intent of this section that the institute serve as a mechanism for the development of energy and energy-related minerals research programs, including programs at single state or private educational or research institutions and multidisciplinary, interuniversity, government-university, and industry-university energy and energy-related minerals research programs and projects. It is the further intent of this section that the institute provide the mechanism for enhancing the development and promotion of energy and energy-related minerals education programs in the state.

(2) The principal administrative officer of the institute shall be the president of the Colorado school of mines, and budgetary and fiscal procedures and activities of the institute shall be under the supervision of the Colorado school of mines.

(3) It is the duty of the institute to:

(a) Maintain liaison with the state to identify the important regional energy and energy-related minerals problems, including their relationship to the use of the waters of the state;

(b) Solicit and determine, through inquiry of and consultation with the executive and legislative branches of the state government and with local governments, the needs of the said branches and governments for energy data and background information relating to the

determination of state policy and actions in relation to energy shortages, planning, and long-range options, and to collect, maintain, and provide such data and background material;

(c) Promote the development of energy and energy-related minerals research programs and projects in single or multiple disciplines at state and private educational and research institutions;

(d) Administer a phase-out program of energy grants to enrolled undergraduates within the higher education system;

(e) Develop and promote energy and energy-related minerals education programs in the state;

(f) Administer programs of public education in energy development, utilization, and conservation, which shall include, but shall not be limited to, energy status reports, sponsorship of symposia, demonstration programs, and reports on research results;

(g) Contract for and to accept any gifts or grants or loans or funds or property or financial or other aid in any form from the United States or any agency or instrumentality thereof, or from the state or any executive or legislative agency thereof, or from any other source and to comply, subject to the provisions of this article, with the terms and conditions thereof, and to have the authority to expend such funds.

(h) Repealed.

(4) The institute shall conduct:

(a) Regular, mutual consultations about its progress in meeting the goals set forth in this section with the department of natural resources; and

(b) The following specific research and educational programs designed to meet the information needs of the department of natural resources, other agencies of the state's executive branch, the legislature, and the public:

(I) (A) The collection of primary data on the economic impact of energy industries, emphasizing oil and gas, on municipalities and counties; the establishment of an energy economics database to be housed and maintained in the Colorado school of mines division of economics and business and the establishment of internet access to such database; the development of reliable means of forecasting by the institute's program in energy economics; and support for the analysis, interpretation, and periodic publication of the findings of the economic analysis.

(B) For the purposes authorized by this subparagraph (I), up to five hundred thousand dollars of the unencumbered balance available in the oil and gas conservation and environmental response fund created in section 34-60-122 (5), C.R.S., may be expended.

(II) (A) The development of research in those sectors of geoscience and engineering that are most critical to the formation of renewable energy and continued enhanced production of natural gas and oil from Rocky Mountain reservoirs, including production optimization and resource distribution and synergies with renewable resources.

(B) For the purpose authorized by this subparagraph (II), up to one million dollars of the unencumbered balance available in the oil and gas conservation and environmental response fund created in section 34-60-122 (5), C.R.S., may be expended.

(C) Of the amount specified in sub-subparagraph (B) of this subparagraph (II): Five hundred thousand dollars may be expended in the state fiscal year beginning July 1, 2005; and five hundred thousand dollars may be expended in the state fiscal year beginning July 1, 2006, if an estimate made on or about May 1, 2006, of the projected unencumbered balance that will be

available in the oil and gas conservation and environmental response fund on July 1, 2006, exceeds two and one-half million dollars.

(III) (A) To inform the public, legislative and regulatory bodies, and working professionals about new technologies and their relationship to traditional sources of energy to promote the public's understanding of how its everyday energy needs are met.

(B) For the purpose authorized by this subparagraph (III), up to three hundred seventy-five thousand dollars of the unencumbered balance available in the oil and gas conservation and environmental response fund created in section 34-60-122 (5), C.R.S., may be expended.

(C) Of the amount specified in sub-subparagraph (B) of this subparagraph (III): One hundred seventy-five thousand dollars may be expended in the state fiscal year beginning July 1, 2005; and two hundred thousand dollars may be expended in the state fiscal year beginning July 1, 2006, if an estimate made on or about May 1, 2006, of the projected unencumbered balance that will be available in the oil and gas conservation and environmental response fund on July 1, 2006, exceeds two and one-half million dollars.

(IV) (A) To facilitate economic development by funding local community colleges, colleges, area technical colleges, and vocational schools in regions where energy development is occurring and by providing grants for job training and education resources to advance knowledge and skill development that goes beyond basic research and helps attract, educate, and train people for employment.

(B) For the purpose authorized by this subparagraph (IV), up to one million dollars of the unencumbered balance available in the oil and gas conservation and environmental response fund created in section 34-60-122 (5), C.R.S., may be expended.

(C) Of the amount specified in sub-subparagraph (B) of this subparagraph (IV): Five hundred thousand dollars may be expended in the state fiscal year beginning July 1, 2005; and five hundred thousand dollars may be expended in the state fiscal year beginning July 1, 2006, if an estimate made on or about May 1, 2006, of the projected unencumbered balance that will be available in the oil and gas conservation and environmental response fund on July 1, 2006, exceeds two and one-half million dollars.

(V) (A) To pay the membership dues of the energy council referred to in section 2-3-311 (2)(b), C.R.S.

(B) For the purpose authorized by this subparagraph (V), up to fifty six thousand dollars of the unencumbered balance available in the oil and gas conservation and environmental response fund created in section 34-60-122 (5), C.R.S., may be expended.

(VI) (A) To provide grants for the development of a central resource for building trade professionals, including contractors, engineers, architects, and designers, for the purpose of increasing available tools and education to advance energy-efficient design and construction.

(B) For the purpose authorized by this subparagraph (VI), up to one hundred twenty-five thousand dollars of the unencumbered balance available in the oil and gas conservation and environmental response fund created in section 34-60-122 (5), C.R.S., may be expended.

(C) Of the amount specified in sub-subparagraph (B) of this subparagraph (VI): Seventy-five thousand dollars may be expended in the state fiscal year beginning July 1, 2005; and fifty thousand dollars may be expended in the state fiscal year beginning July 1, 2006, if an estimate made on or about May 1, 2006, of the projected unencumbered balance that will be available in the oil and gas conservation and environmental response fund on July 1, 2006, exceeds two and one-half million dollars.

Source: L. 74: Entire section added, p. 382, § 1, effective May 8. **L. 77:** (3)(g) to (3)(j) added, p. 1118, § 1, effective June 2; (6) added by revision, p. 1118, § 2. **L. 83:** Entire section RC&RE, p. 808, § 1, effective July 1. **L. 96:** (3)(h) repealed, p. 1240, § 94, effective August 7. **L. 2005:** (4) added, p. 539, § 1, effective July 1. **L. 2006:** (4)(b)(I)(B), (4)(b)(II)(B), (4)(b)(II)(C), (4)(b)(III)(B), (4)(b)(III)(C), (4)(b)(IV)(B), (4)(b)(IV)(C), (4)(b)(V)(B), (4)(b)(VI)(B), and (4)(b)(VI)(C) amended, p. 1498, § 32, effective June 1. **L. 2008:** (4)(b)(VI)(A) amended, p. 69, § 5, effective March 18. **L. 2012:** (4)(b)(VI)(A) amended, (HB 12-1315), ch. 224, p. 962, § 14, effective July 1. **L. 2016:** (4)(b)(IV)(A) amended, (HB 16-1082), ch. 58, p. 154, § 47, effective August 10. **L. 2018:** (4)(b)(VI)(A) amended, (SB 18-003), ch. 359, p. 2132, § 4, effective June 1.

Editor's note: (1) In 1974, this section was originally enacted as 124-9-19 but was renumbered on revision and included in the compilation of the C.R.S. 1973 as § 23-41-114. (See L. 74, p. 382.)

(2) Prior to its recreation and reenactment in 1983, subsection (6) provided for the repeal of this section, effective July 1, 1982. (See L. 77, p. 1118, § 2.)

Cross references: For the legislative declaration contained in the 1996 act amending this section, see section 1 of chapter 237 Session Laws of Colorado 1996.

23-41-115. Advisory council on energy-related minerals research. (Repealed)

Source: L. 74: Entire section added, p. 383, § 1, effective May 8. **L. 77:** (5) added by revision, p. 1118, § 2.

Editor's note: (1) In 1974, this section was originally enacted as 124-9-20 but was renumbered on revision and included in the compilation of the C.R.S. 1973 as § 23-41-115. (See L. 74, p. 382.)

(2) Subsection (5) provided for the repeal of this section, effective July 1, 1982. (See L. 77, p. 1118, § 2.)

23-41-115.5. Legislative declaration. (Repealed)

Source: L. 77: Entire section added, p. 1118, § 2, effective June 2.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 1982. (See L. 77, p. 1118.)

23-41-116. Rents or charges for buildings and facilities for research. The board of trustees is authorized to contract for or impose and collect rents or charges for the use of Colorado school of mines' buildings and facilities for research, including research conducted by or under the auspices of the Colorado school of mines. Such rents or charges shall be at a level reasonably calculated to return or amortize the cost of such buildings and facilities within a reasonable period not exceeding the life of such buildings and facilities; but such user charges or

rents may not be imposed and collected in such a manner as to require payment directly or indirectly from the state general fund, tuition receipts, or student fees.

Source: L. 77: Entire section added, p. 1120, § 1, effective May 16.

23-41-117. Research building revolving fund - appropriation of fund. There is established in the office of the state treasurer the Colorado school of mines research building revolving fund, and there shall be credited to said fund the user charges or rents authorized by section 23-41-116 and imposed by the board of trustees, specific appropriations or grants or gifts made to said fund, and the proceeds of the sale of anticipation warrants authorized by section 23-41-118. All such moneys so credited to said fund are appropriated to the Colorado school of mines for the planning, constructing, and equipping of additional research buildings and facilities for the Colorado school of mines.

Source: L. 77: Entire section added, p. 1120, § 1, effective May 16. **L. 96:** Entire section amended, p. 1240, § 95, effective August 7. **L. 99:** Entire section amended, p. 853, § 15, effective May 24.

Cross references: For the legislative declaration contained in the 1996 act amending this section, see section 1 of chapter 237, Session Laws of Colorado 1996.

23-41-118. Anticipation warrants. The state treasurer is authorized to issue anticipation warrants in such amounts as requested by the board of trustees, the total amount of which shall not exceed one million dollars, to be repaid exclusively from the user revenues accruing to the Colorado school of mines research building revolving fund as provided in this section and sections 23-41-116 and 23-41-117. The anticipation warrants shall bear interest at a rate not exceeding six percent per annum and shall not be sold at a price less than the face value thereof. Disbursements from said fund shall be only by warrant upon vouchers certified by the board of trustees.

Source: L. 77: Entire section added, p. 1121, § 1, effective May 16.

23-41-119. Purchase of anticipation warrants. It is lawful for the state of Colorado, the state treasurer, any department, institution, or agency of the state, or any political subdivision of the state to purchase anticipation warrants issued pursuant to section 23-41-118 if such warrants satisfy the investment requirements established in part 6 of article 75 of title 24, C.R.S.; but not more than twenty percent of the total of any specific fund of the state or any of its departments, institutions, agencies, or political subdivisions shall be invested in such warrants.

Source: L. 77: Entire section added, p. 1121, § 1, effective May 16. **L. 89:** Entire section amended, p. 1128, § 63, effective July 1.

23-41-120. Warrants as security - when. Anticipation warrants issued pursuant to section 23-41-118 may be used as security for any depository bond or obligation where any kind of bonds or other securities must or may, by law, be deposited as security.

Source: L. 77: Entire section added, p. 1121, § 1, effective May 16.

23-41-121. Tax exemption. Any anticipation warrants issued pursuant to the provisions of section 23-41-118 by the board of trustees shall be exempt from taxation for state, county, school district, special district, municipal, or any other purpose in the state of Colorado.

Source: L. 77: Entire section added, p. 1121, § 1, effective May 16.

23-41-122. Borrowing funds. For the purpose of obtaining funds for the planning, constructing, and equipping of research buildings and facilities for the Colorado school of mines, the board of trustees is authorized to enter into contracts with any person, corporation, or state or federal government agency for the advancement of money for such purposes and providing for the repayment of such advances with interest from the Colorado school of mines research building revolving fund.

Source: L. 77: Entire section added, p. 1121, § 1, effective May 16.

23-41-123. Moneys from Colorado school of mines lands. All moneys that arise from the sale of lands belonging to the Colorado school of mines, or from the leasing of lands belonging to the said school, or from interest arising on the investment of such funds are placed under the exclusive control of the board of trustees of the Colorado school of mines. The state treasurer is instructed to turn over to the board of trustees all the moneys, warrants, bonds, and other securities of any nature that have come from the sale of said lands belonging to said school.

Source: L. 87: Entire section added, p. 860, § 1, effective April 22. **L. 2000:** Entire section amended, p. 396, § 2, effective August 2. **L. 2013:** Entire section amended, (HB 13-1297), ch. 260, p. 1373, § 3, effective August 7.

PART 2

GEOLOGICAL SURVEY

23-41-201. Transfer of geological survey - memorandum of understanding - report. (1) With the exception of the Colorado avalanche information center created pursuant to section 24-33-116, C.R.S., on January 31, 2013, the Colorado geological survey and the office of the state geologist and their powers, duties, and functions are transferred from the department of natural resources to the Colorado school of mines. The Colorado school of mines shall exercise its powers and perform its functions and duties as if the geological survey and the office of the state geologist were transferred to the Colorado school of mines by a **type 2** transfer.

(2) Prior to the transfer, the president of the Colorado school of mines and the executive director of the department of natural resources shall develop and enter into a memorandum of understanding concerning the transfer of the powers, duties, and functions of the geological survey and the office of the state geologist. The memorandum of understanding shall include, but is not limited to, provisions concerning the following:

(a) The functions and objectives of the geological survey;

(b) The transfer of employees of the geological survey and the office of the state geologist, in conformance with the laws applicable to the employees;

(c) The transfer of real and personal property of the geological survey;

(d) Existing contracts of the department of natural resources; and

(e) Existing appropriations allocated to the Colorado geological survey and the office of the state geologist and the geological survey cash fund.

(3) On and after January 31, 2013, whenever the executive director of the department of natural resources or the department of natural resources is referred to or designated by any contract or other document in connection with the powers, duties, and functions transferred to the Colorado school of mines, the reference or designation shall be deemed to apply to the Colorado school of mines. All contracts entered into by the executive director of the department of natural resources prior to January 31, 2013, in connection with the powers, duties, and functions transferred to the Colorado school of mines are hereby validated, with the president of the Colorado school of mines succeeding to all the rights and obligations of such contracts.

(4) On January 31, 2013, the unexpended and unencumbered appropriations of funds for the current fiscal year made to the department of natural resources and allocated for the Colorado geological survey and office of the state geologist and that are related to the powers, duties, and functions transferred to the Colorado school of mines shall be transferred to the Colorado school of mines.

(5) Repealed.

(6) (a) On or before December 1, 2012, and in accordance with the provisions of section 24-1-136 (9), C.R.S., the Colorado school of mines shall report to the joint budget committee, the agriculture, livestock, and natural resources committee of the house of representatives, or its successor committee, and the agriculture, natural resources, and energy committee of the senate, or its successor committee, concerning the transfer of the geological survey and the office of the state geologist to the Colorado school of mines.

(b) At a minimum, the report shall include information concerning:

(I) Whether the president of the Colorado school of mines and the executive director of the department of natural resources entered into a memorandum of understanding affirming the transfer of the Colorado geological survey and the office of the state geologist to the Colorado school of mines; and

(II) The contents of the memorandum of understanding, including a description of the contents of the memorandum of understanding relating to the provisions required pursuant to paragraphs (a) to (e) of subsection (2) of this section.

Source: L. 2012: Entire part added, (HB 12-1355), ch. 247, p. 1189, § 1, effective June 4. **L. 2013:** (1) amended, (HB 13-1057), ch. 1, p. 1, § 1, effective January 31. **L. 2014:** (5) repealed, (HB 14-1363), ch. 302, p. 1267, § 20, effective May 31.

23-41-202. Legislative declaration. (1) It is the intent of the general assembly that sufficient funds be provided to cover the direct costs of a base staff and their operating expenses to ensure functional continuity of the Colorado geological survey as provided by statute and as determined pursuant to any memorandum of understanding entered into pursuant to section 23-41-201. The survey shall make appropriate charges for preparation and reproduction of reports,

maps, and publications; except that the survey shall not directly compete with consultants by entering into contracts with the general public and industries for providing geological and related services.

(2) It is the intent of the general assembly that the Colorado geological survey place primary emphasis on the statutory objectives of recognition and mitigation of geologic risks affecting public health and safety and promotion of economic development of the mineral resources, including, but not limited to, metals, oil, gas, coalbed methane, and aggregate, of Colorado. Such work shall require appropriate consideration to public safety and environmental concerns. Economic development projects proposed or undertaken shall involve basic and applied geologic research and mapping similar to that undertaken by geological surveys in other states and be designed to encourage resource exploration and development by industry. The Colorado geological survey shall not undertake economic development projects that directly compete with the private sector, but shall produce basic data, research reports, and maps useful to consultants and industry. Economic development projects undertaken may be funded by private foundations and federal agencies, industrial consortia or agencies of other states, or by the general fund.

Source: L. 2012: Entire part added, (HB 12-1355), ch. 247, p. 1191, § 1, effective June 4.

Editor's note: This section is similar to § 34-1-104.5 as it existed in 2012.

23-41-203. Colorado geological survey - created - purpose. (1) There is hereby established the Colorado geological survey within the Colorado school of mines. The Colorado school of mines board of trustees and its designees shall have sole authority to supervise the functions, planning, management, and fiscal procedures of the Colorado geological survey. The purpose of the survey is to encourage by use of appropriate means the full development of the state's natural resources to the benefit of the citizens of the state.

(2) Repealed.

Source: L. 2012: Entire part added, (HB 12-1355), ch. 247, p. 1191, § 1, effective June 4. **L. 2013:** (2) repealed, (HB 13-1057), ch. 1, p. 1, § 2, effective January 31.

Editor's note: This section is similar to § 34-1-101 as it existed in 2012.

23-41-204. State geologist - appointment - qualifications. The president of the Colorado school of mines shall appoint a state geologist. The state geologist shall be the director of the Colorado geological survey. The state geologist shall be a professional geologist, as defined in section 23-41-208, and shall have professional, managerial, supervisory, practical, and technical experience and knowledge in the use of geology, earth sciences, and natural resource planning and management.

Source: L. 2012: Entire part added, (HB 12-1355), ch. 247, p. 1192, § 1, effective June 4.

Editor's note: This section is similar to § 34-1-102 as it existed in 2012.

23-41-205. Objectives of survey - duties of state geologist. (1) The Colorado geological survey shall provide assistance to and cooperate with the general public, industries, and agencies of state government, including institutions of higher education. The Colorado school of mines shall determine the priority of the objectives of the Colorado geological survey, subject to available appropriations and consistent with the memorandum of understanding entered into pursuant to section 23-41-201, which objectives shall include:

(a) To assist, consult with, and advise existing state and local governmental agencies on geologic problems;

(b) To promote economic development of mineral and energy resources;

(c) To conduct studies to develop geological information;

(d) To inventory and analyze the state's mineral and energy resources as to quantity, chemical composition, physical properties, location, and possible use;

(e) To collect and preserve geologic information;

(f) To advise the state on transactions dealing with natural resources between state agencies and with other states and the federal government on common problems and studies;

(g) To evaluate the physical features of Colorado with reference to present and potential human and animal use;

(h) To prepare, publish, and distribute reports, maps, and bulletins when necessary to achieve the purposes of this part 2;

(i) To determine areas of natural geologic hazards that could affect the safety of or economic loss to the citizens of Colorado;

(j) To advise the state engineer in the promulgation of rules pursuant to article 90.5 of title 37, C.R.S., and to provide other governmental agencies with technical assistance regarding geothermal resources as needed;

(k) To conduct scientific studies of how geology affects and controls water resources, especially within Colorado; and

(l) To conduct scientific research that advances knowledge and understanding in related fields.

(m) Repealed.

(2) The duties of the state geologist shall be to fulfill the objectives of this part 2 and, together with the employees of the survey, work for the maximum beneficial and most efficient use of the geologic processes for the protection of and economic benefit to the citizens of Colorado.

(3) The state geologist shall, upon receiving a preliminary plan pursuant to section 30-28-136 (1)(i), C.R.S., or a major activity notice pursuant to section 31-23-225, C.R.S., review the plan or notice to determine whether the development or activity which is the subject of the plan or notice will interfere with the extraction of commercial mineral deposits as defined in section 34-1-302, C.R.S. If the state geologist determines that a potential for such interference exists, he or she shall, within twenty-four days after receipt of the plan or notice, notify the appropriate board of county commissioners or governing body of a municipality of the existence of a potential interference.

(4) The state geologist shall administer the provisions of section 25-15-202 (4)(b), C.R.S., requiring the Colorado geological survey to review information on an application and

make a recommendation on the geological suitability, or the need for further study, of proposed hazardous waste disposal sites for land disposal of hazardous waste and the provisions of section 25-15-216, C.R.S., requiring the Colorado geological survey to conduct a study of the geological suitability of areas of the state for hazardous waste disposal sites.

(5) Subject to available appropriations, the geological survey may prepare an annual report describing the status of the mineral industry and describing current influences affecting the growth and viability of the mineral industry in the state, and setting forth recommendations to foster the industry. The geological survey may partner with other agencies or organizations to prepare the annual report.

Source: L. 2012: Entire part added, (HB 12-1355), ch. 247, p. 1192, § 1, effective June 4. **L. 2013:** (1)(m) repealed, (HB 13-1057), ch. 1, p. 2, § 3, effective January 31.

Editor's note: This section is similar to § 34-1-103 as it existed in 2012.

23-41-206. Employees. The Colorado school of mines may employ such assistants and personnel as may be deemed necessary to carry out the purposes of this part 2, subject to applicable provisions of law.

Source: L. 2012: Entire part added, (HB 12-1355), ch. 247, p. 1193, § 1, effective June 4.

Editor's note: This section is similar to § 34-1-104 as it existed in 2012.

23-41-207. Fees - adjustments - geological survey cash fund - created. (1) (a) The Colorado geological survey is authorized to enter into agreements to provide services to the general public, industries, and units of local government and to establish and collect fees to recover direct costs of providing said services pursuant to sections 24-65.1-302 and 30-28-136, C.R.S., and section 23-41-205 or pursuant to agreement; except that this provision shall apply only to those services rendered upon items which a unit of local government is required by statute to submit for review or for such other services as are requested pursuant to an agreement.

(b) The Colorado geological survey is authorized to establish and collect fees to recover direct costs of providing services to other agencies of state government pursuant to section 23-41-205.

(2) (a) The Colorado geological survey shall propose, as part of its annual budget request, an adjustment in the amount of each fee which it is authorized to collect pursuant to this section.

(b) The Colorado geological survey shall adjust its fees so that the revenue generated from said fees approximates its direct costs. Such fees shall remain in effect for the fiscal year for which the budget request applies. All fees collected by the Colorado geological survey shall be transmitted to the state treasurer, who shall credit the same to the geological survey cash fund, which fund is hereby created. All moneys credited to the geological survey cash fund shall be used as provided in this section and shall not be deposited in or transferred to the general fund of this state or any other fund. The moneys credited to the geological survey cash fund shall be continuously appropriated to the Colorado geological survey for the purposes of this part 2.

Source: L. 2012: Entire part added, (HB 12-1355), ch. 247, p. 1194, § 1, effective June 4.

Editor's note: This section is similar to § 34-1-105 as it existed in 2012.

23-41-208. Reports concerning geologic information - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Geology" means the science which treats of the earth in general; the earth's processes and its history; investigation of the earth's crust and the rocks and other materials which compose it; and the applied science of utilizing knowledge of the earth's history, processes, constituent rocks, minerals, liquids, gasses, and other materials for the use of mankind; and

(b) "Professional geologist" is a person engaged in the practice of geology who is a graduate of an institution of higher education which is accredited by a regional or national accrediting agency, with a minimum of thirty semester (forty-five quarter) hours of undergraduate or graduate work in a field of geology and whose postbaccalaureate training has been in the field of geology with a specific record of an additional five years of geological experience to include no more than two years of graduate work.

(2) Any report required by law or by rule and prepared as a result of or based on a geologic study or on geologic data, or which contains information relating to geology and which is to be presented to or is prepared for any state agency, political subdivision of the state, or recognized state or local board or commission, shall be prepared or approved by a professional geologist.

Source: L. 2012: Entire part added, (HB 12-1355), ch. 247, p. 1194, § 1, effective June 4.

Editor's note: This section is similar to §§ 34-1-201 and 34-1-202 as they existed in 2012.

23-41-209. Repeal of part or section - notice to the revisor of statutes. (Repealed)

Source: L. 2012: Entire part added, (HB 12-1355), ch. 247, p. 1195, § 1, effective June 4.

Editor's note: Subsection (2) provided for the repeal of this section, effective January 31, 2013. On January 24, 2013, the revisor of statutes received the notice referred to in subsection (2) related to the repeal. For more information about the repeal and notice, see HB 12-1355. (See L. 2012, p. 1195.)

23-41-210. Annual report to general assembly - repeal. (Repealed)

Source: L. 2012: Entire part added, (HB 12-1355), ch. 247, p. 1195, § 1, effective June 4. **L. 2013:** (1)(b)(II) repealed and (1)(b)(VII) amended, (HB 13-1057), ch. 1, p. 2, § 4, effective January 31.

Editor's note: Subsection (1)(c) provided for the repeal of this section, effective December 31, 2017. (See L. 2012, p. 1195.)

ARTICLE 50

State Colleges - General Provisions

23-50-101 to 23-50-115. (Repealed)

Source: L. 2003: Entire article repealed, p. 775, § 1, effective July 1.

Editor's note: This article was numbered as article 5 of chapter 124, C.R.S. 1963. For amendments to this article prior to its repeal in 2003, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

ARTICLE 51

Adams State University

Editor's note: This article was numbered as article 8 of chapter 124, C.R.S. 1963. The provisions of this article were repealed and reenacted in 2003, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 2003, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated.

23-51-101. University established - role and mission. There is hereby established a college at Alamosa, to be known as Adams state university, which shall be a general baccalaureate institution with moderately selective admission standards. Adams state university shall offer undergraduate liberal arts and sciences, teacher preparation, and business degree programs, a limited number of graduate level programs, and two-year transfer programs with a community college role and mission. Adams state university shall receive resident credit for two-year course offerings in its commission-approved service area. Adams state university has a significant responsibility to provide access to teacher education in rural Colorado. Adams state university shall also serve as a regional education provider. In addition, Adams state university shall offer programs, when feasible, that preserve and promote the unique history and culture of the region.

Source: L. 2003: Entire article R&RE, p. 776, § 4, effective July 1. **L. 2012:** Entire section amended, (HB 12-1080), ch. 189, p. 753, § 1, effective May 19.

Editor's note: This section is similar to former § 23-51-101 as it existed prior to 2003.

23-51-102. Board of trustees - creation - members - powers - duties. (1) (a) There is established the board of trustees for Adams state university, referred to in this article as the "board of trustees", which shall consist of eleven members and shall be the governing authority for Adams state university. The board of trustees shall be, and is hereby declared to be, a body corporate and, as such and by the names designated in this section, may:

(I) Acquire and hold property for the use of Adams state university;

(II) Be a party to all suits and contracts; and

(III) Do all things necessary to carry out the provisions of this article in like manner as municipal corporations of this state, including but not limited to the power to demand, receive, hold, and use for the best interests of Adams state university such money, lands, or other property as may be donated or devised to or for the university.

(b) The board of trustees and its successors shall have perpetual succession, shall have a seal, may make bylaws and regulations for the well-ordering and governance of Adams state university, and may conduct the business of the university in a manner not repugnant to the constitution and laws of this state. The board of trustees shall elect from the appointed members a chairperson, whose duties and responsibilities shall be prescribed in the duly adopted bylaws of the board of trustees. The board of trustees shall also elect a secretary and a treasurer, who are not members of the board and whose duties and responsibilities shall be prescribed in the duly adopted bylaws of the board of trustees. The staff of Adams state university shall provide staff support for the board of trustees.

(2) The governor shall appoint, effective July 1, 2003, with the consent of the senate, nine members of the board of trustees. Members initially appointed to the board of trustees shall have the authority to act on behalf of the board of trustees prior to obtaining confirmation by the senate. The members first appointed to the board of trustees shall take office on July 1, 2003. Appointments of members to take office on July 1, 2003, shall be made so that three members of the board have terms expiring on January 1, 2005, two members of the board have terms expiring on January 1, 2006, two members of the board have terms expiring on January 1, 2007, and two members of the board have terms expiring on January 1, 2008; thereafter, the terms of the nine appointed members of the board of trustees shall be four years. Notwithstanding any other provision of this section, the term of each member serving on the board of trustees as of May 26, 2006, shall be extended to expire on December 31 of the calendar year in which the member's appointed term would otherwise expire. Members appointed on or after January 1, 2007, shall serve terms of up to four years, expiring on December 31 of the third calendar year following the calendar year in which the member is appointed. For terms ending on or after December 31, 2006, the governor shall appoint a succeeding member on or before March 1 immediately following the expiration of the term. Of the nine members appointed by the governor, at least two shall reside in Alamosa, Conejos, Costilla, Huerfano, Mineral, Rio Grande, or Saguache county. Of the nine members appointed by the governor, no more than five members shall be from the same political party. Each trustee shall hold office for the term for which the trustee has been appointed and until the trustee's successor is appointed and confirmed by the senate.

(3) The tenth member of the board of trustees shall be a full-time junior or senior student at Adams state university, elected by the members of the student body of Adams state university. The term of the student member shall be one year, beginning July 1, 2003, and beginning July 1 each year thereafter. The student member shall be advisory, without the right to vote and without

the right to attend executive sessions of the board of trustees, as provided by section 24-6-402, C.R.S. The student member shall have resided in the state of Colorado for not less than three years prior to the student's election.

(4) The eleventh member shall be a member of the faculty of Adams state university elected by other members of the faculty for a term of two years, beginning July 1, 2003, and beginning July 1 every odd-numbered year thereafter. The faculty member shall be advisory, without the right to vote and without the right to attend executive sessions of the board of trustees, as provided by section 24-6-402, C.R.S.

(5) A vacancy of an appointed member of the board of trustees shall be filled by appointment by the governor for the unexpired term. A vacancy of either of the elected members of the board of trustees shall be filled by election for the unexpired term. Each member of the board of trustees shall take an oath or affirmation in accordance with section 24-12-101.

(6) Except as otherwise provided in this subsection (6), the powers, duties, and functions formerly performed by the trustees of the state colleges in Colorado with respect to Adams state university are hereby transferred to the board of trustees. Policies, resolutions, procedures, and agreements previously approved by the trustees of the state colleges and universities in Colorado and applicable to Adams state university shall remain in force and effect unless and until changed by the board of trustees.

(7) In addition to those powers conferred elsewhere in this article, the board of trustees has the power to:

(a) Appoint a president of Adams state university;

(b) Appoint such other executive officers of the university as may be required;

(c) Appoint faculty and employees as may be required;

(d) Determine the compensation to be paid to the president, executive officers, faculty, and professional staff;

(e) With the advice of the faculty, prescribe the degree programs for the university; and

(f) Prescribe the student admissions qualifications.

Source: L. 2003: Entire article R&RE, p. 776, § 4, effective July 1. **L. 2006:** (2) amended, p. 1231, § 4, effective May 26. **L. 2012:** (1), (3), (4), (6), and (7) amended, (HB 12-1080), ch. 189, p. 753, § 2, effective May 19. **L. 2018:** (5) amended, (HB 18-1138), ch. 88, p. 695, § 13, effective August 8.

Cross references: For the legislative declaration in HB 18-1138, see section 1 of chapter 88, Session Laws of Colorado 2018.

23-51-102.5. Tuition - repeal. (Repealed)

Source: L. 2010: Entire section added, (SB 10-003), ch. 391, p. 1844, § 13, effective June 9. **L. 2012:** (1) amended, (HB 12-1080), ch. 189, p. 755, § 3, effective May 19.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2016. (See L. 2010, p. 1844.)

23-51-103. Board of trustees for Adams state university fund - creation - control - use. (1) There is created in the state treasury the board of trustees for Adams state university fund, referred to in this section as the "fund", which shall be under the control of and administered by the board of trustees in accordance with the provisions of this article. Except as otherwise allowed by state law, including but not limited to section 24-36-103 (2), C.R.S., all moneys received or acquired by the board of trustees or by Adams state university shall be deposited in the fund, whether received by appropriation, grant, contract, or gift or by sale or lease of surplus real or personal property or by any other means, whose disposition is not otherwise provided for by law. All interest and income derived from the deposit and investment of moneys in the fund shall be credited to the fund. The moneys in the fund are hereby continuously appropriated to the board of trustees and shall remain in the fund and shall not be transferred or revert to the general fund of the state at the end of a fiscal year.

(2) The moneys in the fund shall remain under the control of the board of trustees and shall be used for the payment of salaries and operating expenses of the board of trustees and of Adams state university and for the payment of any other expenses incurred by the board of trustees in carrying out its powers and duties.

(3) Moneys in the fund that are not needed for use by the board of trustees may be invested by the state treasurer in investments authorized by sections 24-36-109, 24-36-112, and 24-36-113, C.R.S. The board of trustees shall determine the amount of moneys in the fund that may be invested and shall notify the state treasurer in writing of the amount.

(4) Repealed.

Source: L. 2003: Entire article R&RE, p. 778, § 4, effective July 1. **L. 2012:** (1) and (2) amended and (4) added, (HB 12-1080), ch. 189, p. 755, § 4, effective May 19.

Editor's note: Subsection (4)(b) provided for the repeal of subsection (4), effective July 1, 2013. (See L. 2012, p. 755.)

23-51-104. Lease of grounds - construction. For the purpose of providing dormitories, living and dining halls, or cottages and equipment for the use of the school, to enable the construction, financing, and ultimate acquisition thereof, and to aid in improving undeveloped portions of the grounds of Adams state university, the board of trustees is empowered to lease grounds under its control to private persons or corporations for a term not exceeding fifty years and subject to such regulations as it may prescribe, and upon the condition that private persons or corporations shall construct and equip on the leased grounds buildings or improvements as the board of trustees designates or approves and secure reimbursement for money invested therein from the rentals of such buildings or from their sale to the board of trustees acting for the state.

Source: L. 2003: Entire article R&RE, p. 779, § 4, effective July 1. **L. 2012:** Entire section amended, (HB 12-1080), ch. 189, p. 755, § 5, effective May 19.

Editor's note: This section is similar to former § 23-51-102 as it existed prior to 2003.

23-51-105. No authority to create state obligation. Nothing in this article constitutes authority to enter into a contract which shall in any way create a debt or obligation upon the state

on account of the construction of buildings or improvements; except that buildings and improvements erected on lands under the control of the board of trustees and devoted to the uses of Adams state university under the terms of this article and the leasehold interest shall be exempt from taxation so far as permitted by the state constitution.

Source: L. 2003: Entire article R&RE, p. 779, § 4, effective July 1. **L. 2012:** Entire section amended, (HB 12-1080), ch. 189, p. 756, § 6, effective May 19.

Editor's note: This section is similar to former § 23-51-103 as it existed prior to 2003.

23-51-106. Board of trustees to control buildings. The management of buildings erected and equipped under the terms of this article, and the scale of rentals thereof, shall be subject to the approval of the board of trustees.

Source: L. 2003: Entire article R&RE, p. 779, § 4, effective July 1.

Editor's note: This section is similar to former § 23-51-104 as it existed prior to 2003.

23-51-107. Board of trustees may rent buildings. The board of trustees is authorized to lease or rent buildings constructed under the provisions of this article from the private persons or corporations constructing the buildings upon such terms as it deems satisfactory as to current rental, maintenance, and ultimate purchase, paying therefor out of the revenues derived from the operation of the buildings by the board of trustees or from other funds under its control that are available for general maintenance purposes.

Source: L. 2003: Entire article R&RE, p. 780, § 4, effective July 1.

Editor's note: This section is similar to former § 23-51-105 as it existed prior to 2003.

23-51-108. State property at lease end. Upon the termination of a lease or contract executed under the terms of this article providing for the construction and equipment of buildings, the buildings shall become the property of the state, together with all equipment, furnishings, or appurtenances therein contained or thereto attached; except that personal goods or effects of an occupant may be removed.

Source: L. 2003: Entire article R&RE, p. 780, § 4, effective July 1.

Editor's note: This section is similar to former § 23-51-106 as it existed prior to 2003.

23-51-109. Leasehold interest may be sold. Nothing in this article shall prevent the transfer or sale of the leasehold interest prior to its expiration, subject to the approval of the board of trustees.

Source: L. 2003: Entire article R&RE, p. 780, § 4, effective July 1.

Editor's note: This section is similar to former § 23-51-107 as it existed prior to 2003.

23-51-110. Board of trustees may rent rooms. Upon the termination of a lease or contract executed with private persons or corporations for the construction of buildings under the terms of this article, the board of trustees is empowered to rent rooms or quarters in buildings erected under the leases or contracts for reasonable compensation as it may deem best in relation to current operation, maintenance, and upkeep costs.

Source: L. 2003: Entire article R&RE, p. 780, § 4, effective July 1.

Editor's note: This section is similar to former § 23-51-108 as it existed prior to 2003.

ARTICLE 52

Fort Lewis College - Grand Junction School

PART 1

FORT LEWIS COLLEGE

Editor's note: This part 1 was numbered as article 14 of chapter 124, C.R.S. 1963. The provisions of this part 1 were repealed and reenacted in 1971, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this part 1 prior to 1971, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

23-52-101. College established - role and mission - governance. (1) There is hereby established a college at Durango, to be known as Fort Lewis college, which shall be a public liberal arts college, with selective admission standards with a historic and continuing commitment to Native American education. In addition, the college may offer professional programs and a limited number of graduate programs to serve regional needs. The center of southwest studies provides a valuable regional, national, and international resource.

(2) (a) Fort Lewis college shall be a regional education provider and shall have two-year authority only for an associate of arts degree in agricultural science.

(b) The Colorado commission on higher education shall, in consultation with the board of trustees of Fort Lewis college, establish the criteria for designation as a regional education provider.

Source: L. 71: R&RE, p. 1182, § 1. **C.R.S. 1963:** § 124-14-1. **L. 2002:** Entire section R&RE, p. 1251, § 2, effective July 1; entire part amended, p. 1242, § 11, effective August 7. **L. 2005:** (1) amended, p. 510, § 1, effective May 12. **L. 2009:** (2)(a) amended, (SB 09-043), ch. 284, p. 1293 § 2, effective May 20.

Editor's note: This part 1 was amended in House Bill 02-1260. Those amendments were superseded by the repeal and reenactment of the section in House Bill 02-1419.

Cross references: (1) For jurisdiction of Fort Lewis ceded to United States, see § 3-1-116.

(2) For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 303, Session Laws of Colorado 2002. For the legislative declaration contained in the 2009 act amending subsection (2)(a), see section 1 of chapter 284, Session Laws of Colorado 2009.

23-52-102. Board of trustees - creation - members - powers - duties. (1) (a) Effective July 1, 2002, there is established the board of trustees for Fort Lewis college, referred to in this article 52 as the "board of trustees" or "board", which consists of eleven members and is the governing authority for Fort Lewis college. The board of trustees is a body corporate and, as such and by the names designated in this section, may:

(I) Acquire and hold property for the use of Fort Lewis college;

(II) Be a party to all suits and contracts; and

(III) Do all things necessary to carry out the provisions of this article in like manner as municipal corporations of this state, including but not limited to the power to demand, receive, hold, and use for the best interests of Fort Lewis college such money, lands, or other property as may be donated or devised to or for the college.

(b) The board of trustees and their successors shall have perpetual succession, shall have a seal, may make bylaws and regulations for the well-ordering and governance of Fort Lewis college, and may conduct the business of said college in a manner not repugnant to the constitution and laws of this state. The board of trustees shall elect from the appointed members a chairperson, a secretary, and a treasurer, whose duties and responsibilities shall be prescribed in the duly adopted bylaws of the board of trustees. The staff of Fort Lewis college shall provide staff support for the board of trustees.

(2) (a) The governor shall appoint, with the consent of the senate, nine members of the board of trustees.

(b) The term of each member serving on the board of trustees as of March 24, 2020, expires on December 31 of the calendar year in which the member's appointed term would otherwise expire.

(c) The governor shall appoint the eighth and ninth members of the board so that the members take office on or before September 1, 2020. Such members have the authority to act on behalf of the board of trustees prior to obtaining confirmation by the senate. Of the members taking office pursuant to this subsection (2)(c), one member has a term expiring on January 1, 2023, and one member has a term expiring on January 1, 2025. Thereafter, the terms of the eighth and ninth members of the board of trustees are four years.

(d) Except as otherwise provided in subsection (2)(c) of this section, members appointed on or after January 1, 2007, serve terms of up to four years, expiring on December 31 of the third calendar year following the calendar year in which the member is appointed. For terms ending on or after December 31, 2006, the governor shall appoint a succeeding member on or before March 1 immediately following the expiration of the term. Each trustee following the initial

appointments shall hold office for the term for which the trustee is appointed and until the trustee's successor is appointed and confirmed by the senate.

(e) Of the nine members appointed by the governor:

(I) No more than five members may be from any one political party;

(II) At least one member must be an enrolled member of a federally recognized Native American tribe; and

(III) At least two members must be residents of southwestern Colorado. The board members from southwestern Colorado shall reside in Archuleta, Dolores, La Plata, Montezuma, or San Juan county, or on the Ute Mountain Ute or Southern Ute reservation.

(3) The tenth office must be filled by an elected member of the student body of Fort Lewis college who is a full-time junior or senior student at Fort Lewis college. The term of said elected office is one year, beginning August 1, 2002, and beginning August 1 each year thereafter. The elected student office is advisory, without the right to vote.

(4) The eleventh office must be filled by an elected member of the faculty at large of Fort Lewis college elected by other members of the faculty at large for a term of two years, beginning August 1, 2002, and beginning August 1 every other year thereafter. The elected faculty office is advisory, without the right to vote.

(5) Any vacancy in the office of an appointed member of the board of trustees shall be filled by appointment by the governor for the unexpired term. Any vacancy in either of the elected offices on the board of trustees shall be filled by reelection for the unexpired term. Each trustee shall take an oath or affirmation in accordance with section 24-12-101.

(6) Repealed.

(7) Except as otherwise provided in this subsection (7), the powers, duties, and functions formerly performed by the board of governors of the Colorado state university system with respect to Fort Lewis college are hereby transferred to the board of trustees. Policies, resolutions, procedures, and agreements previously approved by the board of governors of the Colorado state university system and applicable to Fort Lewis college shall remain in force and effect unless and until changed by the board of trustees.

(8) Repealed.

Source: L. 71: R&RE, p. 1182, § 1. **C.R.S. 1963:** § 124-14-2. **L. 85:** Entire section R&RE, p. 764, § 10, effective July 1. **L. 98:** Entire section amended, p. 431, § 1, effective August 5. **L. 2002:** Entire section R&RE, p. 1251, § 3, effective July 1; entire part amended, p. 1242, § 11, effective August 7. **L. 2003:** (7) amended, p. 1995, § 41, effective May 22. **L. 2006:** (2) amended, p. 1232, § 5, effective May 26. **L. 2018:** (5) amended, (HB 18-1138), ch. 88, p. 695, § 14, effective August 8. **L. 2020:** IP(1)(a), (2), (3), and (4) amended, (HB 20-1108), ch. 84, p. 337, § 1, effective March 24.

Editor's note: (1) This part 1 was amended in House Bill 02-1260. Those amendments were superseded by the repeal and reenactment of the section in House Bill 02-1419.

(2) Subsection (6)(b) provided for the repeal of subsection (6), effective July 1, 2003. (See L. 2002, p. 1251.) Subsection (8)(b) provided for the repeal of subsection (8), effective July 1, 2003. (See L. 2002, p. 1251.)

Cross references: For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 303, Session Laws of Colorado 2002. For the legislative declaration in HB 18-1138, see section 1 of chapter 88, Session Laws of Colorado 2018.

23-52-103. Board of trustees for Fort Lewis college fund - creation - control - use. (1) Effective September 1, 2002, there is created in the state treasury the board of trustees for Fort Lewis college fund, referred to in this section as the "fund", which shall be under the control of and administered by the board of trustees in accordance with the provisions of this article. The board of trustees has authority and responsibility for all moneys of the board of trustees and of Fort Lewis college. The board of trustees shall designate, pursuant to its statutory authority, those moneys received or acquired by the board of trustees or by Fort Lewis college, whether received by appropriation, grant, contract, or gift or by sale or lease of surplus real or personal property or by any other means, whose disposition is not otherwise provided for by law, that may be credited to the fund. All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. The moneys in the fund are hereby continuously appropriated to the board of trustees and shall remain in the fund under the control of the board of trustees and shall not be transferred or revert to the general fund of the state at the end of any fiscal year.

(2) The moneys in the fund shall remain under the control of the board of trustees and shall be used for the payment of salaries and operating expenses of the board of trustees and of Fort Lewis college and for the payment of any other expenses incurred by the board of trustees in carrying out its powers and duties.

(3) Moneys in the fund which are not needed for use by the board of trustees may be invested by the state treasurer in investments authorized by sections 24-36-109, 24-36-112, and 24-36-113, C.R.S. The board of trustees shall determine the amount of moneys in the fund that may be so invested and shall notify the state treasurer in writing of such amount.

(4) If the board of trustees votes to invest Fort Lewis college's assets pursuant to sections 23-52-103.3 and 23-52-103.4, the board shall establish an investment advisory committee consisting of at least five members to make recommendations to the board regarding investments. The investment advisory committee, at a minimum, shall include the Fort Lewis college treasurer, a member of the board, and three representatives from the financial community.

Source: L. 71: R&RE, p. 1182, § 1. **C.R.S. 1963:** § 124-14-3. **L. 85:** Entire section amended, p. 768, § 22, effective July 1. **L. 2002:** Entire section R&RE, p. 1253, § 4, effective July 1; entire part amended, p. 1242, § 11, effective August 7. **L. 2013:** (1) amended and (4) added, (HB 13-1297), ch. 260, p. 1373, § 4, effective August 7.

Editor's note: This part 1 was amended in House Bill 02-1260. Those amendments were superseded by the repeal and reenactment of the section in House Bill 02-1419.

Cross references: For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 303, Session Laws of Colorado 2002.

23-52-103.3. Investments in consolidated funds. Unless otherwise restrained by the terms of a will, trust agreement, or other instrument of gift, the board of trustees may hold

investments in one or more consolidated investment funds in which the participating trusts or accounts have undivided interests.

Source: L. 2013: Entire section added, (HB 13-1297), ch. 260, p. 1374, § 5, effective August 7.

23-52-103.4. Corporate stock in name of nominee authorized. (1) In order to facilitate the investment, reinvestment, sale, and disposition of corporate stocks, the board of trustees may hold certificates of stock in the name of a nominee of its selection without disclosing the fact that the certificates are held by the board of trustees or are held in a fiduciary capacity if:

(a) The records of the board of trustees and all reports or accounts rendered by it clearly show the ownership of the stock by the board and the facts regarding the board's holding; and

(b) The nominee deposits with the board of trustees a signed statement showing the trust ownership, endorses the stock certificate in blank, and does not have possession of or access to the stock certificate except under the immediate supervision of the treasurer of Fort Lewis college or another person that the board of trustees has designated.

(2) The board of trustees shall maintain a list of certificates of stock held in the names of nominees pursuant to this section and shall make the list available for public inspection during normal business hours.

(3) The board of trustees shall report to the joint budget committee of the general assembly at each regular session, beginning after August 7, 2013, regarding the investments made and the earnings or losses derived therefrom under the provisions of this section and section 23-52-103.3. The report must include information indicating the extent to which the investment managers hired by the board of trustees have achieved or failed to achieve the performance benchmarks established pursuant to section 23-52-103.5 (1)(b).

Source: L. 2013: Entire section added, (HB 13-1297), ch. 260, p. 1374, § 5, effective August 7.

23-52-103.5. Investment policy - fiduciary responsibility. (1) If the board of trustees votes to invest Fort Lewis college's assets pursuant to sections 23-52-103.3 and 23-52-103.4, then the board of trustees shall develop and annually review a written investment policy for Fort Lewis college, which policy must include:

(a) An acknowledgment by the board of trustees of the board's fiduciary responsibility with respect to oversight of the investment policy of Fort Lewis college; and

(b) The establishment of performance benchmarks for each investment manager hired by the board of trustees pursuant to sections 23-52-103.3 and 23-52-103.4.

(2) In selecting investment managers for the purposes of this section, the board of trustees shall use an open and competitive process.

(3) If the board of trustees votes to invest moneys pursuant to sections 23-52-103.3 and 23-52-103.4, the board shall require annual financial statements to be submitted to the board of trustees, the state treasurer, the state auditor, and the joint budget committee of the general assembly. The financial statements must include, at a minimum, information concerning

investment income, gains, and losses, if any, of Fort Lewis college. The financial statements must report the performance of investments on both a gross-of-fee and a net-of-fee basis.

(4) If the board of trustees votes to invest moneys pursuant to sections 23-52-103.3 and 23-52-103.4, the board shall ensure that, at all times, liquid investment assets remain at a level sufficient to pay for all budgeted, outstanding operational obligations and expenses occurring within the current fiscal year.

(5) Fort Lewis college shall not request from the general assembly any general fund appropriations to replace any losses incurred due to investment activities conducted by the board of trustees pursuant to sections 23-52-103.3 and 23-52-103.4.

Source: L. 2013: Entire section added, (HB 13-1297), ch. 260, p. 1375, § 5, effective August 7.

23-52-104. Governing board - powers. (1) In addition to those powers conferred elsewhere in this part 1, the board of trustees has the power to:

(a) Appoint a president of Fort Lewis college who shall hold the office until removed by the board of trustees or until the president resigns the same;

(b) Appoint such other executive officers of the college as may be required;

(c) Appoint such faculty and employees as the necessities of the college demand;

(d) Determine the compensation to be paid to the president, executive officers, faculty, and professional staff;

(e) Sell, lease, or exchange real property, or any interest therein, as specified in section 23-30-102, the ownership of which is vested in the board of trustees or Fort Lewis college. The board of trustees shall report all proposed sales, leases, or exchanges of such real property adjacent to or titled in Fort Lewis college to the Colorado commission on higher education, which will review and approve or disapprove the proposed transaction pursuant to section 23-1-106.

(2) The board of trustees for Fort Lewis college shall have general supervision of the college and plenary power to enact rules and regulations for the governance of the college.

(3) All real and personal property held by the board of governors of the Colorado state university system for the benefit of Fort Lewis college, including the beneficial interest in the Hesperus property owned by the state board of land commissioners and the Hesperus fund, is hereby transferred to the board of trustees. Such transfer shall not include real or personal property held by the board of governors of the Colorado state university system for its own benefit.

(4) All existing or future debt, liabilities, or obligations of the board of governors of the Colorado state university system incurred or arising with respect to Fort Lewis college, including but not limited to outstanding revenue bond obligations, lease obligations, and debt, shall be the sole responsibility of the board of trustees on and after September 1, 2002, and on and after September 1, 2002, the board of governors of the Colorado state university system shall have no further liability with respect thereto.

(5) The board of governors of the Colorado state university system and the board of trustees shall enter into an intergovernmental agreement providing that:

(a) The board of trustees and the board of governors of the Colorado state university system shall jointly request that the state board of land commissioners extend the existing lease

of the Hesperus property to the board of governors of the Colorado state university system for the use and benefit of the Colorado agricultural experiment station beyond its current expiration on the same terms and conditions for a period of not less than ten years. The board of governors of the Colorado state university system shall cooperate with the board of trustees to facilitate the use of portions of the Hesperus property, which is owned by the state board of land commissioners, so long as such uses are compatible and not inconsistent with the use and operation of property by the Colorado agricultural experiment station.

(b) The board of governors of the Colorado state university system shall have the right to use the real property upon which the Colorado state forest service district office is located on the Fort Lewis college main campus for a minimum of twenty-five years;

(c) The board of governors of the Colorado state university system shall prepare appropriate documentation for transfer of all bonded and municipal lease debt related to Fort Lewis college to the board of trustees. All costs associated with such transfer shall be paid by the board of trustees. The board of governors of the Colorado state university system and the board of trustees shall cooperate to obtain any approvals required, satisfy any conditions necessary to accomplish this transfer, and execute all implementing documentation.

(d) (I) The board of governors of the Colorado state university system and the board of trustees shall cooperate to identify and transfer to the board of trustees:

(A) Any local, state, or federal licenses or permits required for the operation of Fort Lewis college held in the name of the board of governors of the Colorado state university system, such as federal communications commission licenses, environmental permits, or liquor licenses; and

(B) Real property records or interests held by the board of governors of the Colorado state university system for the benefit of Fort Lewis college.

(II) The board of trustees shall pay all costs associated with any such transfers.

Source: L. 71: R&RE, p. 1183, § 1. **C.R.S. 1963:** § 124-14-4. **L. 88:** (1)(c) amended and (1)(e) added, p. 853, § 4, effective April 20. **L. 2002:** Entire section amended, p. 1254, § 7, effective July 1; entire part amended, p. 1242, § 11, effective August 7. **L. 2003:** (3), (4), and (5) amended, p. 1995, § 42, effective May 22.

Editor's note: This part 1 was amended in House Bill 02-1260. Those amendments were superseded by amendments of the section in House Bill 02-1419.

Cross references: For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 303, Session Laws of Colorado 2002.

23-52-104.5. Powers and duties of the president.

(1) Repealed.

(2) On and after September 1, 2002, the president of Fort Lewis college shall report directly to the board of trustees.

Source: L. 85: Entire section added, p. 768, § 23, effective July 1. **L. 2002:** Entire section amended, p. 1256, § 8, effective July 1; entire part amended, p. 1243, § 11, effective August 7.

Editor's note: (1) Amendments to this section by House Bill 02-1260 and House Bill 02-1419 were harmonized.

(2) Subsection (1)(b) provided for the repeal of subsection (1), effective July 1, 2003. (See L. 2002, p. 1256.)

Cross references: For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 303, Session Laws of Colorado 2002.

23-52-105. Tuition fees - Native Americans.

(1) (a) Repealed.

(b) (I) 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 Fort Lewis college pursuant to section 23-1-104 (1)(b)(I), subject to the restriction that all qualified Native American students must at all times be admitted to such college free of charge for tuition and on terms of equality with other students. The general assembly shall appropriate from the state general fund one hundred percent of the money required for tuition for such qualified Native American students.

(II) Repealed.

(2) Special programs may also be offered to assist Native American students to prepare for, begin, or continue their college education at Fort Lewis college. Fort Lewis college shall not charge Native American students tuition for such programs. The size of any special programs offered pursuant to this subsection (2) is limited by the facilities and revenues available and by the level of appropriations set therefor by the general assembly.

Source: L. 71: R&RE, p. 1183, § 1. **C.R.S. 1963:** § 124-14-5. **L. 75:** Entire section amended, p. 213, § 36, effective July 16. **L. 85:** (1) amended, p. 768, § 24, effective July 1. **L. 93:** (1) amended, p. 1520, § 29, effective June 6. **L. 2002:** (1) amended, p. 1256, § 9, effective July 1; entire part amended, p. 1243, § 11, effective August 7. **L. 2008:** (1)(b) amended, p. 119, § 6, effective March 19. **L. 2010:** (1)(b) amended, (SB 10-003), ch. 391, p. 1844, § 14, effective June 9. **L. 2018:** (1)(b)(I) and (2) amended, (HB 18-1048), ch. 27, p. 326, § 2, effective August 8.

Editor's note: (1) Amendments to this section by House Bill 02-1260 and House Bill 02-1419 were harmonized.

(2) Subsection (1)(a)(II) provided for the repeal of subsection (1)(a), effective July 1, 2003. (See L. 2002, p. 1256.)

(3) Subsection (1)(b)(II) provided for the repeal of subsection (1)(b)(II), effective July 1, 2016. (See L. 2010, p. 1844.)

Cross references: (1) For classification of students for tuition purposes, see article 7 of this title.

(2) For the legislative declaration contained in the 2002 act amending subsection (1), see section 1 of chapter 303, Session Laws of Colorado 2002. For the legislative declaration in the 2010 act amending subsection (1)(b), see section 1 of chapter 391, Session Laws of Colorado 2010.

23-52-106. Donations - power to invest.

(1) Repealed.

(2) On and after September 1, 2002, all donations of money, securities, or other property of whatever kind and wherever situated made to Fort Lewis college shall be held by the board of trustees for the use and benefit of Fort Lewis college, to be expended subject to appropriation by the general assembly or invested in such securities as are permitted for private trustees and similar fiduciaries under the law of the state of Colorado.

Source: L. 71: R&RE, p. 1183, § 1. **C.R.S. 1963:** § 124-14-6. **L. 2002:** Entire section amended, p. 1257, § 10, effective July 1; entire part amended, p. 1243, § 11, effective August 7.

Editor's note: (1) Amendments to this section by House Bill 02-1260 and House Bill 02-1419 were harmonized.

(2) Subsection (1)(b) provided for the repeal of subsection (1), effective July 1, 2003. (See L. 2002, p. 1257.)

Cross references: For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 303, Session Laws of Colorado 2002.

23-52-107. Board of trustees empowered to lease grounds.

(1) Repealed.

(2) On and after September 1, 2002, for the purpose of providing dormitories, living and dining halls, or cottages and equipment for the use of the college, and to enable the construction, financing, and ultimate acquisition thereof, and to aid in improving undeveloped portions of the grounds of the Fort Lewis college, the board of trustees is empowered to lease grounds under its control to private persons or corporations for a term not exceeding fifty years and subject to such regulations as it may prescribe and upon the condition that such private persons or corporations shall construct and equip on such leased grounds such buildings or improvements as the board of trustees designates or approves and secure reimbursement for money invested therein from the rentals of such buildings or from their sale to the board of trustees acting for the state.

Source: L. 76: Entire section added, p. 577, § 1, effective April 5. **L. 2002:** Entire section amended, p. 1257, § 11, effective July 1; entire part amended, p. 1243, § 11, effective August 7.

Editor's note: (1) Amendments to this section by House Bill 02-1260 and House Bill 02-1419 were harmonized.

(2) Subsection (1)(b) provided for the repeal of subsection (1), effective July 1, 2003. (See L. 2002, p. 1257.)

Cross references: For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 303, Session Laws of Colorado 2002.

23-52-108. No authority to obligate state.

(1) Repealed.

(2) On and after September 1, 2002, nothing in sections 23-52-107 to 23-52-113 shall constitute any authority to enter into any contract which in any way creates any debt or obligation upon the state on account of the construction of such buildings or improvements; but buildings and improvements erected on any such lands under the control of the board of trustees and devoted to the uses of the college under the terms of sections 23-52-107 to 23-52-113 and the leasehold interest shall be exempt from taxation so far as permitted by the state constitution.

Source: L. 76: Entire section added, p. 577, § 1, effective April 5. **L. 2002:** Entire section amended, p. 1258, § 12, effective July 1; entire part amended, p. 1243, § 11, effective August 7.

Editor's note: (1) Amendments to this section by House Bill 02-1260 and House Bill 02-1419 were harmonized.

(2) Subsection (1)(b) provided for the repeal of subsection (1), effective July 1, 2003. (See L. 2002, p. 1258.)

Cross references: For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 303, Session Laws of Colorado 2002.

23-52-109. Buildings - control of.

(1) Repealed.

(2) On and after September 1, 2002, the management of buildings erected and equipped under the terms of sections 23-52-107 to 23-52-113 and the scale of rentals thereof shall be subject to the approval of the board of trustees.

Source: L. 76: Entire section added, p. 578, § 1, effective April 5. **L. 2002:** Entire section amended, p. 1258, § 13, effective July 1; entire part amended, p. 1244, § 11, effective August 7.

Editor's note: (1) Amendments to this section by House Bill 02-1260 and House Bill 02-1419 were harmonized.

(2) Subsection (1)(b) provided for the repeal of subsection (1), effective July 1, 2003. (See L. 2002, p. 1258.)

Cross references: For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 303, Session Laws of Colorado 2002.

23-52-110. Board of trustees may rent buildings.

(1) Repealed.

(2) On and after September 1, 2002, the board of trustees is authorized to lease or rent such buildings constructed under the provisions of sections 23-52-107 to 23-52-113 from the private persons or corporations constructing the same upon such terms as it deems satisfactory as to current rental, maintenance, and ultimate purchase, paying therefor out of the revenues derived from the operation of such buildings by the board of trustees or from other funds under its control available for general maintenance purposes.

Source: L. 76: Entire section amended, p. 578, § 1, effective April 5. **L. 2002:** Entire section amended, p. 1258, § 14, effective July 1; entire part amended, p. 1244, § 11, effective August 7.

Editor's note: (1) Amendments to this section by House Bill 02-1260 and House Bill 02-1419 were harmonized.

(2) Subsection (1)(b) provided for the repeal of subsection (1), effective July 1, 2003. (See L. 2002, p. 1258.)

Cross references: For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 303, Session Laws of Colorado 2002.

23-52-111. To be state property at lease end. Upon the termination of any lease or contract executed under the terms of sections 23-52-107 to 23-52-113 providing for the construction and equipment of buildings, such buildings shall become the property of the state, together with all equipment, furnishings, or appurtenances therein contained or thereto attached; except that personal goods or effects of any occupant may be removed.

Source: L. 76: Entire section added, p. 578, § 1, effective April 5. **L. 2002:** Entire part amended, p. 1244, § 11, effective August 7.

23-52-112. Leasehold interest may be sold.

(1) Repealed.

(2) On and after September 1, 2002, nothing in sections 23-52-107 to 23-52-113 shall prevent the transfer or sale of the leasehold interests prior to their expiration, subject to the approval of the board of trustees.

Source: L. 76: Entire section added, p. 578, § 1, effective April 5. **L. 2002:** Entire section amended, p. 1259, § 15, effective July 1; entire part amended, p. 1244, § 11, effective August 7.

Editor's note: (1) Amendments to this section by House Bill 02-1260 and House Bill 02-1419 were harmonized.

(2) Subsection (1)(b) provided for the repeal of subsection (1), effective July 1, 2003. (See L. 2002, p. 1259.)

Cross references: For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 303, Session Laws of Colorado 2002.

23-52-113. Board of trustees may rent rooms.

(1) Repealed.

(2) On and after September 1, 2002, upon the termination of any lease or contract executed with private persons or corporations for the construction of buildings under the terms of sections 23-52-107 to 23-52-113, the board of trustees is empowered to rent rooms or quarters

in buildings erected under such leases or contracts for such reasonable compensation as it deems best in relation to current operation, maintenance, and upkeep costs.

Source: L. 76: Entire section added, p. 578, § 1, effective April 5. **L. 2002:** Entire section amended, p. 1259, § 16, effective July 1; entire part amended, p. 1244, § 11, effective August 7.

Editor's note: (1) Amendments to this section by House Bill 02-1260 and House Bill 02-1419 were harmonized.

(2) Subsection (1)(b) provided for the repeal of subsection (1), effective July 1, 2003. (See L. 2002, p. 1259.)

Cross references: For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 303, Session Laws of Colorado 2002.

23-52-114. Hesperus account created. The proceeds of or income from the property formerly known as the "Fort Lewis school", granted by the United States to the state of Colorado, pursuant to an act of congress approved April 4, 1910 (36 Stat. 274), as modified by an act of congress approved May 18, 1916 (39 Stat. 128), constitutes a special account known as the "Hesperus account". The income from said property and from the Hesperus account may be appropriated by the general assembly and used by the board of trustees for tuition waivers at Fort Lewis college for qualified Native American students together with money appropriated for such tuition waivers granted for Native American students pursuant to section 23-52-105. The board of trustees shall apply any remaining money in the account to such public purpose as the board of trustees determines necessary.

Source: L. 2002: Entire section added with relocations, p. 1254, § 5, effective July 1. **L. 2018:** Entire section amended, (HB 18-1048), ch. 27, p. 326, § 1, effective August 8.

Editor's note: This section is similar to former § 23-30-114 as it existed prior to 2002.

Cross references: For the legislative declaration contained in the 2002 act enacting this section, see section 1 of chapter 303, Session Laws of Colorado 2002.

23-52-115. Development of natural resources. The state board of land commissioners is authorized to prudently develop such coal measures, mineral deposits, and oil structures by lease or otherwise as is situated on lands described in section 23-52-114, but such development shall not unreasonably interfere with the use of such land as may be directed from time to time by the board of trustees. Applications for leases of the coal measures, mineral deposits, and oil structures shall be made to the state board of land commissioners, which board may execute such leases in the manner required by law. Rental, royalties, and income therefrom shall be deposited with the state treasurer and credited to the special account established by section 23-52-114.

Source: L. 2002: Entire section added with relocations, p. 1254, § 5, effective July 1.

Editor's note: This section is similar to former § 23-30-115 as it existed prior to 2002.

Cross references: For the legislative declaration contained in the 2002 act enacting this section, see section 1 of chapter 303, Session Laws of Colorado 2002.

23-52-116. Power to invest. The board of trustees has the power to direct the investment of funds held by the state treasurer pursuant to section 23-52-114 in such securities as are permitted for private trustees and similar fiduciaries under the law of the state of Colorado.

Source: L. 2002: Entire section added with relocations, p. 1254, § 5, effective July 1.

Editor's note: This section is similar to former § 23-30-116 as it existed prior to 2002.

Cross references: For the legislative declaration contained in the 2002 act enacting this section, see section 1 of chapter 303, Session Laws of Colorado 2002.

PART 2

GRAND JUNCTION SCHOOL

23-52-201 and 23-52-202. (Repealed)

Source: L. 82: Entire part repealed, p. 348, § 1, effective March 11.

Editor's note: (1) This part 2 was numbered as article 15 of chapter 124, C.R.S. 1963. For amendments to this part 2 prior to its repeal in 1982, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

(2) The provisions of this part 2 concerning the Grand Junction School were repealed in 1982. The following is an historical narrative of the property that was the subject of this part 2: The property originally known as the Grand Junction Indian School was granted to the state for educational purposes by the federal congress in 1910; see 36 Stat. 1910, p. 273. A school of horticulture, forestry, and vocational learning was established there in 1911; see L. 11, p. 145, § 1. In 1916 a change of use was authorized, allowing the state to use the property for the care of the insane, for an agricultural experiment station, or for other public purposes; see 39 Stat. 1916, p. 128. A state home and training school for mental defectives was then established on the property in 1919; see legislative history of § 27-14-109 prior to its repeal by L. 83, p. 1161, § 23.

ARTICLE 53

Colorado Mesa University

Editor's note: This article was numbered as article 27 of chapter 124, C.R.S. 1963. The provisions of this article were repealed and reenacted in 2003, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article

prior to 2003, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated.

23-53-101. University established - role and mission. There is hereby established a university at Grand Junction, to be known as Colorado Mesa university, which shall be a general baccalaureate and graduate institution with selective admission standards. Colorado Mesa university shall offer liberal arts and sciences, professional, and technical degree programs and a limited number of graduate programs. Colorado Mesa university shall also maintain a community college role and mission, including career and technical education programs. Colorado Mesa university shall receive resident credit for two-year course offerings in its commission-approved service area. Colorado Mesa university shall also serve as a regional education provider.

Source: L. 2003: Entire article R&RE, p. 780, § 5, effective July 1. **L. 2010:** Entire section amended, (SB 10-079), ch. 153, p. 528, § 1, effective August 11. **L. 2011:** Entire section amended, (SB 11-265), ch. 292, p. 1359, § 2, effective August 10. **L. 2012:** Entire section amended, (HB 12-1324), ch. 192, p. 768, § 1, effective May 21.

Editor's note: This section is similar to former § 23-53-101 as it existed prior to 2003.

Cross references: For the legislative declaration in the 2011 act amending this section, see section 1 of chapter 292, Session Laws of Colorado 2011.

23-53-102. Board of trustees - creation - members - powers - duties. (1) (a) There is established the board of trustees for Colorado Mesa university, referred to in this article as the "board of trustees", which shall consist of thirteen members and shall be the governing authority for Colorado Mesa university. The board of trustees shall be, and is hereby declared to be, a body corporate and, as such and by the names designated in this section, may:

(I) Acquire and hold property for the use of Colorado Mesa university;

(II) Be a party to all suits and contracts; and

(III) Do all things necessary to carry out the provisions of this article in like manner as municipal corporations of this state, including but not limited to the power to demand, receive, hold, and use for the best interests of Colorado Mesa university such money, lands, or other property as may be donated or devised to or for the university.

(b) The board of trustees and its successors shall have perpetual succession, shall have a seal, may make bylaws and regulations for the well-ordering and governance of Colorado Mesa university, and may conduct the business of the university in a manner not repugnant to the constitution and laws of this state. The board of trustees shall elect from the appointed members a chairperson, whose duties and responsibilities shall be prescribed in the duly adopted bylaws of the board of trustees. The board of trustees shall also elect a secretary and a treasurer, who may be members of the board and whose duties and responsibilities shall be prescribed in the duly adopted bylaws of the board of trustees. The staff of Colorado Mesa university shall provide staff support for the board of trustees.

(2) The governor shall appoint, effective July 1, 2003, with the consent of the senate, eleven members of the board of trustees. Members appointed to the board of trustees shall have the authority to act on behalf of the board of trustees prior to obtaining confirmation by the senate. The members first appointed to said board shall take office on July 1, 2003. Appointments of members to take office on July 1, 2003, shall be made so that three members of the board have terms expiring on January 1, 2005, two members of the board have terms expiring on January 1, 2006, two members of the board have terms expiring on January 1, 2007, and two members of the board have terms expiring on January 1, 2008; thereafter, the terms of the eleven appointed members of the board of trustees shall be four years. Notwithstanding any other provision of this section, the term of each member serving on the board of trustees as of May 26, 2006, shall be extended to expire on December 31 of the calendar year in which the member's appointed term would otherwise expire. Members appointed on or after January 1, 2007, shall serve terms of up to four years, expiring on December 31 of the third calendar year following the calendar year in which the member is appointed; except that of the two members appointed pursuant to House Bill 12-1324, enacted in 2012, one shall have a term that expires on January 1, 2015, and one shall have a term that expires on January 1, 2016. For terms ending on or after December 31, 2006, the governor shall appoint a succeeding member on or before March 1 immediately following the expiration of the term. Of the eleven members appointed by the governor, no more than six members shall be from the same political party. Of the eleven members appointed by the governor, at least two shall reside in Delta, Garfield, Mesa, or Montrose county. Each trustee shall hold office for the term for which the trustee has been appointed and until the trustee's successor is appointed and confirmed by the senate.

(3) The twelfth member of the board of trustees shall be a full-time junior or senior student at Colorado Mesa university, elected by the members of the student body of Colorado Mesa university. The term of the student member shall be one year, beginning July 1, 2003, and beginning July 1 each year thereafter. The student member shall be advisory, without the right to vote and without the right to attend executive sessions of the board of trustees, as provided by section 24-6-402, C.R.S. The student member shall have resided in the state of Colorado for not less than three years prior to the student's election.

(4) The thirteenth member shall be a member of the faculty of Colorado Mesa university elected by other members of the faculty for a term of two years, beginning July 1, 2003, and beginning July 1 every odd-numbered year thereafter. The faculty member shall be advisory, without the right to vote and without the right to attend executive sessions of the board of trustees, as provided by section 24-6-402, C.R.S.

(5) A vacancy of an appointed member of the board of trustees shall be filled by appointment by the governor for the unexpired term. A vacancy of either of the elected members of the board of trustees shall be filled by election for the unexpired term. Each member of the board of trustees shall take an oath or affirmation in accordance with section 24-12-101.

(6) (a) Except as otherwise provided in this subsection (6), the powers, duties, and functions formerly performed by the trustees of the state colleges in Colorado with respect to Mesa state college are hereby transferred to the board of trustees. Policies, resolutions, procedures, and agreements previously approved by the trustees of the state colleges in Colorado and applicable to Mesa state college shall remain in force and effect unless and until changed by the board of trustees.

(b) Except as otherwise provided in this subsection (6), the powers, duties, and functions formerly performed by the board of trustees of Mesa state college are hereby transferred to the board of trustees of Colorado Mesa university. Policies, resolutions, procedures, and agreements previously approved by the board of trustees of Mesa state college shall remain in force and effect unless and until changed by the board of trustees of Colorado Mesa university.

(7) In addition to those powers conferred elsewhere in this article, the board of trustees has the power to:

(a) Appoint a president of Colorado Mesa university;

(b) Appoint such other executive officers of the university as may be required;

(c) Appoint faculty and employees as may be required;

(d) Determine the compensation to be paid to the president, executive officers, faculty, and professional staff;

(e) With the advice of the faculty, prescribe the degree programs for the university; and

(f) Prescribe the student admissions qualifications.

Source: L. 2003: Entire article R&RE, p. 780, § 5, effective July 1. **L. 2006:** (2) amended, p. 1232, § 6, effective May 26. **L. 2008:** (1)(b) amended, p. 340, § 1, effective April 10. **L. 2011:** Entire section amended, (SB 11-265), ch. 292, p. 1359, § 3, effective August 10. **L. 2012:** IP(1)(a), (2), (3), and (4) amended, (HB 12-1324), ch. 192, p. 768, § 2, effective May 21. **L. 2018:** (5) amended, (HB 18-1138), ch. 88, p. 695, § 15, effective August 8.

Cross references: For the legislative declaration in the 2011 act amending this section, see section 1 of chapter 292, Session Laws of Colorado 2011. For the legislative declaration in HB 18-1138, see section 1 of chapter 88, Session Laws of Colorado 2018.

23-53-102.5. Tuition - repeal. (Repealed)

Source: L. 2010: Entire section added, (SB 10-003), ch. 391, p. 1844, § 15, effective June 9. **L. 2011:** (1) amended, (SB 11-265), ch. 292, p. 1361, § 4, effective August 10.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2016. (See L. 2010, p. 1844.)

23-53-103. Board of trustees for the Colorado Mesa university fund - creation - control - use. (1) There is created in the state treasury the board of trustees for Colorado Mesa university fund, referred to in this section as the "fund", which shall be under the control of and administered by the board of trustees in accordance with the provisions of this article. The board of trustees shall have authority and responsibility for all moneys of the board of trustees and of Colorado Mesa university. The board of trustees shall designate, pursuant to its statutory authority, those moneys received or acquired by the board of trustees or by Colorado Mesa university, whether received by appropriation, grant, contract, or gift or by sale or lease of surplus real or personal property or by any other means, whose disposition is not otherwise provided for by law, that shall be credited to the fund. All interest and income derived from the deposit and investment of moneys in the fund shall be credited to the fund. The moneys in the fund are hereby continuously appropriated to the board of trustees and shall remain in the fund

under the control of the board of trustees and shall not be transferred or revert to the general fund of the state at the end of a fiscal year.

(2) The moneys in the fund shall remain under the control of the board of trustees and shall be used for the payment of salaries and operating expenses of the board of trustees and of Colorado Mesa university and for the payment of any other expenses incurred by the board of trustees in carrying out its powers and duties.

(3) Moneys in the fund that are not needed for use by the board of trustees may be invested by the state treasurer in investments authorized by sections 24-36-109, 24-36-112, and 24-36-113, C.R.S. The board of trustees shall determine the amount of moneys in the fund that may be invested and shall notify the state treasurer in writing of the amount.

(4) If the board of trustees votes to invest Colorado Mesa university assets pursuant to sections 23-53-103.3 and 23-53-103.4, the board shall establish an investment advisory committee consisting of at least five members to make recommendations to the board regarding investments. The investment advisory committee, at a minimum, shall include the Colorado Mesa university treasurer, a member of the board, and three representatives from the financial community.

(5) Repealed.

Source: L. 2003: Entire article R&RE, p. 782, § 5, effective July 1. **L. 2008:** (1) amended and (4) added, p. 340, § 2, effective April 10. **L. 2011:** (1), (2), and (4) amended and (5) added, (SB 11-265), ch. 292, p. 1361, § 5, effective August 10.

Editor's note: Subsection (5)(b) provided for the repeal of subsection (5), effective July 1, 2012. (See L. 2011, p. 1361.)

Cross references: For the legislative declaration in the 2011 act amending subsections (1), (2), and (4) and adding subsection (5), see section 1 of chapter 292, Session Laws of Colorado 2011.

23-53-103.3. Investments in consolidated funds. Unless otherwise restrained by the terms of a will, trust agreement, or other instrument of gift, the board of trustees is authorized to hold investments in one or more consolidated investment funds in which the participating trusts or accounts have undivided interests.

Source: L. 2008: Entire section added, p. 341, § 3, effective April 10.

23-53-103.4. Corporate stock in name of nominee authorized. (1) In order to facilitate the investment, reinvestment, sale, and disposition of corporate stocks, the board of trustees is authorized to hold certificates of stock in the name of a nominee of its selection without disclosing the fact that the certificates are held by the board of trustees or are held in a fiduciary capacity if:

(a) The records of the board and all reports or accounts rendered by it clearly show the ownership of the stock by the board and the facts regarding the board's holding; and

(b) The nominee deposits with the board a signed statement showing the trust ownership, endorses the stock certificate in blank, and does not have possession of or access to the stock

certificate except under the immediate supervision of the treasurer of Colorado Mesa university or another person that the board of trustees has designated.

(2) The board of trustees shall maintain a list of certificates of stock held in the names of nominees pursuant to this section and shall make the list available for public inspection during normal business hours.

(3) The board of trustees shall report to the joint budget committee of the general assembly at each regular session regarding the investments made and the earnings or losses derived therefrom under the provisions of this section and section 23-53-103.3. The report shall include information indicating the extent to which the investment managers hired by the board of trustees have achieved or failed to achieve the performance benchmarks established pursuant to section 23-53-103.6 (1)(b).

Source: L. 2008: Entire section added, p. 341, § 3, effective April 10. **L. 2011:** (1)(b) amended, (SB 11-265), ch. 292, p. 1362, § 6, effective August 10.

Cross references: For the legislative declaration in the 2011 act amending subsection (1)(b), see section 1 of chapter 292, Session Laws of Colorado 2011.

23-53-103.6. Investment policy - fiduciary responsibility. (1) If the board of trustees votes to invest Colorado Mesa university's assets pursuant to sections 23-53-103.3 and 23-53-103.4, then the board of trustees shall develop and annually review a written investment policy for Colorado Mesa university, which policy shall include:

(a) An acknowledgment by the board of trustees of the board's fiduciary responsibility with respect to oversight of the investment policy of Colorado Mesa university; and

(b) The establishment of performance benchmarks for each investment manager hired by the board of trustees pursuant to sections 23-53-103.3 and 23-53-103.4.

(2) In selecting investment managers for the purposes of this section, the board of trustees shall use an open and competitive process.

(3) If the board of trustees votes to invest moneys pursuant to sections 23-53-103.3 and 23-53-103.4, the board shall require annual financial statements to be submitted to the board of trustees, the state treasurer, the state auditor, and the joint budget committee of the general assembly. The financial statements shall include, at a minimum, information concerning investment income, gains, and losses, if any, of Colorado Mesa university. The financial statements shall report the performance of investments on both a gross-of-fee and a net-of-fee basis.

(4) If the board of trustees votes to invest moneys pursuant to sections 23-53-103.3 and 23-53-103.4, the board shall ensure that, at all times, liquid investment assets remain at a level sufficient to pay for all budgeted, outstanding operational obligations and expenses occurring within the current fiscal year.

(5) Colorado Mesa university shall not request from the general assembly any general fund appropriations to replace any losses incurred due to investment activities conducted by the board of trustees pursuant to sections 23-53-103.3 and 23-53-103.4.

Source: L. 2008: Entire section added, p. 342, § 3, effective April 10. **L. 2011:** IP(1), (1)(a), (3), and (5) amended, (SB 11-265), ch. 292, p. 1363, § 7, effective August 10.

Cross references: For the legislative declaration in the 2011 act amending the introductory portion to subsection (1) and subsections (1)(a), (3), and (5), see section 1 of chapter 292, Session Laws of Colorado 2011.

23-53-104. Board of trustees for Colorado Mesa university to supervise. The board of trustees shall have general supervision of Colorado Mesa university and the control and direction of the funds and appropriations made thereto, and the board of trustees shall have power to receive, demand, and hold for the uses and purposes of the university all money, lands, and other property which may be donated, devised, or conveyed thereto and to apply the same in such manner as shall best serve the university's objects and interests.

Source: L. 2003: Entire article R&RE, p. 783, § 5, effective July 1. **L. 2011:** Entire section amended, (SB 11-265), ch. 292, p. 1363, § 8, effective August 10.

Editor's note: This section is similar to former § 23-53-106 as it existed prior to 2003.

Cross references: For the legislative declaration in the 2011 act amending this section, see section 1 of chapter 292, Session Laws of Colorado 2011.

23-53-105. Power to acquire land. The board of trustees shall also have power to take and hold, by gift, devise, or purchase or through exercise of the power of eminent domain pursuant to law, so much additional land as may become necessary for the location and construction of such additional buildings, structures, and other facilities as may be required for the uses and purposes of Colorado Mesa university from funds appropriated by the general assembly.

Source: L. 2003: Entire article R&RE, p. 783, § 5, effective July 1. **L. 2011:** Entire section amended, (SB 11-265), ch. 292, p. 1363, § 9, effective August 10.

Editor's note: This section is similar to former § 23-53-107 as it existed prior to 2003.

Cross references: For the legislative declaration in the 2011 act amending this section, see section 1 of chapter 292, Session Laws of Colorado 2011.

23-53-106. Board of trustees empowered to lease grounds. For the purpose of providing dormitories, living and dining halls, or cottages and equipment for the use of Colorado Mesa university, and to enable the construction, financing, and ultimate acquisition thereof, and to aid in improving undeveloped portions of the grounds of Colorado Mesa university, the board of trustees is empowered to lease grounds under its control to private persons or corporations for a term not exceeding fifty years, subject to regulations as the board may prescribe and upon the condition that private persons or corporations shall construct and equip on the leased grounds buildings or improvements as the board of trustees designates or approves, reimbursement for money invested therein to be secured from the rentals of the buildings or from their sale to the board of trustees acting for the state.

Source: L. 2003: Entire article R&RE, p. 783, § 5, effective July 1. **L. 2011:** Entire section amended, (SB 11-265), ch. 292, p. 1364, § 10, effective August 10.

Editor's note: This section is similar to former § 23-53-108 as it existed prior to 2003.

Cross references: For the legislative declaration in the 2011 act amending this section, see section 1 of chapter 292, Session Laws of Colorado 2011.

23-53-107. No authority to obligate state. Nothing in this article shall constitute authority to enter into a contract which in any way creates any debt or obligation upon the state on account of the construction of buildings or improvements; but buildings and improvements erected on lands under the control of the board of trustees and devoted to the uses of Colorado Mesa university under the terms of this article and the leasehold interest shall be exempt from taxation so far as permitted by the state constitution.

Source: L. 2003: Entire article R&RE, p. 783, § 5, effective July 1. **L. 2011:** Entire section amended, (SB 11-265), ch. 292, p. 1364, § 11, effective August 10.

Editor's note: This section is similar to former § 23-53-109 as it existed prior to 2003.

Cross references: For the legislative declaration in the 2011 act amending this section, see section 1 of chapter 292, Session Laws of Colorado 2011.

23-53-108. Buildings - control of. The management of buildings erected and equipped under the terms of this article and the scale of rentals thereof shall be subject to the approval of the board of trustees.

Source: L. 2003: Entire article R&RE, p. 784, § 5, effective July 1.

Editor's note: This section is similar to former § 23-53-110 as it existed prior to 2003.

23-53-109. Board of trustees may rent buildings. The board of trustees is authorized to lease or rent buildings constructed under the provisions of this article from the private persons or corporations constructing the buildings upon such terms as the board deems satisfactory as to current rental, maintenance, and ultimate purchase, paying therefor out of the revenues derived from the operation of the buildings by the board of trustees or from other funds under its control available for general maintenance purposes.

Source: L. 2003: Entire article R&RE, p. 784, § 5, effective July 1.

Editor's note: This section is similar to former § 23-53-111 as it existed prior to 2003.

23-53-110. To be state property at lease end. Upon the termination of a lease or contract executed under the terms of this article providing for the construction and equipment of buildings, the buildings shall become the property of the state, together with all equipment,

furnishings, or appurtenances therein contained or thereto attached; except that personal goods or effects of an occupant may be removed.

Source: L. 2003: Entire article R&RE, p. 784, § 5, effective July 1.

Editor's note: This section is similar to former § 23-53-112 as it existed prior to 2003.

23-53-111. Leasehold interest may be sold. Nothing in this article shall prevent the transfer or sale of the leasehold interests prior to their expiration, subject to the approval of the board of trustees.

Source: L. 2003: Entire article R&RE, p. 784, § 5, effective July 1.

Editor's note: This section is similar to former § 23-53-113 as it existed prior to 2003.

23-53-112. Board of trustees may rent rooms. Upon the termination of a lease or contract executed with private persons or corporations for the construction of buildings under the terms of this article, the board of trustees is empowered to rent rooms or quarters in buildings erected under leases or contracts for reasonable compensation as the board deems best in relation to current operation, maintenance, and upkeep costs.

Source: L. 2003: Entire article R&RE, p. 784, § 5, effective July 1.

Editor's note: This section is similar to former § 23-53-114 as it existed prior to 2003.

ARTICLE 54

Metropolitan State University
of Denver

Editor's note: This article was numbered as article 19 of chapter 124, C.R.S. 1963. The provisions of this article were repealed and reenacted in 2002, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 2002, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated.

Cross references: For the legislative declaration contained in the 2002 act repealing and reenacting this article, see section 1 of chapter 307, Session Laws of Colorado 2002.

23-54-101. University established - role and mission - governance. There is hereby established a university at Denver, to be known as Metropolitan state university of Denver, which shall be a comprehensive institution with modified open admission standards at the baccalaureate level; except that nontraditional students at the baccalaureate level who are at least

twenty years of age shall only have as an admission requirement a high school diploma, the successful completion of a high school equivalency examination, as defined in section 22-33-102 (8.5), C.R.S., or the equivalent thereof. Metropolitan state university of Denver shall offer a variety of liberal arts and science, technical, and educational programs. The university may offer a limited number of professional programs. In furtherance of its role and mission, Metropolitan state university of Denver may offer master's degree programs that address the needs of its urban service area.

Source: L. 2002: Entire article R&RE, p. 1276, § 2, effective July 1. **L. 2009:** Entire section amended, (HB 09-1295), ch. 233, p. 1069, § 1, effective August 5. **L. 2012:** Entire section amended, (SB 12-148), ch. 125, p. 422, § 2, effective July 1. **L. 2014:** Entire section amended, (SB 14-058), ch. 102, p. 383, § 15, effective April 7.

Editor's note: This section is similar to former § 23-54-101 as it existed prior to 2002.

Cross references: For the legislative declaration in the 2012 act amending this section, see section 1 of chapter 125, Session Laws of Colorado 2012.

23-54-102. Board of trustees - creation - members - powers - duties. (1) (a) Effective July 1, 2002, there is established the board of trustees for Metropolitan state university of Denver, referred to in this article as the "board of trustees", which shall consist of eleven members and shall be the governing authority for Metropolitan state university of Denver. The board of trustees created by this subsection (1) shall be, and is hereby declared to be, a body corporate and, as such and by the names designated in this section, may:

(I) Acquire, by purchase or lease, and hold property for the use of Metropolitan state university of Denver, develop and construct facilities upon the property, and dispose of the property, leasehold interests, and facilities; except that the board of trustees shall have the authority to dispose of a leasehold interest in property owned by the Auraria higher education center only to a constituent institution, as specified in section 23-70-101 (1)(b), or in connection with a sale and leaseback or other form of transaction in which Metropolitan state university of Denver will remain the ultimate user of the property;

(II) Be a party to all suits and contracts;

(III) Do all things necessary to carry out the provisions of this article in like manner as municipal corporations of this state, including but not limited to the power to demand, receive, hold, and use for the best interests of Metropolitan state university of Denver such money, lands, or other property as may be donated or devised to or for the university;

(IV) Without limiting the scope of any other authority, authorize, by resolution, revenue bonds and enter into other lawful financial transactions for the purpose of raising moneys for constructing or otherwise acquiring and equipping any facility or facilities necessary or useful to the accomplishment of the mission of Metropolitan state university of Denver; and

(V) Transfer, assign, or pledge portions of its student fees, auxiliary revenues, capital facilities fees, and up to ten percent of tuition moneys to the Auraria higher education center to provide a source of repayment for revenue bonds or other loans or financial obligations incurred by the center to finance construction of an auxiliary facility, as defined in section 23-5-101.5 (2)(a), a complementary facility, as defined in section 23-70-105.5 (1), any other facility

necessary or useful to the accomplishment of the mission of Metropolitan state university of Denver, or the infrastructure necessary to support any of the types of facilities specified in this subparagraph (V).

(a.5) Nothing in this article shall authorize the board of trustees to enter into a contract for the construction of buildings or improvements that creates any debt or obligation upon the state. Buildings and improvements erected on lands controlled by the board of trustees and intended for the use of Metropolitan state university of Denver under the terms of this article and any leasehold interests shall be exempt from taxation as permitted by the state constitution.

(b) The trustees and their successors shall have perpetual succession, shall have a seal, may make bylaws and regulations for the well-ordering and government of Metropolitan state university of Denver, and may conduct the business of the university in a manner not repugnant to the constitution and laws of this state. The board of trustees shall elect from the appointed members a chairperson, whose duties and responsibilities shall be prescribed in the duly adopted bylaws of the board of trustees. The board shall also elect a secretary and a treasurer, who are not members of the board and whose duties and responsibilities shall be prescribed in the duly adopted bylaws of the board of trustees. The staff of Metropolitan state university of Denver shall provide staff support for the board of trustees.

(2) The governor shall appoint, with the consent of the senate, nine members of the board of trustees. The members first appointed to said board shall take office on July 1, 2002. The terms of appointed members of the board of trustees shall be four years; except that, of the members first appointed, the governor shall select two members who shall serve one-year terms, two members who shall serve two-year terms, and five members who shall serve four-year terms. Notwithstanding any other provision of this section, the term of each member serving on the board of trustees as of May 26, 2006, shall be extended to expire on December 31 of the calendar year in which the member's appointed term would otherwise expire. Members appointed on or after January 1, 2007, shall serve terms of up to four years, expiring on December 31 of the third calendar year following the calendar year in which the member is appointed. For terms ending on or after December 31, 2006, the governor shall appoint a succeeding member on or before March 1 immediately following the expiration of the term. All appointed members shall serve until their successors are appointed and qualified. Of the nine members appointed by the governor, no more than five members shall be from the same political party.

(3) A full-time junior or senior student at Metropolitan state university of Denver, elected by the student body at large, shall fill the tenth office as a member of the board of trustees. The term of office shall be one year, beginning July 1, 2002, and beginning July 1 each year thereafter. The elected student office shall be advisory, without the right to vote and without the right to attend executive sessions of the board of trustees, as provided by section 24-6-402, C.R.S. The elected student member of the board of trustees shall have resided in the state of Colorado not fewer than three years immediately prior to election. As used in this subsection (3), "full-time student" shall have the same definition as "full-time equivalent student" used by the joint budget committee of the general assembly.

(4) A full-time member of the teaching faculty at large of Metropolitan state university of Denver, elected by the faculty at large, shall fill the eleventh office as a member of the board of trustees. The term of office shall be one year, beginning July 1, 2002, and beginning July 1 each year thereafter. The elected faculty member of the board of trustees shall be advisory,

without the right to vote and without the right to attend executive sessions of the board of trustees, as provided by section 24-6-402, C.R.S.

(5) Any vacancy in the office of an appointed member of the board of trustees shall be filled by appointment by the governor for the unexpired term. Any vacancy in either of the elected offices on the board of trustees shall be filled by reelection for the unexpired term. Each trustee shall take an oath or affirmation in accordance with section 24-12-101.

(6) Except as otherwise provided in this subsection (6), the powers, duties, and functions formerly performed by the trustees of the state colleges in Colorado, as said governing board existed prior to July 1, 2003, with respect to Metropolitan state university of Denver are hereby transferred to the board of trustees. Policies, procedures, and agreements previously approved by the trustees of the state colleges, as the governing board existed prior to July 1, 2003, and applicable to Metropolitan state university of Denver shall remain in force and effect unless and until changed by the board of trustees.

Source: L. 2002: Entire article R&RE, p. 1276, § 2, effective July 1. **L. 2003:** (1)(a), (2), (3), and (4) amended, p. 2595, § 4, effective July 1; (1)(b) and (6) amended, p. 790, § 11, effective July 1. **L. 2006:** (2) amended, p. 1233, § 7, effective May 26. **L. 2008:** (1)(a) amended and (1)(a.5) added, p. 1077, § 1, effective May 22. **L. 2012:** (1), (3), (4), and (6) amended, (SB 12-148), ch. 125, p. 422, § 3, effective July 1. **L. 2018:** (5) amended, (HB 18-1138), ch. 88, p. 695, § 16, effective August 8.

Editor's note: This section is similar to former § 23-54-102 as it existed prior to 2002.

Cross references: For the legislative declaration in the 2012 act amending subsections (1), (3), (4), and (6), see section 1 of chapter 125, Session Laws of Colorado 2012. For the legislative declaration in HB 18-1138, see section 1 of chapter 88, Session Laws of Colorado 2018.

23-54-102.5. Tuition - repeal. (Repealed)

Source: L. 2010: Entire section added, (SB 10-003), ch. 391, p. 1844, § 16, effective June 9. **L. 2012:** (1) amended, (SB 12-148), ch. 125, p. 424, § 4, effective July 1.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2016. (See L. 2010, p. 1844.)

23-54-103. Board of trustees for Metropolitan state university of Denver fund - creation - control - use. (1) Effective July 1, 2012, there is created in the state treasury the board of trustees for Metropolitan state university of Denver fund, referred to in this section as the "fund", which shall be under the control of and administered by the board of trustees in accordance with the provisions of this article. Except as otherwise allowed by state law, including but not limited to section 24-36-103 (2), C.R.S., all moneys received or acquired by the board of trustees or by Metropolitan state university of Denver shall be deposited in the fund, whether received by appropriation, grant, contract, or gift, or by sale or lease of surplus real or personal property, or by any other means, whose disposition is not otherwise provided for by

law. All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. The moneys in the fund are hereby continuously appropriated to the board of trustees 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.

(2) The moneys in the fund shall remain under the control of the board of trustees and shall be used for the payment of salaries and operating expenses of the board of trustees and of Metropolitan state university of Denver and for the payment of any other expenses incurred by the board of trustees in carrying out its powers and duties.

(3) Moneys in the fund which are not needed for use by the board of trustees may be invested by the state treasurer in investments authorized by sections 24-36-109, 24-36-112, and 24-36-113, C.R.S. The board of trustees shall determine the amount of moneys in the fund that may be so invested and shall notify the state treasurer in writing of such amount.

(4) Repealed.

Source: L. 2002: Entire article R&RE, p. 1277, § 2, effective July 1. **L. 2012:** (1) and (2) amended and (4) added, (SB 12-148), ch. 125, p. 424, § 5, effective July 1.

Editor's note: Subsection (4)(b) provided for the repeal of subsection (4), effective July 1, 2013. (See L. 2012, p. 424.)

Cross references: For the legislative declaration in the 2012 act amending subsections (1) and (2) and adding (4), see section 1 of chapter 125, Session Laws of Colorado 2012.

23-54-104. The Metropolitan state university of Denver undergraduate enrichment fund - created - awards. (1) Effective July 1, 2012, all unexpended and unencumbered moneys in the Metropolitan state college of Denver undergraduate enrichment fund as of July 1, 2012, shall be transferred to the Metropolitan state university of Denver undergraduate enrichment fund, which fund is hereby created in the department of higher education and is referred to in this section as the "enrichment fund". The enrichment fund shall be under the control of and administered by the board of trustees of Metropolitan state university of Denver. Any moneys credited to the enrichment fund shall remain in the enrichment fund and shall not revert to the general fund at the end of any fiscal year. Such moneys in the enrichment fund may be invested in the types of investments authorized in sections 24-36-109, 24-36-112, and 24-36-113, C.R.S. Any interest earned on the moneys in the enrichment fund is hereby continuously appropriated for the purposes stated in subsection (2) of this section.

(2) Interest earned on moneys in the enrichment fund shall be used to fund programs to advance and enrich undergraduate education at Metropolitan state university of Denver. Awards for such purposes shall be granted by the board of trustees within one year after the date any moneys are credited to the fund and shall be annually granted thereafter. The board of trustees shall promulgate rules establishing the criteria to be used in granting such annual awards.

Source: L. 2002: Entire article R&RE, p. 1278, § 2, effective July 1. **L. 2003:** (1) amended, p. 792, § 16, effective July 1. **L. 2012:** Entire section amended, (SB 12-148), ch. 125, p. 425, § 6, effective July 1.

Cross references: For the legislative declaration in the 2012 act amending this section, see section 1 of chapter 125, Session Laws of Colorado 2012.

ARTICLE 55

Colorado State University - Pueblo

23-55-101 to 23-55-108. (Repealed)

Source: L. 2007: Entire article repealed, p. 550, §§ 7, 8, effective August 3.

Editor's note: This article was numbered as article 17 of chapter 124, C.R.S. 1963. For amendments to this article prior to its repeal in 2007, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. The provisions of this article were relocated to article 31.5 of this title. For the location of specific provisions, see the editor's notes following those section that were relocated and the comparative tables located in the back of the index.

ARTICLE 56

Western Colorado University

Editor's note: This article was numbered as article 7 of chapter 124, C.R.S. 1963. The provisions of this article were repealed and reenacted in 2003, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 2003, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated.

23-56-101. University established - role and mission. There is hereby established a university at Gunnison, which is known as Western Colorado university. Western Colorado university is a general baccalaureate institution with selective admission standards. Western Colorado university offers undergraduate liberal arts and sciences and professional degree programs, developmental education courses receiving resident credit pursuant to section 23-1-113.3, and a limited number of graduate programs. Western Colorado university also serves as a regional education provider.

Source: L. 2003: Entire article R&RE, p. 784, § 6, effective July 1. **L. 2007:** Entire section amended, p. 43, § 1, effective March 9. **L. 2012:** Entire section amended, (HB 12-1331), ch. 254, p. 1265, § 1, effective August 1. **L. 2014:** Entire section amended, (SB 14-004), ch. 13, p. 123, § 7, effective August 6. **L. 2016:** Entire section amended, (HB 16-1083), ch. 63, p. 165, § 1, effective August 10. **L. 2019:** Entire section amended, (HB 19-1206), ch. 133, p. 605, § 19, effective April 25; entire section amended, (HB 19-1178), ch. 400, p. 3541, § 1, July 1.

Editor's note: (1) This section is similar to former § 23-56-101 as it existed prior to 2003.

(2) Amendments to this section by HB 19-1206 and HB 19-1178 were harmonized.

Cross references: For the legislative declaration in SB 14-004, see section 1 of chapter 13, Session Laws of Colorado 2014.

23-56-102. Board of trustees - creation - members - powers - duties. (1) (a) There is established the board of trustees for Western Colorado university, referred to in this article 56 as the "board of trustees", which consists of eleven members and is the governing authority for Western Colorado university. The board of trustees is, and is hereby declared to be, a body corporate and, as such and by the names designated in this section, may:

(I) Acquire and hold property for the use of Western Colorado university;

(II) Be a party to all suits and contracts; and

(III) Do all things necessary to carry out the provisions of this article 56 in like manner as municipal corporations of this state, including but not limited to the power to demand, receive, hold, and use for the best interests of Western Colorado university such money, lands, or other property as may be donated or devised to or for the university.

(b) The board of trustees and its successors have perpetual succession, have a seal, may make bylaws and regulations for the well-ordering and governance of Western Colorado university, and may conduct the business of the university in a manner not repugnant to the constitution and laws of this state. The board of trustees shall elect from the appointed members a chairperson, whose duties and responsibilities are prescribed in the duly adopted bylaws of the board of trustees. The board of trustees shall also elect a secretary and a treasurer, who are not members of the board and whose duties and responsibilities are prescribed in the duly adopted bylaws of the board of trustees. The staff of Western Colorado university shall provide staff support for the board of trustees.

(2) The governor shall appoint, effective July 1, 2003, with the consent of the senate, nine members of the board of trustees. Members initially appointed to the board of trustees shall have the authority to act on behalf of the board of trustees prior to obtaining confirmation by the senate. The members first appointed to said board shall take office on July 1, 2003. Appointments of members to take office on July 1, 2003, shall be made so that three members of the board have terms expiring on January 1, 2005, two members of the board have terms expiring on January 1, 2006, two members of the board have terms expiring on January 1, 2007, and two members of the board have terms expiring on January 1, 2008; thereafter, the terms of the nine appointed members of the board of trustees shall be four years. Notwithstanding any other provision of this section, the term of each member serving on the board of trustees as of May 26, 2006, shall be extended to expire on December 31 of the calendar year in which the member's appointed term would otherwise expire. Members appointed on or after January 1, 2007, shall serve terms of up to four years, expiring on December 31 of the third calendar year following the calendar year in which the member is appointed. For terms ending on or after December 31, 2006, the governor shall appoint a succeeding member on or before March 1 immediately following the expiration of the term. Of the nine members appointed by the governor, no more than five members shall be from the same political party. Of the nine members appointed by the governor, at least two shall reside in Gunnison county. Each trustee

following the initial appointments shall hold office for the term for which the trustee has been appointed and until the trustee's successor is appointed and confirmed by the senate.

(3) The tenth member of the board of trustees is a full-time junior or senior student at Western Colorado university, elected by the members of the student body of Western Colorado university. The term of the student member is one year, beginning July 1, 2003, and beginning July 1 each year thereafter. The student member is advisory, without the right to vote and without the right to attend executive sessions of the board of trustees, as provided by section 24-6-402. The student member shall have resided in the state of Colorado for not less than three years prior to the student's election.

(4) The eleventh member is a member of the faculty of Western Colorado university elected by other members of the faculty for a term of two years, beginning July 1, 2003, and beginning July 1 every odd-numbered year thereafter. The faculty member is advisory, without the right to vote and without the right to attend executive sessions of the board of trustees, as provided by section 24-6-402.

(5) A vacancy of an appointed member of the board of trustees shall be filled by appointment by the governor for the unexpired term. A vacancy of either of the elected members of the board of trustees shall be filled by election for the unexpired term. Each member of the board of trustees shall take an oath or affirmation in accordance with section 24-12-101.

(6) Except as otherwise provided in this subsection (6), the powers, duties, and functions formerly performed by the trustees of the state colleges in Colorado with respect to Western Colorado university are hereby transferred to the board of trustees. Policies, resolutions, procedures, and agreements previously approved by the trustees of the state colleges in Colorado and applicable to Western Colorado university remain in force and effect unless and until changed by the board of trustees.

(7) In addition to those powers conferred elsewhere in this article 56, the board of trustees has the power to:

(a) Appoint a president of Western Colorado university;

(b) Appoint such other executive officers of the university as may be required;

(c) Appoint faculty and employees as may be required;

(d) Determine the compensation to be paid to the president, executive officers, faculty, and professional staff;

(e) With the advice of the faculty, prescribe the degree programs for the university; and

(f) Prescribe the student admissions qualifications.

Source: L. 2003: Entire article R&RE, p. 785, § 6, effective July 1. **L. 2006:** (2) amended, p. 1233, § 8, effective May 26. **L. 2012:** (1), (3), (4), (6), and (7) amended, (HB 12-1331), ch. 254, p. 1265, § 2, effective August 1. **L. 2018:** (5) amended, (HB 18-1138), ch. 88, p. 696, § 17, effective August 8. **L. 2019:** (1), (3), (4), (6), IP(7), and (7)(a) amended, (HB 19-1178), ch. 400, p. 3541, § 2, effective July 1.

Cross references: For the legislative declaration in HB 18-1138, see section 1 of chapter 88, Session Laws of Colorado 2018.

23-56-102.5. Tuition - repeal. (Repealed)

Source: L. 2010: Entire section added, (SB 10-003), ch. 391, p. 1845, § 17, effective June 9. **L. 2012:** (1) amended, (HB 12-1331), ch. 254, p. 1267, § 3, effective August 1.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2016. (See L. 2010, p. 1845.)

23-56-103. Board of trustees for Western Colorado university fund - creation - control - use. (1) There is created in the state treasury the board of trustees for Western Colorado university fund, referred to in this section as the "fund", which is under the control of and administered by the board of trustees in accordance with the provisions of this article 56. Except as otherwise allowed by state law, including but not limited to section 24-36-103 (2), all money received or acquired by the board of trustees or by Western Colorado university must be deposited in the fund, whether received by appropriation, grant, contract, or gift or by sale or lease of surplus real or personal property or by any other means, whose disposition is not otherwise provided for by law. All interest and income derived from the deposit and investment of money in the fund is credited to the fund. The money in the fund is continuously appropriated to the board of trustees and remains in the fund and shall not be transferred or revert to the general fund of the state at the end of a fiscal year.

(2) The money in the fund remains under the control of the board of trustees and must be used for the payment of salaries and operating expenses of the board of trustees and of Western Colorado university and for the payment of any other expenses incurred by the board of trustees in carrying out its powers and duties.

(3) Moneys in the fund that are not needed for use by the board of trustees may be invested by the state treasurer in investments authorized by sections 24-36-109, 24-36-112, and 24-36-113, C.R.S. The board of trustees shall determine the amount of moneys in the fund that may be invested and shall notify the state treasurer in writing of the amount.

(4) and (5) Repealed.

Source: L. 2003: Entire article R&RE, p. 787, § 6, effective July 1. **L. 2012:** (1) and (2) amended and (4) added, (HB 12-1331), ch. 254, p. 1267, § 4, effective August 1. **L. 2019:** (1) and (2) amended and (5) added, (HB 19-1178), ch. 400, p. 3542, § 3, effective July 1.

Editor's note: (1) Subsection (4)(b) provided for the repeal of subsection (4), effective July 1, 2013. (See L. 2012, p. 1267.)

(2) Subsection (5)(b) provided for the repeal of subsection (5), effective July 1, 2020. (See L. 2019, p. 3542.)

23-56-104. Status and control. The buildings and premises of the Western Colorado university form a part of the school system of the state and are controlled and managed by the board of trustees.

Source: L. 2003: Entire article R&RE, p. 787, § 6, effective July 1. **L. 2012:** Entire section amended, (HB 12-1331), ch. 254, p. 1268, § 5, effective August 1. **L. 2019:** Entire section amended, (HB 19-1178), ch. 400, p. 3543, § 4, effective July 1.

Editor's note: This section is similar to former § 23-56-102 as it existed prior to 2003.

23-56-105. Board of trustees empowered to lease grounds. For the purpose of providing dormitories, living and dining halls, or cottages and equipment for the use of Western Colorado university, and to enable the construction, financing, and ultimate acquisition thereof, and to aid in improving undeveloped portions of the grounds of the Western Colorado university, the board of trustees is empowered to lease grounds under its control to private persons or corporations for a term not exceeding fifty years and subject to regulations as it may prescribe, and upon the condition that the private persons or corporations shall construct and equip on the leased grounds buildings or improvements as the board of trustees designates or approves and secure reimbursement for money invested therein from the rentals of the buildings or from their sale to the board of trustees acting for the state.

Source: L. 2003: Entire article R&RE, p. 787, § 6, effective July 1. **L. 2012:** Entire section amended, (HB 12-1331), ch. 254, p. 1268, § 6, effective August 1. **L. 2019:** Entire section amended, (HB 19-1178), ch. 400, p. 3543, § 5, effective July 1.

Editor's note: This section is similar to former § 23-56-103 as it existed prior to 2003.

23-56-106. No authority to obligate state. Nothing in this article 56 constitutes authority to enter into a contract that in any way creates a debt or obligation upon the state on account of the construction of buildings or improvements; but buildings and improvements erected on lands under the control of the board of trustees and devoted to the uses of Western Colorado university under the terms of this article 56 and the leasehold interest are exempt from taxation so far as permitted by the state constitution.

Source: L. 2003: Entire article R&RE, p. 787, § 6, effective July 1. **L. 2012:** Entire section amended, (HB 12-1331), ch. 254, p. 1268, § 7, effective August 1. **L. 2019:** Entire section amended, (HB 19-1178), ch. 400, p. 3543, § 6, effective July 1.

Editor's note: This section is similar to former § 23-56-104 as it existed prior to 2003.

23-56-107. Buildings - control of. The management of buildings erected and equipped under the terms of this article and the scale of rentals thereof shall be subject to the approval of the board of trustees.

Source: L. 2003: Entire article R&RE, p. 788, § 6, effective July 1.

Editor's note: This section is similar to former § 23-56-105 as it existed prior to 2003.

23-56-108. Board of trustees may rent buildings. The board of trustees is authorized to lease or rent buildings constructed under the provisions of this article from the private persons or corporations constructing the buildings upon such terms as it deems satisfactory as to current rental, maintenance, and ultimate purchase, paying therefor out of the revenues derived from the

operation of the buildings by the board of trustees or from other funds under its control available for general maintenance purposes.

Source: L. 2003: Entire article R&RE, p. 788, § 6, effective July 1.

Editor's note: This section is similar to former § 23-56-106 as it existed prior to 2003.

23-56-109. To be state property at lease end. Upon the termination of a lease or contract executed under the terms of this article providing for the construction and equipment of buildings, the buildings shall become the property of the state, together with all equipment, furnishings, or appurtenances therein contained or thereto attached; except that personal goods or effects of an occupant may be removed.

Source: L. 2003: Entire article R&RE, p. 788, § 6, effective July 1.

Editor's note: This section is similar to former § 23-56-107 as it existed prior to 2003.

23-56-110. Leasehold interest may be sold. Nothing in this article shall prevent the transfer or sale of the leasehold interests prior to their expiration, subject to the approval of the board of trustees.

Source: L. 2003: Entire article R&RE, p. 788, § 6, effective July 1.

Editor's note: This section is similar to former § 23-56-108 as it existed prior to 2003.

23-56-111. Board of trustees may rent rooms. Upon the termination of a lease or contract executed with private persons or corporations for the construction of buildings under the terms of this article, the board of trustees is empowered to rent rooms or quarters in buildings erected under leases or contracts for reasonable compensation as the board deems best in relation to current operation, maintenance, and upkeep costs.

Source: L. 2003: Entire article R&RE, p. 788, § 6, effective July 1.

Editor's note: This section is similar to former § 23-56-109 as it existed prior to 2003.

COMMUNITY COLLEGES AND OCCUPATIONAL EDUCATION

ARTICLE 60

Community Colleges and
Occupational Education

PART 1

GENERAL PROVISIONS - STATE BOARD

23-60-101. Short title. This article shall be known and may be cited as the "Community College and Occupational Education Act of 1967".

Source: L. 67: p. 437, § 1. **C.R.S. 1963:** § 124-26-1.

23-60-102. Legislative declaration. (1) The general assembly hereby finds and declares that the state board for community colleges and occupational education is charged to develop and establish state policy for occupational education and to govern the state system of community colleges. The board shall be responsible for the establishment of statewide career and technical education policy for all the entities which provide such education and shall coordinate all aspects of career and technical education in the state to assure quality programming and efficient delivery of such education.

(2) In its role as the governing authority for the state system of community colleges, the board shall assure a system of two-year program delivery throughout the state coordinated, where appropriate, with the local district colleges. In order to assist the board in carrying out its responsibilities, the general assembly hereby provides for the establishment of local councils to advise the board on the operation of individual community and local district colleges from a local perspective.

(3) The function of the two-year college system is to conduct occupational, technical, and community service programs with no term limitations and general education, including college transfer programs with unrestricted admissions. It is further the intent of this article to develop appropriate occupational education and adult education programs in these and other postsecondary educational institutions, to maintain and expand occupational education programs in the elementary and secondary schools of the state permitting local school districts already having area technical colleges to continue to operate them, and to develop work study and on-the-job training programs designed to acquaint youth with the world of work and to train and retrain youth and adults for employment. The general assembly intends that state agencies concerned with occupational education in the public schools shall cooperate with the board in planning and implementing occupational education programs, to the end that the state of Colorado has complete and well-balanced occupational and adult education programs available to the people of Colorado at all educational levels.

Source: L. 67: p. 437, § 2. **C.R.S. 1963:** § 124-26-2. **L. 86:** Entire section R&RE, p. 837, § 1, effective April 14. **L. 2016:** (3) amended, (HB 16-1082), ch. 58, p. 147, § 25, effective August 10. **L. 2017:** (1) amended, (SB 17-294), ch. 264, p. 1399, § 61, effective May 25.

23-60-103. Definitions. As used in this article 60, unless the context otherwise requires:

(1) "Area technical college" means a school offering approved postsecondary vocational programs for credit, operated by a local school district or by a board of cooperative services, and designated by the general assembly as an area technical college in conformity with standards established by the state board for community colleges and occupational education. Tuition rates and fees charged any person not enrolled in a secondary school curriculum must be uniform for any group classification. For the purposes of this article 60, the following schools are area technical colleges: The Emily Griffith technical college, the technical college of the Rockies, and the Pickens technical college.

(2) "Occupational education" means any education designed to facilitate career and technical or occupational development of individual persons, including, but not limited to, career and technical training or retraining that is given in schools or classes, including field or laboratory work incident thereto, under public supervision and control or under contract with the board or a local educational agency and that is conducted as a part of a program designed to fit individuals for gainful employment as semiskilled or skilled workers or technicians in recognized occupations, but excluding any program to fit individuals for employment in occupations generally considered to be professional or that require a baccalaureate or higher degree. The term further includes career and technical guidance and counseling in connection with such training; instruction related to the occupation for which the person is being trained or necessary for the person to benefit from such training; and the training of persons engaged as or preparing to become career and technical education teachers, teacher-trainers, supervisors, and directors.

(3) "Postsecondary" means related to instruction of students over the age of seventeen years who are not enrolled in a regular program of kindergarten through grade twelve in a public, independent, or parochial school.

(4) A "registered elector" of a district means any person who is at least eighteen years of age, who is a citizen of the United States, who has resided in the state for thirty-two days, in the local college district thirty-two days, and in the dissolution election precinct thirty-two days immediately preceding the election, and who is duly registered.

(5) "Workplace literacy program" means any program of remedial education in basic mathematics or literacy skills sponsored by one or more private employers and offered for the benefit of employees and conducted in the workplace.

Source: L. 67: p. 438, § 3. **C.R.S. 1963:** § 124-26-3. **L. 70:** p. 347, § 7. **L. 71:** p. 564, § 49. **L. 72:** p. 316, § 46. **L. 73:** p. 1337, § 2. **L. 74:** (4) amended, p. 420, § 70, effective April 11; (1) amended, p. 389, § 1, effective May 1. **L. 79:** (1) amended, p. 789, § 2, effective July 1. **L. 88:** (5) added, p. 867, § 2, effective July 1. **L. 95:** (1) amended, p. 198, § 10, effective April 13. **L. 2004:** (1) amended, p. 929, § 1, effective August 4. **L. 2006:** (3) amended, p. 1214, § 10, effective July 1, 2007. **L. 2009:** (1) amended, (SB 09-043), ch. 284, p. 1294, § 3, effective May 20. **L. 2016:** (1) amended, (HB 16-1082), ch. 58, p. 148, § 26, effective August 10. **L. 2017:** (2) amended, (SB 17-294), ch. 264, p. 1400, § 62, effective May 25; IP and (1) amended, (HB 17-1258), ch. 219, p. 851, § 2, effective August 9.

Cross references: For the legislative declaration contained in the 2006 act amending subsection (3), see section 1 of chapter 265, Session Laws of Colorado 2006. For the legislative declaration contained in the 2009 act amending subsection (1), see section 1 of chapter 284, Session Laws of Colorado 2009. For the legislative declaration in HB 17-1258, see section 1 of chapter 219, Session Laws of Colorado 2017.

23-60-104. State board for community colleges and occupational education - student advisory council - state advisory council. (1) (a) The state board for community colleges and occupational education is abolished, and the terms of members of the board serving as such immediately prior to April 14, 1986, are terminated.

(b) There is created a state board for community colleges and occupational education, which is referred to in this article as the "board". The board is a body corporate and has the authority to adopt a seal and to receive, demand, and hold for all occupational education purposes and for any educational institution under its jurisdiction such money, lands, or other property as may be donated, bequeathed, appropriated, or otherwise made available to the board, and it may use such property in the interests of community and technical colleges and occupational education in this state.

(2) (a) (I) The board shall consist of eleven members, nine of whom shall be appointed by the governor with the consent of the senate. The board shall appoint a director of occupational education and a director of community and technical colleges with the qualifications and background specified by the board. Within thirty days of April 14, 1986, the governor shall appoint the initial members of the board. An initial appointee shall be authorized to act as a duly confirmed member of the board until such time as the senate has acted on such appointment. The governor may appoint, as a member of the board, any person who was a member of the board prior to its termination. No appointed member shall be an employee of any local district college, community or technical college, school district or agency receiving vocational funds allocated by the board, private institution of higher education, or state or private occupational school in the state. No appointed member shall be an elected or appointed statewide official of the state of Colorado or member of the governing board of any state-supported institution of higher education. The board shall at no time have more than five appointed members of any one political party. The board shall at all times have one member from each congressional district in the state. A vacancy on the board occurs whenever any member moves out of the congressional district from which he was appointed. A member who moves out of such congressional district shall promptly notify the governor of the date of such move, but such notice is not a condition precedent to the occurrence of the vacancy. The governor shall fill the vacancy as provided in paragraph (c) of this subsection (2). Members of the board shall be appointed so as to insure that all geographic areas of the state are represented. A state student advisory council of student members who are enrolled for a minimum of nine hours shall be elected, one each, from and by the student bodies of each of the campuses governed by the board.

(II) The tenth member shall be a student at a college of a state system of community colleges, and the eleventh member shall be a member of the faculty of a college of the state system of community colleges. Such members shall be elected in accordance with procedures established by the board, which procedures shall take into account all the colleges within the state system of community colleges. The term of said offices shall be one year. Said offices shall be advisory, without the right to vote, and shall be without the right to attend executive sessions.

(b) Of the members first appointed to the board, two members representing a congressional district shall be appointed for a term expiring July 1, 1987; one member representing a congressional district and one at-large member shall be appointed for a term expiring July 1, 1988; one member representing a congressional district and one at-large member shall be appointed for a term expiring July 1, 1989; and two members representing a congressional district and one at-large member shall be appointed for a term expiring July 1, 1990. Thereafter, all members shall be appointed for terms of four years each; except that a member of the board who is appointed by the governor shall continue to serve until a successor is appointed and confirmed by the senate. Notwithstanding any other provision of this section, the term of each member serving on the board of trustees as of May 26, 2006, shall be extended

to expire on December 31 of the calendar year in which the member's appointed term would otherwise expire. Members appointed on or after January 1, 2007, shall serve terms of up to four years, expiring on December 31 of the third calendar year following the calendar year in which the member is appointed. For terms ending on or after December 31, 2006, the governor shall appoint a succeeding member on or before March 1 immediately following the expiration of the term. The terms of the offices of members of the state student advisory council shall be one year, beginning July 1, 1977. No member appointed to the board shall serve for more than two consecutive full four-year terms. Members of the board shall receive fifty dollars per diem for attendance at official meetings, plus actual and necessary expenses incurred in the conduct of official business.

(c) Any vacancy in the office of any member of the board appointed by the governor shall be filled by appointment of the governor with the consent of the senate for the unexpired term. Any vacancy on the state student advisory council shall be filled for the unexpired term by appointment by the duly elected student government of the affected campus within thirty days after such vacancy occurs.

(3) Repealed.

(4) The board shall appoint an executive officer of the board, who shall serve at the pleasure of the board and shall receive compensation commensurate with his duties as determined by the board. Offices held by the executive officer and professional personnel are declared to be educational in nature and not under the state personnel system.

Source: L. 67: p. 438, § 4. **C.R.S. 1963:** § 124-26-4. **L. 71:** p. 1305, § 7. **L. 72:** p. 552, § 19. **L. 73:** p. 1335, § 1. **L. 75:** (2) amended, p. 741, § 8, effective January 1, 1976; (2)(a) amended, p. 509, § 2, effective January 1, 1976. **L. 77:** (2) amended, p. 1126, § 1, effective July 1. **L. 78:** (2)(a) amended, p. 383, § 1, effective March 17; (3) amended, p. 385, § 1, effective April 4. **L. 79:** (2)(a) amended, p. 1637, § 36, effective July 19. **L. 81:** (2)(a) amended, p. 852, § 29, effective July 1. **L. 82:** (2)(a) and (2)(b) amended, p. 353, § 10, effective April 30. **L. 85:** (2)(a) amended, p. 769, § 27, effective July 1. **L. 86:** (3) amended, p. 415, § 26, effective March 26; entire section amended, p. 838, § 2, effective April 14. **L. 91:** (3) amended, p. 695, § 10, effective April 20; (2)(b) amended, p. 900, § 40, effective June 5. **L. 97:** (3) repealed, p. 1093, § 1, effective May 27. **L. 2001:** (2)(a)(I) amended, p. 146, § 2, effective March 23. **L. 2006:** (2)(b) amended, p. 1234, § 9, effective May 26. **L. 2019:** (2)(b) amended, (HB 19-1152), ch. 58, p. 199, § 1, effective March 28.

Editor's note: Amendments to subsection (2) in Senate Bill 75-384 and House Bill 75-1232 were harmonized.

23-60-104.5. Recommendations of governor's task force - legislative declaration - definitions. (1) The general assembly hereby finds and declares that:

(a) On December 23, 2003, by executive order, the governor established the governor's task force to strengthen and improve the community college system;

(b) The task force was charged with evaluating the current structure of governance and administration in the state system of community colleges and recommending reforms and cost savings to the governor, the Colorado commission on higher education, the board, and, if applicable, the general assembly;

(c) The task force met ten times and sponsored five public forums at community colleges around the state;

(d) The task force made six recommendations to the governor along with a two-year timeline for completing each recommendation and sending periodic reports to the governor;

(e) These recommendations were:

(I) Decreasing the administrative costs of the system office;

(II) Maintaining a central system office but restructuring its functions;

(III) Centralizing and standardizing the information technology functions of the system office;

(IV) Decentralizing institutional research functions of the colleges;

(V) Restructuring of distance learning; and

(VI) Completing a comprehensive review of the administrative costs for career and technical education;

(f) The task force recommended that any cost savings achieved from the recommendations, pursuant to paragraph (a) of subsection (3) of this section, should go to program providers for enhancing services pursuant to paragraph (c) of subsection (3) of this section;

(g) The task force recommended that the board conduct a comprehensive examination of the Lowry campus, including how to develop the land to its highest and best use and how any funds resulting from these changes may be invested in the classrooms of the state system of community colleges;

(h) The task force established a timeline for the board to follow and included in that timeline periodic reports to the governor; and

(i) It is in the best interests of the public that some of these recommendations be put into statute.

(2) As used in this section, unless the context otherwise requires:

(a) "Colleges" means the community colleges under the control of the board.

(b) "System office" means the office under the board that provides services to all of the colleges.

(c) "Task force" means the governor's task force established pursuant to an executive order dated December 23, 2003.

(3) (a) For the state fiscal year commencing on July 1, 2004, and ending on June 30, 2005, the board shall reduce the state-funded administrative costs of the system office by at least twenty percent.

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

(I) (A) The installation of a centralized, standardized, integrated, system-wide information technology system solution for the colleges.

(B) On or before July 1, 2004, the board shall begin implementation of the centralized, standardized, integrated, system-wide information technology configuration for the colleges. The implementation of the information technology configuration shall be substantially completed on or before June 30, 2006. The board and the colleges shall adopt best practices for all business processes.

(II) By January 1, 2005, the restructuring of distance learning at all colleges by requiring the system office to provide and all colleges to use a common utility infrastructure and maintain a common standard for security and accreditation;

(III) (Deleted by amendment, L. 2005, p. 1016, § 10, effective June 2, 2005.)

(IV) By July 1, 2004, conducting a comprehensive review by the board of the administrative costs for career and technical education.

(c) Any remaining moneys available because of the reductions required by paragraph (a) of this subsection (3) after the financing of the recommendations specified in paragraph (b) of this subsection (3) shall be used in delivering classroom instruction and in support of the colleges.

(4) (a) On or before June 30, 2005, the state board shall develop a master plan for the use, development, or sale of the real property at the Lowry campus, except for the property used by the community college of Aurora or the community college of Denver. Nothing in this section shall prevent the board from allowing a charter school to be located at the Lowry campus prior to the development of the master plan, and nothing in the master plan shall cause the displacement of a charter school.

(b) On or before June 30, 2006, the state board may enter into an agreement with a third-party master developer to carry out the use, development, or sale of the real property for the Lowry campus.

(5) (a) As used in this subsection (5), unless the context otherwise requires, "net proceeds from the Lowry property" means the proceeds from the sale, ground lease, or other disposition of the real estate interests of the state board at the Lowry campus, less the actual and reasonable costs of completing the transaction and less any unsatisfied debt or other obligation relating to such real estate interests.

(b) The net proceeds from the Lowry property may be maintained in an account for use by the state board for capital-development-related projects at the system office or the colleges.

(6) On or before October 1, 2004, July 1, 2005, and July 1, 2006, the board shall submit to the governor and to the education committees of the senate and house of representatives reports on the progress made in implementing the recommendations contained in this section.

Source: L. 2004: Entire section added, p. 1529, § 1, effective May 28. **L. 2005:** (3)(a) and (3)(b)(III) amended, p. 1016, § 10, effective June 2.

23-60-105. Staff and appointments. (Repealed)

Source: L. 67: p. 439, § 5. **C.R.S. 1963:** § 124-26-5. **L. 86:** Entire section repealed, p. 841, § 7, effective April 14.

23-60-106. Notification concerning gaming schools. The board shall notify the limited gaming control commission created in section 44-30-301 of any educational program or school offering instruction in occupations relating to limited gaming or any other gambling.

Source: L. 91: Entire section added, p. 1590, § 12, effective June 4. **L. 2018:** Entire section amended, (SB 18-034), ch. 14, p. 245, § 28, effective October 1.

23-60-107. State board for community colleges and occupational education fund - creation - control - use. (1) There is hereby created in the state treasury the state board for community colleges and occupational education fund which shall be under the control of and administered by the board in accordance with the provisions of this article. Except as otherwise allowed by section 24-36-103 (2), C.R.S., all moneys received or acquired by the board or by any of the institutions it governs, whether by appropriation, grant, contract, or gift, by sale or lease of surplus real or personal property, or by any other means, whose disposition is not otherwise provided for by law, and all interest derived from the deposit and investment of moneys in the fund shall be credited to said fund. The moneys in the fund are hereby continuously appropriated to the board 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.

(2) The moneys in the state board for community colleges and occupational education fund shall be used by the board for the payment of salaries and operating expenses of the board and of the institutions it governs and for the payment of any other expenses incurred by the board in carrying out its statutory powers and duties.

(3) Moneys in the state board for community colleges and occupational education fund which are not needed for immediate use by the board may be invested by the state treasurer in investments authorized by sections 24-36-109, 24-36-112, and 24-36-113, C.R.S. The board shall determine the amount of moneys in the fund which may be invested and shall notify the state treasurer in writing of such amount.

Source: L. 97: Entire section added, p. 318, § 3, effective July 1. **L. 98:** (1) amended, p. 369, § 6, effective September 1.

23-60-108. Board responsibilities - direct care provider career path pilot program - repeal. (Repealed)

Source: L. 2002: Entire section added, p. 959, § 6, effective July 1.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2008. (See L. 2002, p. 959.)

23-60-109. Career pathways - design - legislative declaration. (1) The general assembly finds and declares that:

(a) The board developed the manufacturing career pathway pursuant to part 10 of this article after consulting with local district colleges and area technical colleges, and in collaboration with the department of labor and employment, the department of higher education, the department of education, and the state work force development council, created in section 24-46.3-101, C.R.S.;

(b) The manufacturing career pathway was based upon guidelines endorsed by the state work force development council; and

(c) The knowledge and experience gained through the process of designing and implementing the manufacturing career pathway should inform the design and implementation of additional career pathways pursuant to section 24-46.3-104, C.R.S.

(2) The board shall collaborate with the state work force development council to design career pathways pursuant to the provisions of section 24-46.3-104, C.R.S. The state work force development council is responsible for coordinating the design of the career pathways. Career pathways designed pursuant to section 24-46.3-104, C.R.S., must use the model developed to create the manufacturing career pathway pursuant to section 23-60-1003, including any improvements to the model based upon the implementation of the manufacturing career pathway. Career pathways created pursuant to section 24-46.3-104, C.R.S., must have the components described in section 23-60-1003 (2), as they relate to the specific career pathway being created.

Source: L. 2015: Entire section added, (HB 15-1274), ch. 196, p. 665, § 3, effective August 5. **L. 2016:** (1)(a) amended, (HB 16-1082), ch. 58, p. 148, § 27, effective August 10.

PART 2

STATE SYSTEM OF COMMUNITY AND TECHNICAL COLLEGES

23-60-201. State system of community and technical colleges established - local district colleges - role and mission. There is established a state system of community and technical colleges that is under the management and jurisdiction of the state board for community colleges and occupational education. The mission of the community colleges is to serve Colorado residents who reside in their service areas by offering a broad range of general, personal, career, and technical education programs, as well as bachelor of science in nursing completion programs that result in the awarding of a bachelor of science in nursing degree to successful candidates pursuant to section 23-60-211 (5). Except as provided in section 23-60-211, each college must be a two-year college. Each community college may offer two-year degree programs with or without academic designation, and, upon approval of the board pursuant to section 23-60-211, may offer technical, career, and workforce development bachelor of applied science degree programs. A community college shall not impose admission requirements upon any student. Admission to a community college does not guarantee enrollment in a specific program that has prerequisites. The objects of the community and technical colleges are to provide educational programs to fill the occupational needs of youth and adults in career and technical fields, two-year transfer educational programs to qualify students for admission to the junior year at other colleges and universities, developmental education courses, workforce development, and a broad range of personal and career education for adults, and technical, career, and workforce development bachelor of applied science degree programs established pursuant to section 23-60-211, that address the needs of the community within each community college service area.

Source: L. 67: p. 439, § 6. **C.R.S. 1963:** § 124-26-10. **L. 85:** Entire section R&RE, p. 765, § 15, effective July 1. **L. 2003:** Entire section amended, p. 2596, § 5, effective July 1. **L. 2010:** Entire section amended, (SB 10-088), ch. 154, p. 530, § 1, effective August 11. **L. 2014:** Entire section amended, (SB 14-004), ch. 13, p. 119, § 2, effective August 6. **L. 2018:** Entire section amended, (HB 18-1086), ch. 70, p. 630, § 2, effective March 24. **L. 2019:** Entire section amended, (HB 19-1206), ch. 133, p. 606, § 20, effective April 25.

Cross references: For the legislative declaration in SB 14-004, see section 1 of chapter 13, Session Laws of Colorado 2014. For the legislative declaration in HB 18-1086, see section 1 of chapter 70, Session Laws of Colorado 2018. For the legislative declaration in HB 19-1206, see section 1 of chapter 133, Session Laws of Colorado 2019.

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:

(a) To recommend to the Colorado commission on higher education and the general assembly the location and priorities for establishment of new community and technical colleges;

(b) To construct, lease, or otherwise provide facilities needed for the community and technical colleges as authorized by the general assembly; to issue in the name of the board revenue bonds and other revenue obligations in the manner, for the purposes, and subject to the provisions provided by law for state educational institutions under article 5 of this title or for local college districts; and to refund in the name of the board revenue bonds and other revenue obligations transferred to the board or incurred by the board as provided in this article, such refunding to be undertaken pursuant to article 54 of title 11, C.R.S.;

(c) (I) (A) 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 23-1-104 (1)(b)(I).

(B) Repealed.

(II) To the extent space is available, the board may allow persons licensed pursuant to article 60.5 of title 22 to take, without charge, at community and technical colleges, courses identified by the department of public safety pursuant to section 24-33.5-1606.5 (4), as related to the national incident management system developed by the federal emergency management agency.

(d) To appoint the chief administrative officer of each community and technical college;

(e) To recommend and review proposals for the establishment of curriculums and for major changes in curriculums, subject only to the review function of the Colorado commission on higher education relating to formal academic programs;

(f) To define the requirements of appropriate degrees and certificates and to authorize the award thereof in the community and technical colleges, subject only to the review function of the Colorado commission on higher education relating to formal academic programs;

(f.5) To review and approve the degree programs described in section 23-60-211, subject only to the review function of the Colorado commission on higher education relating to formal academic programs;

(g) To develop a plan with the governing boards of baccalaureate degree-granting universities and colleges of the state which will assure maximum freedom of transfer of students between local district colleges and community and technical colleges under the direct control of the board and such universities and colleges;

(h) To receive, review, and transmit with recommendations to the Colorado commission on higher education and the general assembly both operating and capital budget requests of the community and technical colleges;

(i) To plan, in cooperation with other state agencies, the allocation of federal funds for instructional programs and student services, including funds for vocational and technical education and retraining;

(j) To determine policies pertaining to the community and technical colleges, subject only to the functions and powers assigned by law to the Colorado commission on higher education relating to formal academic programs;

(k) To control the direction of funds and appropriations to the colleges in the system;

(l) To receive, demand, and hold for the uses and purposes of the colleges in the system such moneys, lands, or other properties as may be donated, devised, leased, or conveyed and to apply the same in such manner as will serve best the objects and interests of the colleges in the system;

(m) To develop and implement, in coordination with four-year institutions and under the direction of the Colorado commission on higher education, a core transfer program for students wishing to obtain a baccalaureate degree after transferring out of the state system to a four-year institution, which program shall be implemented within the state system by September 15, 1987.

(n) Repealed.

Source: L. 67: p. 439, § 7. **C.R.S. 1963:** § 124-26-11. **L. 70:** p. 358, § 14. **L. 85:** (1)(d) and (1)(i) amended and (1)(k) and (1)(l) added, p. 765, § 16, effective July 1. **L. 86:** (1)(m) added, p. 840, § 3, effective April 14. **L. 93:** (1)(c) amended, p. 1520, § 30, effective June 6. **L. 2007:** (1)(n) added, p. 338, § 4, effective April 2. **L. 2008:** (1)(c) amended, p. 119, § 7, effective March 19; (1)(c) amended, p. 805, § 6, effective May 14. **L. 2009:** (1)(n) repealed, (HB 09-1319), ch. 286, p. 1322, § 13, effective May 21. **L. 2010:** (1)(c)(I) amended, (SB 10-003), ch. 391, p. 1845, § 18, effective June 9; (1)(f.5) added, (SB 10-088), ch. 154, p. 530, § 2, effective August 11. **L. 2020:** (1)(c)(II) amended, (HB 20-1402), ch. 216, p. 1050, § 42, effective June 30.

Editor's note: (1) Amendments to subsection (1)(c) by Senate Bill 08-126 and Senate Bill 08-181 were harmonized.

(2) Subsection (1)(c)(I)(B) provided for the repeal of subsection (1)(c)(I)(B), effective July 1, 2016. (See L. 2010, p. 1845.)

Cross references: (1) For classification of students for tuition purposes, see article 7 of this title.

(2) For the legislative declaration contained in the 2008 act amending subsection (1)(c), see section 1 of chapter 215, Session Laws of Colorado 2008. For the legislative declaration in the 2010 act amending subsection (1)(c)(I), see section 1 of chapter 391, Session Laws of Colorado 2010.

23-60-202.5. Powers of board with respect to the higher education and advanced technology center at Lowry. The board is authorized to lease classroom and administrative facilities located at the higher education and advanced technology center at Lowry to colleges within the state system of community and technical colleges and to public and private institutions of higher education that are not included in the system.

Source: L. 95: Entire section added, p. 582, § 1, effective May 22.

23-60-202.7. Powers of board with respect to concurrent enrollment - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Board of cooperative services" means a board of cooperative services created pursuant to article 5 of title 22 that operates a public school.

(b) "Charter school" means a district charter school authorized by a school district board of education pursuant to part 1 of article 30.5 of title 22 and an institute charter school authorized by the state charter school institute board pursuant to part 5 of article 30.5 of title 22.

(c) "Concurrent enrollment" has the same meaning as provided in section 22-35-103.

(d) "Local education provider" means a school district, a charter school, a board of cooperative services, and the school for the deaf and the blind.

(e) "School district" means a school district organized and existing pursuant to article 30 of title 22.

(f) "School for the deaf and the blind" means the Colorado school for the deaf and the blind described in section 22-80-102.

(2) The board shall ensure that the community college system provides leadership, system-level service, and management and coordination of efforts within the system to streamline policies, eliminate administrative barriers, and implement efforts to maximize participation in concurrent enrollment across the community college system. Coordination of efforts includes facilitating the sharing of best practices among institutions, driving innovation, and building capacity for offering concurrent enrollment to more students across the state with a focus on student academic success.

(3) The community college system may receive funding for the services described in this section through a limited purpose fee-for-service contract as provided in section 23-18-308.

(4) (a) Beginning in the 2021-22 fiscal year, the community college system shall collaborate with the local education providers throughout the state to develop and disseminate informational materials for the parents of students enrolled in grades six through eight. The community college system shall design the materials to explain the benefits of participating in concurrent enrollment during grades nine through twelve and, for all types of institutions of higher education as defined in section 22-35-103, the types of courses available through concurrent enrollment and the general requirements and process for enrolling in concurrent enrollment courses. At a minimum, the materials must refer to the website developed by the department of education pursuant to section 22-35-113, and the materials provided for each local education provider must include the name of and contact information for the person who oversees concurrent enrollment in that local education provider. A local education provider may provide directory information, as defined in and in accordance with federal law, to the community college system to use only in disseminating information pursuant to this subsection (4).

(b) The community college system, in collaboration with the local education providers, shall begin disseminating the concurrent enrollment information materials developed pursuant to subsection (4)(a) of this section beginning in the fall of the 2021-22 academic year. At a minimum, the community college system shall provide materials to parents of students enrolled in grades six through eight through digital means at least once during the school year and once during the summer months. The community college system may also provide the information contained in the materials through public service announcements, paid placements on social media platforms, or other mass communication means, subject to available appropriations.

(c) Notwithstanding any provision of this subsection (4) to the contrary, the community college system may begin developing and disseminating informational materials as provided in subsections (4)(a) and (4)(b) of this section during the 2020-21 fiscal year if the community college system deems it feasible to do so within existing resources.

Source: L. 2019: Entire section added, (SB 19-176), ch. 244, p. 2389, § 9, effective August 2. **L. 2020:** (1) amended and (4) added, (SB 20-095), ch. 180, p. 818, § 1, effective June 29.

23-60-203. Duties of board with respect to local district colleges. (1) With respect to local district colleges operating under the provisions of article 71 of this title, the board shall:

(a) Exercise all powers and perform all duties vested prior to July 1, 1967, in the state board of education or in the commissioner of education with respect to local district colleges;

(b) Review and make recommendations concerning requests by any local district college for appropriations for capital construction before such requests are submitted to the Colorado commission on higher education and the general assembly; and

(c) Provide such local district colleges with such technical assistance as they may request.

Source: L. 67: p. 440, § 8. **C.R.S. 1963:** § 124-26-12. **L. 73:** p. 1337, § 1. **L. 75:** IP(1) and (1)(c) amended, p. 787, § 11, effective July 1. **L. 78:** (1)(a) amended, p. 265, § 60, effective May 23.

23-60-204. Financing. Except as provided in this article, the construction, operation, and maintenance of the community and technical colleges within the state system shall be financed by the state in the same manner as are all other state institutions of higher education.

Source: L. 67: p. 440, § 9. **C.R.S. 1963:** § 124-26-13.

23-60-205. Community and technical colleges. The state system of community and technical colleges shall include: Arapahoe community college, Colorado Northwestern community college, the community college of Aurora, the community college of Denver, Front Range community college, Lamar community college, Morgan community college, northeastern junior college, Otero junior college, Pikes Peak community college, Pueblo community college, Red Rocks community college, Trinidad state junior college, and Colorado community college and occupational education system college. The state system of community and technical colleges shall be governed by the state board for community colleges and occupational education.

Source: L. 67: p. 440, § 10. **C.R.S. 1963:** § 124-26-14. **L. 85:** Entire section R&RE, p. 766, § 17, effective July 1. **L. 95:** Entire section amended, p. 56, § 6, effective March 20. **L. 2003:** Entire section amended, p. 2596, § 6, effective July 1.

23-60-206. College advisory council. (1) The board shall establish a procedure for receiving nominations for appointments to the college advisory council and shall appoint a

seven-member college advisory council for each community and technical college under its governance, composed of residents from the area in which the community and technical college is located and serves, which council shall meet at least quarterly with the chief administrative officer of the college. The board of trustees of any local district college shall be designated as the first college advisory council when such local district college joins the state system, and members thereof shall serve for the duration of their terms. Upon expiration of such terms, new appointees shall be so designated that the college advisory council will at all subsequent times include at least two members familiar with occupational education needs. Of members first appointed, three members shall be appointed for four years and two members for two years. Thereafter, terms of members appointed to the college advisory council shall be for four years. The members of a college advisory council in office on April 14, 1986, shall remain in office for the remainder of their respective terms, and, thereafter, may be reappointed by the board. Effective July 1, 1986, the board shall appoint two members for each college advisory council, one member to serve for a term of two years and one member to serve for a term of four years. Members of the college advisory council shall receive twenty dollars per day for meetings attended and shall be reimbursed for actual and necessary expenses incurred in the conduct of official business.

(1.5) Notwithstanding the provisions of subsection (1) of this section, if the plan for Colorado Northwestern community college to join the state system of community and technical colleges is approved and moneys are appropriated therefor as provided in section 23-71-207 and if the Moffat county affiliated junior college district voters approve the ballot measure set forth in section 23-71-207 (1)(b)(II), the initial advisory council for Colorado Northwestern community college shall consist of three members of the Rangely junior college district board of trustees, three members of the Moffat county affiliated junior college district board of control, and one member at large to be appointed by the state board for community colleges and occupational education from the Colorado Northwestern community college designated service area. If the Moffat county affiliated junior college district voters do not approve the ballot measure set forth in section 23-71-207 (1)(b)(II), the provisions of subsection (1) of this section shall apply.

(2) The board shall officially recognize within its policies the manner in which it shall receive advice from local councils concerning local oversight of each of the state system community colleges and shall include consideration of advice in the areas of tuition and fees; operating and capital budgets; allocation of moneys; money, land, and other property; instructional programs; degrees and certificates; appointment of chief administrative officers of campuses; personnel policies; and admissions and academic standards. A report containing such information shall be prepared and submitted to the Colorado commission on higher education no later than January 15, 1987.

Source: L. 67: p. 441, § 11. **C.R.S. 1963:** § 124-26-15. **L. 85:** (2) amended, p. 770, § 28, effective July 1. **L. 86:** (1) amended and (2) R&RE, pp. 840, 841, §§ 4, 5, effective April 14; (1) amended, p. 845, § 5, effective July 1. **L. 98:** (1.5) added, p. 902, § 2, effective May 26.

Editor's note: Amendments to subsection (1) in House Bill 86-1133 and House Bill 86-1237 were harmonized.

23-60-207. College service areas. Each college in the state system of community and technical colleges shall operate within a service area assigned by the Colorado commission on higher education.

Source: L. 85: Entire section added, p. 766, § 18, effective July 1.

23-60-208. Eminent domain. The board has the power to take and hold, by gift, devise, purchase, or lease or through the exercise of the power of eminent domain pursuant to law, so much land as may become necessary for the location and construction of such buildings, structures, and other facilities as may be required for the uses and purposes of the colleges in the state system.

Source: L. 85: Entire section added, p. 766, § 18, effective July 1.

23-60-209. Programs and services. The board shall ensure that no unnecessary duplication of programs or services exists between the community colleges in the metropolitan Denver area and the vocational schools operating in the same geographic area.

Source: L. 85: Entire section added, p. 766, § 18, effective July 1.

23-60-210. Transfer of records and equipment - creation of new colleges. (1) At the board's discretion, the board may transfer books, records, equipment, property, personnel, accounts, and liabilities of the community college of Denver or any other entity to Red Rocks community college, Front Range community college, and the reconstituted community college of Denver in order to effect the creation of such colleges.

(2) All employees, exempt and classified, transferred pursuant to subsection (1) of this section shall retain all rights to state personnel system and retirement benefits under the laws of this state, and their services shall be deemed to have been continuous. All such transfers and any abolishment of positions in the state personnel system shall be made and processed in accordance with state personnel system laws and rules and regulations.

Source: L. 85: Entire section added, p. 766, § 18, effective July 1.

23-60-211. Degrees. (1) Before a community college offers a two-year degree program with academic designation, as authorized by section 23-60-201, the community college shall determine the program designation for the degree. A two-year degree program with academic designation shall only be for a degree program that has a valid student transfer agreement pursuant to section 23-1-108 (7); except that a community college may offer a two-year degree program with academic designation in dental hygiene without a valid student transfer agreement. The community college shall then submit the degree program designation to the board for its review and approval. The community college may offer the degree program only after it has been approved by the board and by the Colorado commission on higher education. The community college shall exclusively use the degree program designation name in official publications, course catalogs, diplomas, and official transcripts.

(2) Successful completion of an associate of arts or associate of science degree with academic designation does not guarantee the degree holder admission to a four-year state-supported institution of higher education; nor does it guarantee the degree holder automatic transfer of credits unless the degree holder has fulfilled the requirements of an existing statewide transfer agreement.

(3) Pursuant to section 23-60-213, Red Rocks community college may offer a graduate program in physician assistant studies.

(4) Subject to the approval of the Colorado commission on higher education pursuant to section 23-1-133, the board may establish at community colleges within the state system technical, career, and workforce development bachelor of applied science degree programs. Notwithstanding the provisions of subsection (5) of this section, nothing in this section shall be construed to allow for the approval of bachelor of arts or bachelor of science degree programs.

(5) Subject to the requirements of sections 23-1-113.7 and 23-1-107, and notwithstanding the provisions of section 23-1-133, a community college that is part of the state system of community and technical colleges established and governed by this part 2 may, with board approval, offer a bachelor of science degree in nursing as a completion degree to students who have or are pursuing an associate degree in nursing. In considering whether to approve a request by a community college to offer a bachelor of science in nursing as a completion degree, the board shall consider student and workforce demand, cost effectiveness for the students, and accreditation and licensing requirements. The board shall provide such information to the Colorado commission on higher education and solicit the commission's input in a joint meeting of the board and the commission. A community college that is seeking board approval shall provide the board with data regarding its current partnerships with existing bachelor of science nursing degree programs and its plans to continue such partnerships. At least ninety days prior to requesting board approval to offer a bachelor of science degree in nursing as a completion degree, the community college seeking such board approval shall provide notice to the Colorado commission on higher education and all state public and nonpublic institutions of higher education.

Source: L. 2010: Entire section added, (SB 10-088), ch. 154, p. 531, § 3, effective August 11. **L. 2012:** (1) amended, (HB 12-1214), ch. 212, p. 914, § 1, effective August 8. **L. 2013:** (3) added, (SB 13-178), ch. 241, p. 1170, § 2, effective August 7. **L. 2014:** (4) added, (SB 14-004), ch. 13, p. 119, § 3, effective August 6. **L. 2017:** (4) amended, (SB 17-297), ch. 210, p. 821, § 18, effective May 18. **L. 2018:** (4) amended and (5) added, (HB 18-1086), ch. 70, p. 631, § 3, effective March 24.

Cross references: For the legislative declaration in the 2013 act adding subsection (3), see section 1 of chapter 241, Session Laws of Colorado 2013. For the legislative declaration in SB 14-004, see section 1 of chapter 13, Session Laws of Colorado 2014. For the legislative declaration in HB 18-1086, see section 1 of chapter 70, Session Laws of Colorado 2018.

23-60-212. Northeastern junior college - golf course and restaurant - positions of employment. Positions of employment for the operation of the golf course and restaurant that are owned and operated by Northeastern junior college and open to the public, known commonly

as the "Northeastern 18" and the "Plainsman Grill and Steakhouse", and any successor businesses, are exempt from the state personnel system.

Source: L. 2011: Entire section added, (HB 11-1187), ch. 53, p. 139, § 1, effective March 24.

23-60-213. Red Rocks community college - physician assistant master's program. Notwithstanding any other provision of law to the contrary, Red Rocks community college is authorized to confer a graduate degree upon a student who completes the physician assistant studies program and shall seek accreditation for the program.

Source: L. 2013: Entire section added (SB 13-178), ch. 241, p. 1170, § 3, effective August 7.

Cross references: For the legislative declaration in the 2013 act adding this section, see section 1 of chapter 241, Session Laws of Colorado 2013.

PART 3

OCCUPATIONAL EDUCATION

23-60-301. Supervision of occupational education. The director of occupational education shall supervise the administration of the occupational education programs of the state and upon approval of the board shall determine the allocation and distribution of state and federal vocational education funds to the community and technical colleges, local college districts, individual school districts, and other appropriate state and local educational agencies and institutions.

Source: L. 67: p. 441, § 12. **C.R.S. 1963:** § 124-26-20.

23-60-302. Approval for postsecondary occupational programs. The board shall review each proposal by any board of cooperative services for the establishment of any new postsecondary program of occupational education and shall transmit its decision thereon to such board of cooperative services within ninety days after receipt of such proposal. No board of cooperative services shall establish a new postsecondary program of occupational education without first obtaining approval from the board.

Source: L. 67: p. 442, § 13. **C.R.S. 1963:** § 124-26-21.

23-60-303. Acceptance of congressional acts. (1) The state of Colorado accepts the provisions, terms, and conditions of the acts of the congress of the United States, known as the "Smith-Hughes Vocational Education Act" (Pub.L. 347), the "George-Barden Vocational Education Act of 1946" (Pub.L. 586), the "Vocational Education Act of 1963" (Pub.L. 210), and that portion of the "Manpower Development and Training Act of 1962" (Pub.L. 415) which is

administered by any educational agencies, and any amendments enacted by the congress to any of said acts.

(2) The state board for community colleges and occupational education is designated as the state board for career and technical education and declared to be the sole agency for purposes of compliance with the said acts of congress and with any subsequent and future acts of congress requiring the designation of a state agency for the administration of the state plan of career and technical education and for receiving and administering funds appropriated by the congress for programs of career and technical education. The state board for community colleges and occupational education is also designated as the state approving agency pursuant to section 1771 of title 38, United States Code.

(3) The state treasurer is hereby appointed custodian of the funds due and payable to the state of Colorado by the said acts of congress and is authorized to pay out such funds on warrants drawn by the controller on the order of the board.

Source: L. 67: p. 442, § 14. **C.R.S. 1963:** § 124-26-22. **L. 71:** p. 1187, § 1. **L. 2019:** (2) amended, (SB 19-241), ch. 390, p. 3468, § 22, effective August 2.

Cross references: Prior to its repeal in 1997, the "Smith-Hughes Vocational Education Act" was codified at 20 U.S.C. 11 et seq.; prior to its repeal in 1973, the "Manpower Development and Training Act of 1962" was codified at 42 U.S.C. 2571 et seq.; for the "George-Barden Act", see the "Vocational Education Act of 1946", 20 U.S.C. 15h et seq.; for the "Vocational Education Act", see chapter 44 of title 20, U.S.C.

23-60-304. Plans - development and implementation - credentialing - fees. (1) The board shall prepare state plans for occupational education in this state that are required for compliance with any acts of congress which require a state plan for career and technical education and shall prepare or approve such further plans for occupational education programs as it deems necessary.

(2) The board shall provide for the implementation of state plans for occupational education and for this purpose may enter into contracts with or purchase services from the governing bodies of school districts, boards of cooperative services, local college districts, other approved local educational agencies, state institutions of higher education, private vocational schools that have been approved under the provisions of article 64 of this title 23, and other appropriate agencies and institutions.

(3) (a) The state plans for occupational education shall include provisions relating to the training of teachers and administrators of occupational subjects and programs, and the board shall take steps to implement these provisions. The board shall also establish minimum qualifications necessary for teachers of occupational subjects, teacher-trainers, supervisors, directors, occupational counseling specialists, and others having responsibilities in connection with occupational education at both the secondary and postsecondary levels and shall certify these qualifications to the department of education.

(b) Credentials to teach an occupational subject or program shall be issued as follows:

(I) The board shall issue a credential to a person specified in this subsection (3) who teaches an occupational subject or program at the postsecondary level and who meets the established minimum qualifications; except that the board may delegate to a postsecondary

institution the authority to issue the credential. The board shall establish and charge fees for the issuance of a credential issued pursuant to this subparagraph (I). The amount of the fee shall be determined by the board on the basis of the direct and indirect cost of providing the service. If a postsecondary institution issues a credential, that postsecondary institution may charge the fee established by the board.

(II) The department of education shall issue a credential to a person specified in this subsection (3) who has responsibility for an occupational subject or program at the secondary level and who meets the minimum qualifications established by the board. The state board of education shall establish and charge fees pursuant to sections 22-2-132 and 22-60.5-112, C.R.S., for the issuance of a credential pursuant to this subparagraph (II).

(4) (a) The board has the authority to enter into cooperative arrangements with the system of public employment offices in the state, in order to make available to appropriate educational agencies all occupational information possessed by such employment offices regarding reasonable prospects of employment in the community and elsewhere, so that such agencies may consider such information in providing occupational guidance and counseling to students and prospective students, and in determining the occupations for which persons should be trained, and in order to make available to the public employment offices information possessed by guidance and counseling personnel regarding the qualifications of persons leaving or completing occupational education programs, so that the employment offices may be aided in the occupational guidance and placement of such persons.

(b) The board shall enter into a cooperative arrangement with the state department of human services to develop:

(I) Appropriate educational and academic training programs for participants in the Colorado works program, created in part 7 of article 2 of title 26, C.R.S., based upon the job market analysis prepared in accordance with section 26-2-712 (10), C.R.S.; and

(II) A tuition voucher system pursuant to which a participant in the Colorado works program, created in part 7 of article 2 of title 26, C.R.S., may attend courses at an institution in the state's system of community and technical colleges by using a tuition voucher.

(5) The board shall establish a comprehensive plan for the role of occupational education in support of overall state educational policy that includes improved criteria to measure the quantity, quality, and cost of occupational education in Colorado, alternative funding mechanisms for occupational education including the possibility of private sector support of specialized programming, and a determination of how the board will coordinate among the various agencies responsible for providing vocational and occupational education in Colorado. The plan shall be contained in a report to be submitted to the Colorado commission on higher education on or before January 15, 1987.

(6) The board shall enter into a cooperative arrangement with the division of fire prevention and control in the department of public safety to develop a system in which a qualified volunteer firefighter may receive a tuition voucher to attend courses at an institution in the state system of community and technical colleges in accordance with section 24-33.5-1216, C.R.S.

Source: L. 67: p. 442, § 15. **C.R.S. 1963:** § 124-26-23. **L. 69:** p. 1072, § 1. **L. 75:** (2) amended, p. 510, § 3, effective January 1, 1976. **L. 86:** (5) added, p. 841, § 6, effective April 14. **L. 98:** (4) amended, p. 336, § 2, effective April 17. **L. 2008:** (3) amended, p. 910, § 2, effective

May 20; (4)(b)(I) amended, p. 1978, § 25, effective January 1, 2009. **L. 2009:** (6) added, (SB 09-021), ch. 414, p. 2288, § 1, effective August 5. **L. 2012:** (6) amended, (HB 12-1283), ch. 240, p. 1132, § 42, effective July 1. **L. 2017:** (2) amended, (HB 17-1239), ch. 261, p. 1206, § 15, effective August 9. **L. 2019:** (1) amended, (SB 19-241), ch. 390, p. 3468, § 23, effective August 2.

Cross references: For the legislative declaration in the 2012 act amending subsection (6), see section 1 of chapter 240, Session Laws of Colorado 2012.

23-60-305. Coordination of resources. The board shall coordinate all resources available for the promotion of job development, job training, and job retraining in the state, including, but not limited to, secondary, postsecondary, and out-of-school or on-site work programs, and shall make available this and any other information relating to occupational education.

Source: L. 67: p. 443, § 16. **C.R.S. 1963:** § 124-26-24.

23-60-306. Colorado customized training program - creation - policy - functions of the state board for community colleges and occupational education - report. (1) This section shall be known and may be cited as the "Colorado Customized Training Act".

(2) (a) The general assembly hereby finds and declares:

(I) That it is the policy of this state to encourage quality economic development by providing incentives for the location of new industries or the expansion of existing firms, thereby improving employment opportunities for the citizens of this state; that skilled labor availability is a key element in new or expanding company plant location or expansion decisions; and that, during site selection negotiations, the ability to guarantee a trained local work force to match the new or expanding company's specific job skill needs is crucial to the improvement of the economic development capabilities of this state and for competition with other states offering similar programs; and

(II) That fast-track training, involving highly intensive, short-duration skill training for specific jobs, is necessary to provide the unemployed and underemployed with an economic development training program to allow them to compete for newly created jobs, and that job-specific, start-up training provides job-seekers with the skills necessary to increase their productivity, to increase their wages, and to reduce their need for public support.

(b) Therefore, it is hereby declared to be the policy of this state to promote the health, safety, opportunity for gainful employment, business opportunities, increased productivity, and general welfare of the inhabitants of this state by the creation of the Colorado customized training program.

(3) (a) There is hereby created the Colorado customized training program within the board. Except as otherwise provided in subsection (6) of this section, said program shall be operated as a joint effort with the department of local affairs and in cooperation with the department of labor and employment, the department of human services, and state and local education agencies.

(b) Training for new jobs may include any of the following or any combination thereof:

(I) Preemployment training of workers;

(II) Training of workers upon first being hired;

(III) Retraining of workers for new job openings when they have lost their previous jobs because of plant closings or have been displaced by technological changes.

(c) Training shall not be provided by the Colorado customized training program when a trained and experienced work force, seeking employment, already exists in the local labor market.

(d) Training shall be initiated by the Colorado customized training program only when the participating new or expanding company has identified specific job openings and has agreed to give any graduates of the Colorado customized training program hiring priority.

(e) The payment of all direct costs of the training programs specified in paragraph (b) of this subsection (3) shall be made from moneys available for the Colorado customized training program. Direct costs shall include:

(I) Instructor wages, travel, and per diem allowances;

(II) Lease of training equipment;

(III) Lease of training space;

(IV) Purchase of training supplies;

(V) Development of instructional materials; and

(VI) Administrative costs directly associated with each training session.

(f) Moneys of the Colorado customized training program shall not be used to pay wages or stipends to trainees during a training session.

(g) Any training session sponsored by the Colorado customized training program shall last no longer than the time required to provide local workers with specific job skills required by a participating firm.

(h) The board and the department of local affairs shall work with business and industry representatives to jointly develop specific training programs sponsored by the Colorado customized training program for the purposes specified in paragraph (b) of this subsection (3). Such training programs shall emphasize the training or retraining of workers for the benefit of small businesses.

(i) Training programs shall not be established if such training is available through Colorado's regular vocational or technical education system or the Colorado apprenticeship and training program.

(j) Existing vocational or technical education facilities and resources shall be used in the Colorado customized training program whenever such resources are available. The Colorado customized training program shall be coordinated through existing vocational or technical education institutions.

(k) Training programs shall be designed with the direct cooperation and approval of the participating company. The participating company may be requested to contribute technical expertise, machinery, training space, moneys, and other appropriate resources in order to improve program effectiveness.

(l) Moneys available for the Colorado customized training program shall be expended for the alleviation of unemployment, underemployment, economic distress, low productivity, or employment dislocation through the initiation of economic development and advanced technology training programs. At the discretion of the board, up to one hundred percent of all moneys available for the Colorado customized training program may be transferred to the Colorado existing industry training program created by section 23-60-307, for the purpose of

providing funding to meet any existing demand for training and education programs within existing industries. The board shall consider the retention and expansion of existing business and industry as a high priority when making funding decisions.

(m) Notwithstanding section 24-1-136 (11)(a)(I), beginning January 1, 1985, and each January 1 thereafter, the state board for community colleges and occupational education shall report to the joint budget committee and the legislative audit committee on the cost-effectiveness of the Colorado customized training program in assisting economic development in Colorado.

(n) Moneys available for the Colorado customized training program may be used by the board to offset partially or fully the cost of nonresident tuition at state institutions of higher education for relocated employees of companies which currently participate in the Colorado customized training program and have located new facilities in Colorado or which have expanded their operations in Colorado and for the dependents of such relocated employees.

(n.5) Moneys may be available from the Colorado customized training program for use in training potential employees, establishing programs related to training, and helping companies to train employees.

(o) Recognizing that customized training is a matter of statewide concern, the commission shall establish policies pursuant to section 23-1-105 to allow for annual general funding recommendations for customized training programs which are not otherwise funded under this section.

(4) The state board for community colleges and occupational education is authorized to accept, receive, and expend grants, gifts, and moneys from any source for the purpose of implementing its duties and functions under this section.

(5) The provisions of article 8 of this title 23, concerning state assistance for career and technical education program support, shall not apply to the Colorado customized training program.

(6) On and after July 1, 2000, the Colorado office of economic development shall execute, administer, perform, and enforce the rights, powers, duties, functions, and obligations previously vested in the department of local affairs under this section.

Source: L. 84: Entire section added, p. 641, § 1, effective July 1. **L. 88:** (3)(a), (3)(h), (3)(n), and (5) amended and (3)(o) added, p. 864, § 1, effective April 20. **L. 94:** (3)(a) amended, p. 2692, § 226, effective July 1. **L. 96:** (3)(m) amended, p. 1234, § 68, effective August 7. **L. 2000:** (3)(a) amended and (6) added, p. 1678, § 4, effective July 1. **L. 2001:** (3)(l) amended, p. 414, § 1, effective August 8. **L. 2004:** (3)(l) amended, p. 163, § 1, effective March 17. **L. 2009:** (3)(n.5) added, (SB 09-171), ch. 221, p. 1002, § 1, effective May 4. **L. 2017:** (5) amended, (SB 17-294), ch. 264, p. 1400, § 63, effective May 25; (3)(m) amended, (HB 17-1251), ch. 253, p. 1061, § 15, effective August 9.

Cross references: For the legislative declaration contained in the 1994 act amending subsection (3)(a), see section 1 of chapter 345, Session Laws of Colorado 1994. For the legislative declaration contained in the 1996 act amending subsection (3)(m), see section 1 of chapter 237, Session Laws of Colorado 1996.

23-60-307. Colorado existing industry training program - creation - policy - functions of the state board for community colleges and occupational education. (1) This section shall be known and may be cited as the "Colorado Existing Industry Training Act".

(2) (a) The general assembly hereby finds and declares:

(I) That it is the policy of this state to maintain our economic health and vitality by ensuring the availability of a skilled labor force by assisting existing Colorado companies, especially ones undergoing major technological change, to train and retrain their workers for specific jobs and thereby keep our industries profitable and competitive; and

(II) That job-specific, existing industry training is necessary to ensure job retention for workers currently employed and improve job opportunities for our citizens newly entering the job market by providing workers with enhanced skills necessary to increase their competency, to remain employed, and to prevent worker dislocation including the subsequent need for public support; and

(III) That technical assistance can be made available by our industries to our training institutions, since such institutions do not have the resources to constantly upgrade or buy new equipment and to maintain the sophisticated plant environments currently found in industry.

(b) Therefore, it is hereby declared to be the policy of this state to promote the health, safety, opportunity for gainful employment, business opportunities, increased productivity, and general welfare of the inhabitants of this state by the creation of the Colorado existing industry training program.

(3) (a) There is hereby created the Colorado existing industry training program within the state board for community colleges and occupational education. Said program shall be jointly administered by the state board of community colleges and occupational education and the Colorado office of economic development in cooperation with the department of labor and employment, governor's job training office, state and local education agencies and private industry councils (in the planning and review process), and approved joint apprenticeship programs.

(b) The program shall provide training or retraining workers for companies being affected by major technological change or for situations where training is deemed crucial for the company and for worker retention. The program shall give first priority to Colorado-based industries which are being affected by technological change, causing a decline in business which may result in dislocation of its work force by imminent layoffs which may impact the community where the company is located. No preference in selection shall be given based on the location of a business in the state. The determinations required by this paragraph (b) shall be made after considering the financial condition of applicant companies, on-site visits to applicant companies, and joint evaluations thereof by the state board for community colleges and occupational education and the Colorado office of economic development as joint operators of the program. Training or retraining under the program may include any of the following or any combination thereof:

(I) Training for permanent, nonretail sector jobs which have significant career opportunities and require substantive instruction;

(II) Upgrade training or retraining of workers in situations where training is required for continued employment and to minimize worker dislocation.

(c) A company must agree to act as sponsor in the development and implementation of the training program.

(d) Training shall be nonduplicative of existing course offerings provided by the community college or vocational-technical institution in the local area, whenever possible; except that the community college or vocational-technical institution shall contract with other approved training entities, public or private, or both, where said entities can provide the training at less cost.

(e) The payment of all direct costs of training programs specified in paragraph (b) of this subsection (3) shall be made from moneys available for the Colorado existing industry training program. Direct training costs shall include:

(I) Assessment and testing;

(II) Instructor wages, per diem, and travel;

(III) Curriculum development and training materials;

(IV) Lease of training equipment and training space.

(f) Moneys of the Colorado existing industry training program shall not be used to pay wages or stipends to trainees during a training session.

(g) Training assistance shall be encouraged for small and rural companies, although not limited to such companies.

(h) Forty percent of training costs must be financed by the sponsoring company in cash or in-kind expenditures. The company shall also be encouraged to participate with in-kind contributions of training space, training equipment, training supplies, and technical assistance.

(i) Training programs shall be designed with the direct participation of the sponsoring company.

(j) Any training session sponsored by the Colorado existing industry training program shall last no longer than the time required to provide workers with the job skills required by the sponsoring company.

(k) Moneys available for the Colorado existing industry training program shall be expended for the prevention of unemployment to minimize worker dislocation.

(l) and (m) Repealed.

(n) Moneys available for the Colorado existing industry training program may be used to fund mobile learning labs, which provide employers with a flexible delivery option for on-site training.

(4) There is hereby created in the state treasury the Colorado existing industry training cash fund that shall consist of all moneys credited thereto pursuant to this subsection (4) and as otherwise provided by law. The general assembly shall make annual appropriations for fiscal years commencing on or after July 1, 1990, from the Colorado existing industry training cash fund to the state board for community colleges and occupational education for allocation to the Colorado existing industry training program for the implementation of this section.

(5) The state board of community colleges and occupational education is authorized to accept, receive, and expend grants, gifts, and moneys from any source for the purpose of implementing its duties and functions under this section.

(6) The provisions of article 8 of this title 23, concerning state assistance for career and technical education program support, shall not apply to the Colorado existing industry training program.

Source: L. 89: Entire section added, p. 1009, § 1, effective June 7. **L. 96:** (3)(l) and (3)(m) repealed, p. 1233, § 67, effective August 7. **L. 2000:** (3)(a), IP(3)(b), and (4) amended, p.

1679, § 5, effective July 1. **L. 2015:** (3)(n) added, (HB 15-1271), ch. 190, p. 627, § 1, effective August 5. **L. 2017:** (6) amended, (SB 17-294), ch. 264, p. 1400, § 64, effective May 25.

Cross references: For the legislative declaration contained in the 1996 act repealing subsections (3)(l) and (3)(m), see section 1 of chapter 237, Session Laws of Colorado 1996.

PART 4

LOCAL JUNIOR COLLEGES

23-60-401 to 23-60-406. (Repealed)

Source: L. 75: Entire part repealed, p. 788, § 13, effective July 1.

Editor's note: This part 4 was numbered as article 26 of chapter 124, C.R.S. 1963. For amendments to this part 4 prior to its repeal in 1975, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

Cross references: For present provisions concerning local district colleges, see part 2 of article 71 of this title 23.

PART 5

MISCELLANEOUS

23-60-501. Transfer of funds, property, etc. (Repealed)

Source: L. 67: p. 446, § 20. **C.R.S. 1963:** § 124-26-36. **L. 2015:** Entire section repealed, (SB 15-264), ch. 259, p. 957, § 58, effective August 5.

23-60-502. Applicability of article. Nothing in this article shall be construed to limit the duties, functions, or responsibilities of the department of human services.

Source: L. 67: p. 446, § 21. **C.R.S. 1963:** § 124-26-37. **L. 88:** Entire section amended, p. 1431, § 9, effective June 11. **L. 94:** Entire section amended, p. 2692, § 227, effective July 1.

Cross references: For the legislative declaration contained in the 1994 act amending this section, see section 1 of chapter 345, Session Laws of Colorado 1994.

PART 6

WORKPLACE LITERACY PROGRAMS

23-60-601. Certification of programs. (1) In the interest of promoting adult literacy, the state board for community colleges and occupational education, in consultation with the college advisory councils of the community and local district colleges, shall develop and employ a program of certification for workplace literacy programs.

(2) Certification shall identify those programs, completion of which shall be accepted as satisfaction of basic skill prerequisites and placement testing for occupational training in the state system of community and local district colleges. Exemption from placement testing shall be available to anyone satisfactorily completing a certified workplace literacy program within one year of enrollment in any local district or community college. For purposes of this section, the term "basic skill prerequisites" means instruction in basic literacy and math skills which are necessary for placement in certificate and degree course programs at state community or local district colleges.

(3) The board shall develop and establish criteria, procedures, and accountability standards for the certification of workplace literacy programs. Nothing in this section shall be construed to restrict the operation of any workplace literacy program which is not certified according to the terms of this section, but no community or local district college shall credit completion in the workplace of basic skill prerequisites which are not completed in a certified program.

Source: L. 88: Entire part added, p. 866, § 1, effective July 1.

PART 7

PRIVATE OCCUPATIONAL SCHOOL DIVISION

Cross references: For the "Private Occupational Education Act of 1981", see article 64 of this title 23.

23-60-701. Legislative declaration. The general assembly hereby finds and declares that, pursuant to article 64 of this title 23, there is a demonstrated need for statewide administration of private occupational schools in order to provide standards for, foster improvements of, and protect the citizens of this state against fraudulent or substandard educational services in private occupational schools. Therefore, the general assembly has determined that the overall responsibility for such administration and for ensuring compliance with article 64 of this title 23 should be placed with a division that has only this responsibility. The statutes for the implementation of this division are located in article 64 of this title 23.

Source: L. 90: Entire part added, p. 1157, § 2, effective July 1. **L. 98:** Entire section amended, p. 34, § 1, effective March 17. **L. 2008:** Entire section amended, p. 1479, § 21, effective May 28. **L. 2017:** Entire section amended, (HB 17-1239), ch. 261, p. 1206, § 16, effective August 9.

23-60-702. Definitions. (Repealed)

Source: L. 90: Entire part added, p. 1158, § 2, effective July 1. **L. 98:** (1) amended, p. 34, § 2, effective March 17. **L. 2008:** Entire section repealed, p. 1483, § 30, effective May 28.

23-60-703. Private occupational school division - creation. (Repealed)

Source: L. 90: Entire part added, p. 1158, § 2, effective July 1. **L. 2008:** Entire section repealed, p. 1483, § 29, effective May 28.

Editor's note: In 2008, this section was relocated to § 12-59-104.1 and was subsequently relocated to § 23-64-105 in 2017.

23-60-704. Private occupational school board - established - membership. (Repealed)

Source: L. 90: Entire part added, p. 1158, § 2, effective July 1. **L. 95:** (5) repealed, p. 116, § 2, effective March 31. **L. 98:** Entire section R&RE, p. 35, § 3, effective March 17. **L. 2004:** (3)(b) amended, p. 579, § 41, effective July 1. **L. 2006:** (3)(b) amended, p. 514, § 11, effective July 1. **L. 2008:** Entire section repealed, p. 1483, § 29, effective May 28.

Editor's note: In 2008, this section was relocated to § 12-59-105.1 and was subsequently relocated to § 23-64-107 in 2017.

23-60-704.5. Duties and powers of the board. (Repealed)

Source: L. 98: Entire section added, p. 35, § 4, effective March 17. **L. 2008:** Entire section repealed, p. 1483, § 30, effective May 28.

23-60-705. Duties and powers of the division subject to the approval of the executive director. (Repealed)

Source: L. 90: Entire part added, p. 1159, § 2, effective July 1. **L. 98:** Entire section amended, p. 36, § 5, effective March 17. **L. 2008:** Entire section repealed, p. 1483, § 29, effective May 28.

Editor's note: In 2008, this section was relocated to § 12-59-105.9 and was subsequently relocated to § 23-64-106 in 2017.

PART 8

AREA TECHNICAL COLLEGES

23-60-801. Area vocational schools - name. (Repealed)

Source: L. 2004: Entire part added, p. 929, § 2, effective August 4. **L. 2016:** Entire section repealed, (HB 16-1082), ch. 58, p. 148, § 28, effective August 10.

23-60-802. Area technical colleges - credits - transfer. On or before September 1, 2004, the board shall adopt policies to ensure that, if a student completes a program of study at an area technical college and subsequently enrolls in an institution within the state system of community and technical colleges, or transfers from an area technical college to an institution within the state system of community and technical colleges, any postsecondary course credits earned by the student while enrolled in the area technical college will apply in full at another area technical college or to an appropriate program leading to a certificate or to an associate degree at a community or technical college. Postsecondary credits earned by a student at an area technical college may be transferred into an associate degree program at a community college or into a degree program at a four-year institution of higher education as provided in section 23-1-108 (7) and the state credit transfer policies established by the Colorado commission on higher education.

Source: L. 2004: Entire part added, p. 930, § 2, effective August 4. **L. 2016:** Entire section amended, (HB 16-1082), ch. 58, p. 149, § 29, effective August 10.

PART 9

ACCELERATED EDUCATION AND SKILLS TRAINING

23-60-901. Definitions. As used in this part 9, unless the context otherwise requires:

(1) "Accelerated certificates program" means the certificate programs that the board may design pursuant to section 23-60-902 to provide career and technical education certificates on an accelerated schedule for eligible adults who have an insufficient level of information or math literacy and are seeking to enter or re-enter the workforce or obtain better employment.

(2) "Board" means the state board for community colleges and occupational education created in section 23-60-104.

(3) "Commission" means the Colorado commission on higher education established in section 23-1-102.

(4) "Eligible adult" means an individual who is eligible to enroll in an adult education program because the individual is underemployed or unemployed.

(5) "Information or math literacy" means an individual's ability to use appropriate mathematical, literacy, or technical skills for career success.

(6) "Local district college" means a local district college operating pursuant to article 71 of this title.

Source: L. 2013: Entire part added, (HB 13-1005), ch. 358, p. 2104, § 1, effective May 28.

23-60-902. Accelerated education and skills training - certificates. (1) (a) The board may collaborate with the local district colleges, area technical colleges, the unit within the department of education that works with adult education, and local workforce development programs to design certificate programs through which an eligible adult who has an insufficient level of information or math literacy may obtain a career and technical education certificate on an accelerated schedule to assist him or her in entering or re-entering the workforce or in

obtaining better employment. Each certificate program must consist of courses that integrate information and math literacy development programs with career and technical training. The time required to complete a certificate program must not exceed twelve months.

(b) The board shall work with the community colleges, local district colleges, and area technical colleges to design the career and technical training portion of each certificate program.

(c) The board is encouraged to collaborate with and may enter into memorandums of understanding with local district colleges, area technical colleges, the unit within the department of education that works with adult education, local workforce development programs, and other local adult education providers to ensure that the accelerated certificates program can be implemented locally.

(2) In implementing the accelerated certificates program, the board must ensure that, at a minimum, the program:

(a) Is available to eligible adults who are seeking to enter or re-enter the workforce or obtain better employment and who may benefit from information or math literacy development programs, as indicated by their scores on the developmental education assessments in English and mathematics adopted by the commission pursuant to section 23-1-113.3 or by a referral from a local adult education program or a local workforce development program;

(b) Includes only career and technical certificate programs that a student can complete within twelve months; and

(c) Requires that each course offered through the certificate programs integrates appropriate information or math literacy instruction and career and technical skills training and is jointly designed by mathematics, English, and career and technical education faculty.

(3) (a) A community college in the state system of community and technical colleges, a local district college, and an area technical college may choose to participate in the accelerated certificates program by offering one or more of the certificate programs created through the accelerated certificates program pursuant to subsection (1) of this section.

(b) An institution or program that participates in the accelerated certificates program shall, on or before July 1, 2014, and on or before July 1 each year thereafter in which the institution or program participates in the accelerated certificates program, submit to the department of higher education a report that includes the following information:

(I) The certificate programs that the institution or program offered;

(II) The number of students who enrolled in each certificate program;

(III) The number of students who successfully completed each certificate program; and

(IV) The percentage of students who obtained employment in the subject area in which they obtained a certificate or who enrolled for additional education in that subject area.

Source: L. 2013: Entire part added, (HB 13-1005), ch. 358, p. 2105, § 1, effective May 28. **L. 2016:** (1)(a), (1)(b), (1)(c), and (3)(a) amended, (HB 16-1082), ch. 58, p. 149, § 30, effective August 10. **L. 2019:** (2)(a) amended, (HB 19-1206), ch. 133, p. 606, § 21, effective April 25.

Cross references: For the legislative declaration in HB 19-1206, see section 1 of chapter 133, Session Laws of Colorado 2019.

PART 10

MANUFACTURING CAREER PATHWAY

23-60-1001. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) Manufacturing plays a vital role in Colorado's economy;

(b) The manufacturing sector in Colorado is diverse, with employers distributed across the state;

(c) Over five thousand nine hundred manufacturing firms employ more than one hundred twenty thousand employees and contribute over sixteen billion dollars annually to Colorado's economy; and

(d) Both durable and consumable goods are manufactured in Colorado, including products such as medical instruments, semiconductors and other information technology products, plastics, aviation equipment components, chemicals, and food products requiring specialized processes.

(2) The general assembly further finds that:

(a) The promise and challenge of sustaining growth in Colorado's manufacturing sector presents special difficulties due to the scope and diversity of the industry;

(b) Manufacturing sector employers have increased reliance on automated and computer-integrated control processes and "lean" manufacturing principles;

(c) Workers in this employment environment need foundational knowledge, specialized skills, portable production skills, as well as flexibility and adaptability in work habits;

(d) This has resulted in a shortfall in the quantity and quality of the pool of workers who can succeed in the manufacturing sector; and

(e) Because manufacturing in Colorado is a dynamic and evolving economic engine for the state, the challenges in preparing a pipeline of skilled employees to work in the manufacturing sector must be addressed, and current and future Colorado workers must be aware of the opportunities in the industry and the career pathway to achieve employment in the manufacturing sector.

(3) Therefore, the general assembly finds and declares that developing a manufacturing career pathway for Colorado citizens will:

(a) Increase the number of Colorado citizens accessing postsecondary education;

(b) Increase the number of Colorado citizens completing degrees and other credentials;

(c) Decrease the need for remediation at the postsecondary level;

(d) Increase entry into employment and increase wages over time; and

(e) Create better transitions in educational programs for students in the manufacturing career pathway from high school to college, from adult education to postsecondary credit, and from community colleges to four-year institutions of higher education or into employment.

Source: L. 2013: Entire part added, (HB 13-1165), ch. 305, p. 1617, § 1, effective August 7.

23-60-1002. Definitions. As used in this part 10, unless the context otherwise requires:

(1) "Board" means the state board for community colleges and occupational education created in section 23-60-104.

(2) "Career pathway" means a series of connected education and training strategies and support services that enable individuals to secure industry-relevant skills and certification where applicable, and to obtain employment within an occupational area and to advance to higher levels of future education and employment.

(3) "Manufacturing sector" means establishments, including existing and emerging manufacturing sector partnerships, engaged in the mechanical, physical, or chemical transformation of materials, substances, or components into new products. "Manufacturing sector" includes the employees who plan, manage, and perform the processing of materials into intermediate or final products and related professionals and technical support activities, including production planning and control, maintenance, and manufacturing process engineering.

(4) "Manufacturing sector partnership" means a collaboration of business and industry, in partnership with public workforce development, economic development, and education partners, to ensure that workers are prepared to meet the growing demands of the manufacturing industry sector within a geographic area.

(5) "Stackable certificates" means a sequence of credentials, each of which is recognized by employers and provides a gateway to employment and matriculation into a technical degree or advanced study in a field.

Source: L. 2013: Entire part added, (HB 13-1165), ch. 305, p. 1618, § 1, effective August 7.

23-60-1003. Manufacturing career pathway - design. (1) No later than the 2014-15 academic year, the board, after consulting with local district colleges and area technical colleges, in collaboration with the department of labor and employment, the department of higher education, the department of education, and the state work force development council, created in section 24-46.3-101, C.R.S., shall design a career pathway for students within the manufacturing sector. The manufacturing career pathway shall connect school districts, local district colleges, area technical colleges, community colleges, and four-year institutions of higher education with adult education programs, local workforce development programs, and regional manufacturing sector partnerships, and will allow a student to earn income while progressing along the career pathway.

(2) The manufacturing career pathway must include industry-validated stackable certifications and multiple entry and exit points that allow students of all ages to seek additional opportunities in the manufacturing sector. The manufacturing career pathway designed by the board must include, but need not be limited to, the following components:

(a) Alignment with the skills and requirements that state and local manufacturing sector employers, through manufacturing sector partnerships, determine are necessary for career progression in high-demand occupations within the manufacturing sector;

(b) A full range of middle school, secondary, adult education, and postsecondary education options, with a nonduplicative, clearly articulated course progression from one level of instruction to the next, with opportunities to earn postsecondary credits, maximize credit for prior learning, and secure industry-validated credentials;

(c) Technical skill assessments at multiple points in the manufacturing career pathway that lead to industry certifications or other value in employment, including advanced placement into a higher level of training;

(d) Academic and career counseling resources, best practices in wraparound support services, particularly at transition points along the manufacturing career pathway, and support and development of individual career and academic plans; and

(e) Curriculum and instructional strategies that are appropriate for adult students and that embed learning and skill building in a work-related context.

Source: L. 2013: Entire part added, (HB 13-1165), ch. 305, p. 1619, § 1, effective August 7. **L. 2016:** (1) amended, (HB 16-1082), ch. 58, p. 149, § 31, effective August 10.

23-60-1004. Online information - manufacturing career pathway. (1) After the design of the manufacturing career pathway is completed pursuant to section 23-60-1003, the department of higher education, in collaboration with the department of labor and employment, shall post information concerning the career pathway on the state-provided, free online career, education, and training resource created pursuant to section 24-46.3-106. The following information must be included:

(a) Manufacturing sector career awareness;

(b) Salary and wage information for manufacturing sector careers;

(c) The manufacturing sector employment forecast;

(d) Information on programs within the manufacturing career pathway, services provided, and financial aid opportunities for students; and

(e) Online student support services.

Source: L. 2013: Entire part added, (HB 13-1165), ch. 305, p. 1620, § 1, effective August 7. **L. 2020:** IP(1) amended, (HB 20-1396), ch. 138, p. 601, § 8, effective September 14.

PART 11

WORKING GROUP FOR THE TRANSFER OF
APPRENTICESHIP CREDIT TO COLLEGE CREDIT

23-60-1101. (Repealed)

Editor's note: (1) This part 11 was added in 2019 and was not amended prior to its repeal in 2020. For the text of this part 11 prior to 2020, consult the 2019 Colorado Revised Statutes and the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

(2) Section 23-60-1101 (4) provided for the repeal of this part 11, effective July 1, 2020. (See L. 2019, p. 2961.)

ARTICLE 61

Community College of Denver

23-61-101 to 23-61-106. (Repealed)

Source: L. 85: Entire article repealed, p. 771, § 31, effective July 1.

Editor's note: This article was numbered as article 24 of chapter 124, C.R.S. 1963. For amendments to this article prior to its repeal in 1985, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

ARTICLE 61.5

Area Vocational Districts

PART 1

ORGANIZATION

23-61.5-101. Formation - petition of electors. (1) Any area or part of an area of the state which is designated by the state board for community colleges and occupational education as an area to be served by an area technical college and which also contains a local college district which is designated as an area technical college pursuant to article 60 of this title may be formed as an area vocational district as provided in this part 1.

(2) An area vocational district may be formed upon the petition of five hundred eligible electors as defined in section 23-61.5-104. If the petition is for the formation of an area vocational district consisting of an area within a single county, it shall be filed with the county clerk and recorder of the county, and, if the petition is for the formation of an area vocational district situated in two or more counties, a copy of the petition shall be filed with the county clerk and recorder of each county in which a part of the district is located. The petition shall also set forth the rate of the levy which will be imposed to meet expenses during the fiscal year which immediately follows the year in which the election is held.

Source: L. 83: Entire article added, p. 812, § 1, effective June 1. **L. 92:** (2) amended, p. 844, § 41, effective January 1, 1993. **L. 2016:** (1) amended, (HB 16-1082), ch. 58, p. 150, § 32, effective August 10.

23-61.5-102. Election to organize. Upon receipt of the petition provided in section 23-61.5-101, the county clerk and recorder shall give notice to the eligible electors of the respective school districts located in the area of the proposed area vocational district that at the next regular biennial school election, or at a special election which may be called for the purpose, the question of organizing an area vocational district will be submitted to them.

Source: L. 83: Entire article added, p. 813, § 1, effective June 1. **L. 92:** Entire section amended, p. 845, § 42, effective January 1, 1993.

23-61.5-103. Notice to be given - when. (Repealed)

Source: L. 83: Entire article added, p. 813, § 1, effective June 1. **L. 92:** Entire section repealed, p. 845, § 43, effective January 1, 1993.

23-61.5-104. Eligible electors - conduct of election. (1) An eligible elector is an elector who has complied with the registration provisions of article 2 of title 1, C.R.S., and who resides within the jurisdiction of the area vocational district. At the time and place of the election, the electors shall proceed to vote by ballot on the question of whether or not the proposed district shall be organized. The ballot shall also contain the rate of the levy to be imposed to meet expenses during the fiscal year which immediately follows the year in which the election is held. Those in favor of the organization shall vote for the organization and those opposed shall vote against the organization.

(2) All elections authorized under this article shall be conducted pursuant to the provisions of articles 1 to 13 of title 1, C.R.S. The county clerk and recorder in each county in which a part of the district is located shall be the designated election official for an organizational election. Thereafter the designated election official shall be the secretary of the board unless otherwise provided by the board.

Source: L. 83: Entire article added, p. 813, § 1, effective June 1. **L. 92:** Entire section amended, p. 845, § 44, effective January 1, 1993.

23-61.5-105. Certification of returns. (Repealed)

Source: L. 83: Entire article added, p. 814, § 1, effective June 1. **L. 92:** Entire section repealed, p. 846, § 45, effective January 1, 1993.

23-61.5-106. Record of votes. (1) If more than a majority of the votes cast on the question of organizing an area vocational district are in favor of the organization, the district shall be formed in accordance with the provisions of this part 1.

(2) (Deleted by amendment, L. 92, p. 846, § 46, effective January 1, 1993.)

(3) The provisions of this section shall not be construed to prevent the filing of a subsequent petition for the formation of a similar area vocational district.

Source: L. 83: Entire article added, p. 814, § 1, effective June 1. **L. 92:** Entire section amended, p. 846, § 46, effective January 1, 1993.

23-61.5-107. Board of control - members and terms - meetings - officers. (1) Each area vocational district established pursuant to this part 1 shall have a board of control, referred to in this article as the "board". The board shall consist of the members of the board of control of the local college district contained in the area vocational district and one member from each of the school districts contained in the area vocational district, who shall be appointed by the school district's board of directors for a term of three years.

(2) The board shall meet and select from among its members a president, a secretary, and a treasurer. The board shall prescribe by resolution the duties of said officers. In addition to other powers provided by resolution, the president shall preside over meetings of the board and shall vote as a member of the board.

(3) The regular meetings of the board shall be held as the board shall decide; except that there shall be no less than four regular meetings each year. Additional or special meetings may be held upon call of the president or a majority of the board. The secretary of the board shall notify the members of all meetings. All special and regular meetings of the board shall be held at locations which are within the boundaries of the district or which are within the boundaries of any county in which the district is located, in whole or in part, or in any county so long as the meeting location does not exceed twenty miles from the district boundaries. The provisions of this subsection (3) governing the location of meetings may be waived only if the following criteria are met:

(a) The proposed change of location of a meeting of the board appears on the agenda of a regular or special meeting of the board; and

(b) A resolution is adopted by the board stating the reason for which a meeting of the board is to be held in a location other than under the provisions of this subsection (3) and further stating the date, time, and place of such meeting.

Source: L. 83: Entire article added, p. 814, § 1, effective June 1. **L. 90:** (3) amended, p. 1495, § 1, effective July 1.

23-61.5-108. District - body corporate. Each regularly organized area vocational district which may be formed as provided in this part 1 is declared to be a body corporate, by the name and style of "..... Area Vocational District", and in that name may hold property and be a party to suits and contracts, the same as municipal corporations in this state.

Source: L. 83: Entire article added, p. 815, § 1, effective June 1.

23-61.5-109. Powers of board. (1) In addition to any other powers granted by law to the board, such board shall have the following powers:

(a) To have and use a corporate seal;

(b) To sue and be sued in its own name;

(c) To incur debts, liabilities, and obligations;

(d) To employ agents and employees;

(e) To cooperate and contract with the state or federal government or any agencies or instrumentalities thereof and to apply for and receive grants or financial assistance from any of such entities;

(f) To act as and on behalf of the state of Colorado pursuant to a statutory authorization;

(g) To acquire, hold, lease, sell, or otherwise dispose of any real or personal property, commodity, or service;

(h) To adopt, by resolution, regulations necessary for the accomplishment or performance of the powers granted by law;

(i) To exercise any other powers which are essential to carrying out the provisions of this article;

(j) To do or perform any acts authorized by this section by means of an agent or by contract with any person, firm, or corporation;

(k) To provide for the necessary expenses of the board in the exercise of its powers and the performance of its duties and reimburse a board member for necessary expenses incurred by

him in the performance of his official duties, whether within or without the territorial limits of the district.

Source: L. 83: Entire article added, p. 815, § 1, effective June 1.

23-61.5-110. Property tax - vocational services. Each area vocational district, acting through its board, has the power to impose an ad valorem property tax against property in the district to raise revenue for the purpose of meeting the cost of the postsecondary vocational services provided within the district by the area technical college which serves and is contained in the district, including but not limited to the cost of capital construction.

Source: L. 83: Entire article added, p. 815, § 1, effective June 1. **L. 2016:** Entire section amended, (HB 16-1082), ch. 58, p. 150, § 33, effective August 10.

23-61.5-111. Area vocational districts subject to local government revenue-raising limitation. For the purposes of part 3 of article 1 of title 29, C.R.S., a board shall not be deemed to be a school board.

Source: L. 83: Entire article added, p. 816, § 1, effective June 1.

23-61.5-112. Additions to district - procedure. (1) If any part of the area designated by the state board for community colleges and occupational education as an area to be served by an area technical college desires to be annexed to an existing area vocational district, it may do so by the following procedure:

(a) By obtaining approval of the existing area vocational district. The approval is given only upon a majority vote of the eligible electors of the existing area vocational district as expressed by a majority polled at the time of the regular biennial school election held in the area vocational district. The election must be called only upon the affirmative vote of the board.

(b) By obtaining approval of the eligible electors residing in the part of the designated area desiring to be annexed voting on the question of annexation at a regular biennial school election. The election must be called only upon the filing of a petition for inclusion with the county clerk and recorder of the county in which the part is located or with the county clerk and recorder of each county in which a part is located if the part is located in more than one county. The petition must be signed by ten percent of the eligible electors who reside in the part. The provisions of sections 23-61.5-104 and 23-61.5-106 apply to the election. If more than a majority of all votes cast at the election are in favor of the inclusion, the part is included in the area vocational district.

Source: L. 83: Entire article added, p. 816, § 1, effective June 1. **L. 92:** Entire section amended, p. 847, § 47, effective January 1, 1993. **L. 2002:** (1)(b) amended, p. 1022, § 38, effective June 1. **L. 2016:** Entire section amended, (HB 16-1082), ch. 58, p. 150, § 34, effective August 10.

23-61.5-113. Dissolution of district. Any area vocational district may be dissolved in the following manner: A plan for the dissolution of the area vocational district may be submitted

to the eligible electors of the area vocational district at a special election held for that purpose. The plan shall provide for the payment of all district debts and liabilities and the distribution of all district assets. If the eligible electors authorize the dissolution by a vote of the majority of electors voting at the special election, the board shall proceed to carry out the plan so authorized and, upon accomplishment thereof, shall file its certificate of that fact with the county clerk and recorder of the county wherein the district is situate. Thereupon, the district shall be considered dissolved. If any property or funds remain in the hands of the board, credit after the dissolution of the property or funds shall be distributed as provided in the plan of dissolution for the distribution of the assets of the area vocational district.

Source: L. 83: Entire article added p. 816, § 1, effective June 1. **L. 92:** Entire section amended, p. 848, § 48, effective January 1, 1993.

PART 2

LEVY AND COLLECTION OF TAXES

23-61.5-201. Procedure. (1) Except as provided in subsection (2) of this section, the board shall determine in each year the amount of money necessary to be raised by taxation and shall fix a rate of levy which, when levied upon every dollar of valuation for assessment of taxable property within the district, will raise the amount required by the district annually to supply funds to defray its expenses, including but not limited to the cost of postsecondary vocational services provided by the area technical college and capital construction.

(2) The first rate of levy to be imposed shall be the mill levy which was contained in the petition for organization and which was voted upon in the election for organization. Thereafter, the rate of levy shall be determined as provided for in subsection (1) of this section.

(3) In accordance with the schedule prescribed by section 39-5-128, C.R.S., the board shall certify to the board of county commissioners of each county within the district, or having a portion of its territory within the district, the rate so fixed in order that, at the time and in the manner required by law for the levying of taxes, such board of county commissioners shall levy such tax upon the valuation for assessment of all taxable property within the district.

Source: L. 83: Entire article added, p. 816, § 1, effective June 1. **L. 2016:** (1) amended, (HB 16-1082), ch. 58, p. 151, § 35, effective August 10.

23-61.5-202. County officers to levy and collect - lien. It is the duty of the body having authority to levy taxes within each county to levy the taxes provided by section 23-61.5-201. It is the duty of all officials charged with the duty of collecting taxes to collect such taxes at the time and in the form and manner and with like interest and penalties as other taxes are collected and when collected to pay the same to the district. The payment of such collections shall be made monthly to the treasurer of the district. All taxes levied under this part 2, together with interest thereon and penalties for default in payment thereof, and all costs of collecting the same shall constitute, until paid, a perpetual lien on and against the property taxed, and such lien shall be on a parity with the tax lien of other general taxes.

Source: L. 83: Entire article added, p. 817, § 1, effective June 1.

23-61.5-203. Sale for delinquencies. If the taxes levied are not paid, delinquent real property shall be sold at the regular tax sale for the payment of said taxes, interest, and penalties in the manner provided by the statutes of this state for selling real property for the nonpayment of general taxes. If there are no bids at said tax sale for the property so offered, said property shall be struck off to the county, and the county shall account to the district in the same manner as provided by law for accounting for school, town, and city taxes. Delinquent personal property shall be distrained and sold as provided by law.

Source: L. 83: Entire article added, p. 817, § 1, effective June 1.

ARTICLE 62

Pikes Peak Community College

23-62-101 to 23-62-106. (Repealed)

Source: L. 85: Entire article repealed, p. 771, § 31, effective July 1.

Editor's note: (1) This article was numbered as article 25 of chapter 124, C.R.S. 1963. For amendments to this article prior to its repeal in 1985, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

(2) In the original volume 9 of C.R.S. 1973, Pikes Peak community college was known as El Paso community college. For the provisions effecting this name change, see L. 78, p. 386, § 1.

ARTICLE 63

Community College of Aurora

23-63-101 to 23-63-105. (Repealed)

Source: L. 85: Entire article repealed, p. 771, § 31, effective July 1.

Editor's note: This article was added in 1983 and was not amended prior to its repeal in 1985. For the text of this article prior to 1985, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

ARTICLE 64

Private Occupational Schools

Editor's note: This article 64 was added with relocations in 2017. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this article 64, see the comparative tables located in the back of the index.

23-64-101. Short title. The short title of this article 64 is the "Private Occupational Education Act of 1981".

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1177, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-101 as it existed prior to 2017.

23-64-102. Legislative declaration. (1) It is the purpose of this article 64 to provide standards for and to foster and improve private occupational schools and their educational services and to protect the citizens of this state against fraudulent or substandard private occupational schools by:

(a) Prohibiting the use of false or misleading literature, advertising, or representations by private occupational schools or their agents;

(b) Establishing accountability for private occupational schools and their agents through the setting of standards relative to the quality of educational services, fiscal responsibility, and ethical business practices;

(c) Providing for the preservation of essential records;

(d) Providing certain rights and remedies to the private occupational school division, the private occupational school board created in section 23-64-107, and the consuming public necessary to effectuate the purposes of this article 64;

(e) Providing for the authorization of appropriate educational credentials by approved schools, including, but not limited to, certificates, diplomas, and associate degrees; and

(f) Providing train-out for students of private occupational schools ceasing operation.

(2) To these ends, this article 64 shall be liberally construed.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1177, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-102 as it existed prior to 2017.

23-64-103. Definitions. As used in this article 64, unless the context otherwise requires:

(1) "Administrative law judge" means a person, appointed by the authority from a list provided by the attorney general, who shall conduct hearings on any matter that is within the jurisdiction of the division and that is referred to the administrative law judge by the division.

(2) "Agent" means any person owning any interest in, employed by, or representing for remuneration or other consideration a private occupational school located within or without this state who enrolls or who, in places other than the principal school premises, offers or attempts to secure the enrollment of any person within this state for education in a school.

(3) "Agent's permit" means a nontransferable written authorization issued to an agent pursuant to the provisions of this article 64 by the division upon approval by the executive director.

(4) "Associate degree" means a degree offered by a school on the successful completion of the degree requirements as established by the division.

(5) "Board" means the private occupational school board created in section 23-64-107.

(6) "Ceasing operation" means the voluntary discontinuation of operation by a private occupational school or the discontinuation of operation by a private occupational school due to the denial, expiration, revocation, or suspension of the school's certificate of approval by the division.

(7) "Certificate" means an award for the successful completion of a specific course or program objective.

(8) "Certificate of approval" means a written authorization issued by the division, upon approval by the executive director, to the principal owners of a school in the name of the school, pursuant to the provisions of this article 64, to operate a school in this state.

(9) "Diploma" means an award for the successful completion of an approved prescribed program of study in a particular field of endeavor.

(10) "Director" means the director of the private occupational school division created pursuant to section 23-64-105.

(11) "Division" means the private occupational school division created pursuant to section 23-64-105.

(12) "Educational credentials" means certificates, diplomas, associate degrees, transcripts, reports, numbers, or words that signify or are generally taken to signify enrollment, attendance, progress, or satisfactory completion of the requirements for education at a school.

(13) "Educational services" or "education" includes, but is not limited to, any class, course, or program of training, instruction, or study that is designed or is purported to meet all or part of the requirements for employment in an agricultural, trade, industrial, technical, business, office, sales, service, or health occupation and constitutes occupational education.

(14) "Entity" includes, but is not limited to, any person, society, association, partnership, corporation, or trust.

(15) "Executive director" means the executive director of the department of higher education appointed pursuant to section 23-1-110 (2).

(16) "New school" means a private occupational school that does not hold an existing certificate of approval as of June 30, 1981, or a school holding an existing certificate of approval as of June 30, 1981, that subsequently expires pursuant to the provisions of section 23-64-114 (4) or is revoked or denied pursuant to the provisions of this article 64.

(17) "Occupational education" means any education designed to facilitate the vocational, technical, or occupational development of individual persons, including, but not limited to, vocational or technical training or retraining that is given in schools or classes, including field or laboratory work incident thereto, that is conducted as a part of a program designed to fit individuals for gainful employment as semiskilled or skilled workers or technicians in recognized occupations requiring less than a four-year baccalaureate degree. The term also includes instruction related to the occupation for which the person is being trained or that is necessary for him or her to benefit from the training.

(18) "Offer" or "offering" includes, in addition to its usual meaning, advertising, publicizing, soliciting, or encouraging any person in any manner to perform the act described.

(19) "Operate" or "operating", when used with respect to a school, means to establish, keep, or maintain any facility or location in this state where, from, or through which educational services are offered or educational credentials are offered or granted.

(20) "Private occupational school" or "school" means any entity or institution for profit or not for profit located within or without this state that offers educational credentials or educational services that constitute occupational education in this state and that is not specifically exempt from the provisions of this article 64.

(21) "Train-out" means the opportunity for a student of a private occupational school ceasing operation to meet the student's educational objectives through training provided by another approved private occupational school, a community college, an area technical college, or any other training arrangement acceptable to the division.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1178, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-103 as it existed prior to 2017.

23-64-104. Exemptions. (1) The following educational institutions and educational services are exempt from this article 64:

(a) A public school or public educational institution funded wholly or in part by a local school district or school districts or by direct appropriation from the state to a school, public educational institution, or board;

(b) A nonprofit school owned, controlled, operated, and maintained by a bona fide parochial or denominational institution exempt from general property taxation under the laws of this state;

(c) A school offering education solely avocational, supplementary, or ancillary in nature;

(d) A college or university that:

(I) Confers four-year baccalaureate or higher degrees; and

(II) Offers programs or courses in this state, the majority of which are not occupational in nature, as defined by the division, or are at the graduate level;

(e) A private school providing a basic academic education comparable to that provided in public elementary and secondary schools of this state;

(f) A school offering only educational services for which no money or other consideration is paid;

(g) A school offering only educational services to an employer for the training of its employees;

(h) Education offered by a bona fide trade, business, professional, or fraternal organization that primarily benefits the organization's membership or mission;

(i) Educational services offered by an employer for the training of its own employees;

(j) Apprenticeship training registered pursuant to state or federal law;

(k) Educational services offered by an approved school that:

(I) Do not require the payment of money or other consideration;

(II) Are avocational, supplementary, or ancillary in nature; or

(III) Are offered only to an employer for the training and preparation of his or her employees;

(l) Nurse aide training programs approved pursuant to section 12-255-118.5 (1);

(m) Flight schools that are approved and regulated by the federal aviation administration;

(n) A private educational institution that is accredited by an agency recognized by the United States department of education, that confers post-graduate degrees, and that offers programs or courses that are not defined as occupational education pursuant to section 23-64-103 (17);

(o) A continuing professional education program that meets the requirements for maintaining or renewing a professional license issued by a Colorado state professional licensing entity so long as the continuing professional education program or the organization that provides the program is approved by the Colorado state professional licensing entity either before or after a licensee attends the program. To qualify for the exemption created in this subsection (1)(o), a continuing professional education program must be consistent with the purposes or requirements of the organization that provides the program.

(p) Yoga teacher training courses, programs, and schools; and

(q) Training of guides, trip leaders, and guide instructors by river outfitters licensed pursuant to section 33-32-104.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1180, § 1, effective August 9. **L. 2019:** IP(1) and (1)(p) amended and (1)(q) added, (SB 19-160), ch. 416, p. 3662, § 3, effective August 2; (1)(l) amended, (HB 19-1172), ch. 136, p. 1685, § 123, effective October 1. **L. 2020:** (1)(l) amended, (HB 20-1183), ch. 157, p. 701, § 54, effective July 1.

Editor's note: This section is similar to former § 12-59-104 as it existed prior to 2017.

23-64-105. Private occupational school division - creation. There is hereby created the private occupational school 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 duties and functions specified in this article 64 under the department of higher education and the executive director thereof as if the same were transferred to the department by a **type 2** transfer as such transfer is defined in the "Administrative Organization Act of 1968", article 1 of title 24. The director shall be appointed by the executive director. The director, with the approval of the executive director, 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.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1181, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-104.1 as it existed prior to 2017.

23-64-106. Powers and duties of division. (1) The division shall have, in addition to the powers and duties now vested therein by law, the following powers and duties:

(a) To publish a list of schools and maintain a list of agents authorized to operate in this state under the provisions of this article 64;

(b) To receive or cause to be maintained as a permanent file, in conformity with section 23-64-125, copies of educational, financial, and other records;

(c) To negotiate and enter into interstate reciprocity agreements with similar agencies in other states whenever, in the judgment of the division and the board, such agreements are or will be helpful in effectuating the purposes of this article 64; except that nothing contained in any such reciprocity agreement shall be construed as limiting the division's powers, duties, and responsibilities with respect to investigating or acting upon any application for a certificate of approval for a private occupational school or an application for issuance of or renewal of any agent's permit or with respect to the enforcement of any provision of this article 64 or any of the rules promulgated under this article 64.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1182, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-105 as it existed prior to 2017.

23-64-107. Private occupational school board - established - membership. (1) Effective June 30, 1998, the private occupational school policy advisory committee is abolished, and the terms of members of the advisory committee serving as such immediately prior to June 30, 1998, are terminated.

(2) Effective July 1, 1998, there is established, in the private occupational school division, the private occupational school board that shall advise the director on the administration of this article 64 and shall have the powers and duties specified in section 23-64-108. The board shall exercise its powers and perform its duties and functions specified in this article 64 as if the same were transferred to the department of higher education by a **type 1** transfer, as such transfer is defined in the "Administrative Organization Act of 1968", article 1 of title 24.

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

(a) Three members shall be owners or operators of private occupational schools that receive Title IV funds;

(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 federal loans and funds authorized in Title IV of the federal "Higher Education Act of 1965", as amended, 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 division.

(4) No appointed member shall be an employee of any local district college, community or technical college, school district, or public agency that receives vocational funds allocated by any state agency.

(5) (a) The board members shall serve four-year terms; except that, of the members first appointed to the board, three members to be selected by the governor shall serve two-year terms. A member shall not serve more than two consecutive four-year terms.

(b) Notwithstanding the provisions of subsection (5)(a) of this section, of the three members appointed to replace persons whose terms expire on June 30, 2012, one member selected by the governor shall serve a two-year term, one member selected by the governor shall serve a three-year term, and one member selected by the governor shall serve a four-year term. Subsequent appointments to the positions identified in this subsection (5)(b) shall serve four-year terms.

(c) Notwithstanding the provisions of subsection (5)(a) of this section, of the four members appointed to replace persons whose terms expire on June 30, 2014, one member selected by the governor shall serve a one-year term, one member selected by the governor shall serve a two-year term, one member selected by the governor shall serve a three-year term, and one member selected by the governor shall serve a four-year term. Subsequent appointments to the positions identified in this subsection (5)(c) shall serve four-year terms.

(6) The board shall hold regular meetings at such times as it may deem appropriate, but it shall not meet less than four times per year.

(7) Board members shall be paid a per diem of thirty-five dollars for each day on which the board meets and their actual and necessary expenses incurred in the conduct of official business.

(8) The division shall provide any necessary staff assistance for the board.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1182, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-105.1 as it existed prior to 2017.

23-64-108. Powers and duties of board - rules. (1) The board shall have the following powers and duties:

(a) To establish minimum criteria in conformity with section 23-64-112, including quality of education, ethical business practices, and fiscal responsibility, that an applicant for a certificate of approval shall meet before the certificate of approval may be issued and continued in effect. The criteria to be developed under this section shall be such as will effectuate the purposes of this article 64.

(b) To establish minimum criteria in conformity with section 23-64-112 that an applicant for an agent's permit shall meet before the agent's permit may be issued and continued in effect. The criteria to be developed under this section shall be such as will effectuate the purposes of this article 64.

(c) To consult with the division regarding interstate reciprocity agreements;

(d) To receive, investigate, and evaluate, as it deems necessary, and act upon applications for certificates of approval, agents' permits, and changes of ownership;

(e) To require the posting of appropriate notices on the school premises notifying students of any school closure by operation of law or otherwise;

(f) To investigate, as it deems necessary, any entity subject to, or reasonably believed by the board to be subject to, the jurisdiction of this article 64 and, in connection therewith, to

subpoena any persons, books, records, or documents pertaining to the investigation; to require answers in writing, under oath, to questions propounded by the board; and to administer an oath or affirmation to any person in connection with any such investigation. The investigation may include the physical inspection of school facilities and records. The subpoena shall be enforceable by any court of record of this state.

(g) To deny or revoke the agent's permit of an agent of an out-of-state school determined not to be in compliance with this article 64;

(h) To appoint administrative law judges to conduct hearings on any matter within the jurisdiction of the board, which shall include the conduct of hearings in aid of any investigation or inquiry pursuant to subsection (1)(f) of this section;

(i) To promulgate rules and to adopt procedures necessary or appropriate for the conduct of its work and the implementation of this article 64;

(j) To establish educational standards and requirements for the awarding of appropriate educational credentials by private occupational schools;

(k) To exercise other powers and duties implied, but not enumerated, in this section that, in the judgment of the board, are necessary in order to carry out the provisions of this article 64;

(l) To designate, by category of instruction, those schools that teach students under sixteen years of age for which instructional staff and prospective instructional staff, as defined by board rule, shall be required to submit a complete set of fingerprints pursuant to section 23-64-110;

(m) To prescribe uniform academic reporting policies and procedures to which a private occupational school shall adhere.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1183, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-105.3 as it existed prior to 2017.

23-64-109. Duties of private occupational schools. A private occupational school shall provide the division with such data as the board deems necessary upon written request of the board. Data pertaining to individual students or personnel shall not be divulged or made known in any way by a member of the board, by the director, or by any division or school employee, except in accordance with judicial order or as otherwise provided by law. A person who violates this section commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501. In addition, the person shall be subject to removal or dismissal from public service on grounds of malfeasance in office.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1185, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-105.4 as it existed prior to 2017.

23-64-110. Submittal of fingerprints for persons teaching at designated schools - fingerprint-based criminal history record checks - prerequisite for commencing or continuing employment. (1) (a) (I) Instructional staff or prospective instructional staff who

may be teaching students in a school designated by the board pursuant to section 23-64-108 (1)(l) shall, beginning July 1, 2006, in order to commence or continue employment at a designated school, submit a set of his or her fingerprints to the Colorado bureau of investigation for the purpose of conducting a state and national fingerprint-based criminal history record check utilizing records of the Colorado bureau of investigation and the federal bureau of investigation. Nothing in this section precludes the board from making further inquiries into the background of instructional staff or prospective instructional staff. Instructional staff or prospective instructional staff shall pay the fee established by the Colorado bureau of investigation for conducting the fingerprint-based criminal history record check. Upon completion of the criminal history record check, the bureau shall forward the results to the board. The board shall conduct a review of the results of the criminal history record check forwarded by the bureau and consider the results in assessing whether instructional staff or prospective instructional staff meet minimum standards of qualification, as established by the board pursuant to section 23-64-112, necessary to commence or continue employment at the designated school.

(II) When the results of a fingerprint-based criminal history record check of instructional staff or prospective instructional staff performed pursuant to this section reveal a record of arrest without a disposition, the board shall require the instructional staff or prospective instructional staff to submit to a name-based criminal history record check, as defined in section 22-2-119.3 (6)(d). Instructional staff or prospective instructional staff shall pay the fee established by the board for conducting the named-based criminal history record check.

(b) Instructional staff or prospective instructional staff shall be required to resubmit a set of his or her fingerprints pursuant to subsection (1)(a) of this section even if he or she previously submitted his or her fingerprints pursuant to subsection (1)(a) of this section.

(2) In addition to any other requirements established by the board for the necessary qualifications of instructional staff or prospective instructional staff, the submittal of fingerprints pursuant to subsection (1) of this section and results consistent with the minimum standards of qualification established by the board pursuant to section 23-64-112 shall be a prerequisite to commencing or continuing employment as instructional staff who may be teaching students in a school designated by the board pursuant to section 23-64-108 (1)(l).

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1185, § 1, effective August 9. **L. 2019:** (1)(a) amended, (HB 19-1166), ch. 125, p. 549, § 29, effective April 18.

Editor's note: This section is similar to former § 12-59-105.7 as it existed prior to 2017.

23-64-111. Duties and powers of the division subject to approval of the executive director. The division shall exercise all of the powers and duties set forth in section 23-64-106. The executive director shall review and approve, consistent with the institutional role and statewide needs, any action taken by the division pursuant to the powers and duties set forth in section 23-64-106; except that the participation of the executive director shall not be required in any action taken by the board.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1185, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-105.9 as it existed prior to 2017.

23-64-112. Minimum standards. (1) In establishing the criteria required by section 23-64-108 (1)(a), (1)(b), and (1)(j), the board shall observe and require compliance with at least the following minimum standards for all schools:

(a) That the school can demonstrate that it has sufficient financial resources to:

(I) Fulfill its commitments to students;

(II) Make refunds of tuition and fees to the extent and in the manner set forth in this article 64; and

(III) Meet the school's financial obligations;

(b) That the school shall furnish and maintain surety bonds as required by this article 64;

(c) That the educational services are such as will adequately achieve the stated objectives for which the educational services are offered;

(d) That the school has adequate facilities, equipment, instructional materials, instructional staff, and other personnel to provide educational services necessary to meet the stated objectives for which the educational services are offered;

(e) That the education and experience qualifications of administrators, instructional staff, and other personnel are such as will adequately ensure that the students will receive educational services consistent with the stated objectives for which the educational services are offered;

(f) That the school provides each prospective student with a school catalog and other printed information describing the educational services offered and describing entrance requirements, program objectives, length of programs, schedule of tuitions, fees, all other charges and expenses necessary for the completion of the program of study, cancellation and refund policies, and such other material facts concerning the school and the program of instruction that are likely to affect the decision of a student to enroll therein as required by the board and that the information is provided to a prospective student prior to the commencement of classes and the execution of any enrollment agreement or contract;

(g) That, upon satisfactory completion of training, the student is given appropriate educational credentials by the school; except that the school may require the payment of all tuition and fees due at the time of completion;

(h) That adequate educational, financial, and other records are maintained by the school;

(i) That the school adheres to procedures, standards, and policies set forth in the school catalog and other printed materials;

(j) That the school is maintained and operated in compliance with all pertinent ordinances and laws, including rules adopted pursuant thereto, relative to the health and safety of all persons upon the premises;

(k) That neither the school nor its agents have violated the prohibitions as set forth in section 23-64-113 or have engaged in deceptive trade or sales practices as set forth in section 23-64-123;

(l) That the principal owners, officers, agents, administrators, and instructors are of good reputation and free from moral turpitude;

(m) That the school provides the student with a copy of the executed enrollment agreement or contract, at the time of enrollment, that complies with this article 64;

(n) That the school adheres to a policy for the cancellation, settlement, and refund of tuition and fees that complies with this article 64;

(o) That an out-of-state school shall maintain records that include, but are not limited to, a list of the name and address of each student enrolled from within this state and that the records shall be made available to the board upon request;

(p) That the school shall submit to the board the name and Colorado address of a designated agent upon whom any process, notice, or demand may be served and that the agent shall be maintained continuously. Nothing contained in this section shall limit or affect the right to serve any process, notice, or demand required or permitted by law to be served upon a foreign corporation in any other manner now or hereafter permitted by law.

(q) That the school or agent shall have paid any restitution required by section 23-64-124 and any civil penalties assessed pursuant to section 23-64-127;

(r) That an agent shall represent only a school that meets the minimum standards set forth in this section and the criteria established pursuant to section 23-64-108;

(s) That the school shall not deny enrollment of a student or make any distinction or classification of students on account of race, color, creed, religion, national origin, ancestry, sex, sexual orientation, or marital status.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1186, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-106 as it existed prior to 2017.

23-64-113. Prohibitions. (1) No entity of whatever kind, alone or in concert with others, shall:

(a) Operate in this state a school not exempt from the provisions of this article 64 unless the school holds a valid certificate of approval issued pursuant to the provisions of this article 64;

(b) Offer educational services in or grant educational credentials from a school located within or without this state unless the agent holds a valid agent's permit issued pursuant to the provisions of this article 64; except that the board may promulgate rules to permit the rendering of legitimate public information services without such permit;

(c) Accept contracts or enrollment agreements from an agent who does not hold a valid agent's permit issued pursuant to the provisions of this article 64;

(d) Award educational credentials without requiring the completion of any education.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1187, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-107 as it existed prior to 2017.

23-64-114. Application for certificate of approval. (1) Any entity desiring to operate a private occupational school in this state shall make application for a certificate of approval to the board upon forms to be provided by the board. The application shall include at least the following:

(a) A catalog published or proposed to be published by the school containing the information specified in the criteria promulgated by the board;

(b) A description of the school's placement assistance, if any;

(c) Documentation necessary to establish the applicant's financial stability as required by the minimum standards and bond provisions specified in this article 64;

(d) Copies of media advertising and promotional literature;

(e) Copies of all student enrollment agreement or contract forms and instruments evidencing indebtedness;

(f) A surety bond as required by this article 64;

(g) A fee as required by this article 64;

(h) The name and Colorado address of a designated agent upon whom any process, notice, or demand may be served.

(2) Each application shall be signed and certified to under oath by the owner or his or her authorized designee.

(3) The board shall not be required to act upon an application until such time as an application is submitted as set forth in this section.

(4) An application submitted by a school that holds a valid certificate of approval shall be submitted on or before February 15 immediately prior to the expiration of the certificate of approval. If the application as set forth in subsection (1) of this section is not submitted as set forth in this section, the school's existing certificate of approval shall expire on June 30 by operation of law, and any such application submitted after February 15 shall be treated as an application submitted by a new school.

(5) The board shall not be required to act upon an application submitted by a school whose certificate of approval has been revoked or denied by a final nonappealable order of the board for a period of twelve months subsequent to the revocation or denial. Notwithstanding that an order of revocation or denial may be subject to judicial review, the school shall otherwise comply with and be subject to the provisions of this article 64; except that the school shall not be required to submit an application as required by this section.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1188, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-108 as it existed prior to 2017.

23-64-115. Issuance of certificate of approval. (1) Following the review and evaluation of an application for a certificate of approval and any further information required by the board to be submitted by the applicant and an investigation and appraisal of the applicant as the board deems necessary or appropriate, the board shall either grant or deny a certificate of approval to the applicant. A certificate of approval shall be issued to the applicant in the name of the school and shall state in clear and conspicuous language the name and address of the school, the date of issuance, and the term of approval.

(2) The term for which a certificate of approval is issued shall be for three years commencing on July 1 and expiring on June 30 of the third year thereafter or upon the cessation of operation of the school. New schools shall be issued a provisional certificate of approval which shall expire on June 30 of the second year following the date of issuance or upon the cessation of operation of the school.

(3) At any time within the period of a certificate of approval, the board may require the school to submit supplementary documentation or information deemed necessary to enable the board to determine whether the school is continuing to be operated in compliance with the provisions of this article 64.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1189, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-109 as it existed prior to 2017.

23-64-116. Application for change of ownership - definition. (1) In the event of a change of ownership of a school, the seller, prior to the effective date of the change of ownership, shall notify the board in writing, and the buyer, prior to or within thirty days after the change of ownership, shall make application for approval of the change of ownership upon forms to be provided and in a manner prescribed by the board. In the event of a failure to do so, the school's certificate of approval shall be suspended by operation of law until the application has been received and approved by the board as provided in this section.

(2) Following the review and evaluation of an application and any further information required by the board to be submitted by the applicant and an investigation and appraisal of an applicant as the board deems necessary or appropriate, the board shall either grant or deny the application. Denial of an application shall be in the same manner as set forth in section 23-64-118 for a denial of an application for a certificate of approval; except that the board shall not be required to submit a notice of noncompliance.

(3) "Ownership", for the purpose of this section, means ownership of a controlling interest in the school or, in the event the school is owned or controlled by a corporation or other legal entity other than a natural person, ownership of a controlling interest in the legal entity owning or controlling the school.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1189, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-110 as it existed prior to 2017.

23-64-117. Agent's permits. (1) **In-state schools.** (a) Any person desiring to engage in the performance of the duties of an agent for a school located within this state shall be registered by the school upon forms to be provided by the division. The registration shall include the following:

(I) A statement signed by the applicant that he or she has read the provisions of the "Private Occupational Education Act of 1981" and the rules promulgated pursuant thereto;

(II) A fee as required by this article 64.

(b) An agent representing more than one school must obtain a separate agent's permit for each school represented; except that an agent holding a valid agent's permit to represent a school shall not be required to obtain a separate permit to represent another school owned by the same entity to the same extent and having the same name as the first school.

(c) An agent's permit shall be issued to the agent and shall state in a clear and conspicuous manner the name of the agent, the name and location of the school he or she represents, and the date of issuance and term of the permit.

(d) An agent's permit shall expire on the same date as the certificate of approval for the school that the agent represents expires.

(2) **Out-of-state schools.** (a) Any person desiring to engage in the performance of the duties as an agent within this state, for a school located outside this state, shall make application through the school to the board upon forms to be provided by the division. The application shall include the following:

(I) A statement signed by the applicant that he or she has read the provisions of the "Private Occupational Education Act of 1981" and the rules promulgated pursuant thereto;

(II) A surety bond as required in this article 64;

(III) A fee as required by this article 64.

(b) An application submitted by an applicant who intends to represent a school located outside this state shall not be acted upon until any information regarding the school that is required to be submitted by the board, including the name and Colorado address of a designated agent upon whom any process, notice, or demand may be served, has been received.

(c) An agent representing more than one school must obtain a separate agent's permit for each school represented; except that an agent holding a valid agent's permit to represent a school shall not be required to obtain a separate permit to represent another school owned by the same entity to the same extent and having the same name as the first school.

(d) Following the review and evaluation of an application and any further information required by the board to be submitted by the applicant and an investigation and appraisal of an applicant as the board deems necessary or appropriate, the board shall recommend to the executive director either a grant or denial of an agent's permit to the applicant.

(e) An agent's permit shall be issued to the agent and shall state in a clear and conspicuous manner the name of the agent, the name and location of the school he or she represents, and the date of issuance and term of the permit.

(f) An agent's permit shall expire annually on June 30. An agent's permit shall also expire upon termination of his or her employment with the school named on the permit.

(g) An agent's permit issued for the purpose of representing a school located outside this state shall be suspended by operation of law when the school fails to maintain in this state an agent upon whom any process, notice, or demand may be served.

(h) At least sixty days prior to the expiration of an agent's permit, the agent shall complete and file with the board an application form and fee for renewal of the permit. The application shall be reviewed and acted upon as provided in this article 64. If the application is not submitted as set forth in this section, the agent's existing permit shall expire on July 1.

(i) The board shall not be required to act upon an application submitted by an agent whose permit has been revoked or denied by a final nonappealable order of the board for a period of twelve months subsequent to the revocation or denial. Notwithstanding that an order of revocation or denial shall be subject to judicial review, the agent shall otherwise comply with and be subject to the provisions of this article 64; except that the agent shall not be required to submit an application as required by this section.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1190, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-111 as it existed prior to 2017.

23-64-118. Denial of application for certificate of approval or agent's permit. (1) If the board, upon review of an application for a certificate of approval or for an agent's permit, determines upon reasonable belief that the applicant fails to meet any one or more of the criteria established pursuant to this article 64, the board shall submit to the applicant a notice of noncompliance setting forth the reasons therefor in writing. The notice shall set forth a period of time within which the applicant may submit written data, arguments, views, or information with respect to the reasons set forth in the notice and during which time the applicant shall also be afforded the opportunity to eliminate the reason for the notice.

(2) The board shall consider the written data, arguments, views, or information submitted and the steps taken by the applicant to comply and shall thereafter determine upon reasonable belief whether a hearing shall be conducted for the purpose of denying the application.

(3) An application for a certificate of approval or an agent's permit may also be denied by the board if the applicant has furnished false or misleading written or oral statements, documents, or other representations to the board with the intent to mislead or conceal the truth of any matter to be considered by the board as a factor in approving the application.

(4) Notwithstanding the provisions of subsections (1), (2), and (3) of this section, the provisions of the "State Administrative Procedure Act", article 4 of title 24, shall apply to the denial of an application for a certificate of approval submitted by a new school and to the denial of an initial application for an agent's permit.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1191, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-112 as it existed prior to 2017.

23-64-119. Revocation of certificate of approval and agent's permit. (1) If the board determines upon reasonable belief that the holder of a certificate of approval or an agent's permit has violated or is violating any one or more of the criteria established pursuant to this article 64, the board or its authorized designee shall submit to the holder or a school's designated agent for service of process a notice of noncompliance setting forth the reasons therefor in writing. The notice shall set forth a period of time within which the applicant may submit written data, views, arguments, or information with respect to the reasons set forth in the notice and during which time the holder shall also be afforded the opportunity to eliminate the reason for the notice.

(2) The board shall consider the written data, arguments, views, or information submitted and the steps taken by the holder to comply and shall thereafter determine upon reasonable belief whether a hearing shall be conducted for the purpose of revoking the certificate of approval or an agent's permit.

(3) If the board has reasonable grounds to believe and finds that the holder has willfully and deliberately violated the criteria established pursuant to this article 64 or that the public

health, safety, or welfare imperatively requires emergency action and incorporates such findings in its order, it may summarily suspend the certificate of approval or agent's permit pending a hearing, which shall be promptly instituted and determined.

(4) A certificate of approval or an agent's permit may also be revoked by the board if the holder thereof has furnished false or misleading written or oral statements, documents, or other representations to the board with the intent to mislead or conceal the truth of any matter considered by the board as a factor in approving the application for a certificate of approval or an agent's permit or for continuing in effect the certificate of approval or an agent's permit.

(5) A certificate of approval may be revoked by the board if the holder thereof has had its surety bond cancelled and has not replaced it within fifteen days prior to the effective date of the bond termination.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1192, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-113 as it existed prior to 2017.

23-64-120. Refund policy. (1) As a condition for granting a certificate of approval or an agent's permit to represent a school located outside this state, a school shall maintain a policy for the refund of tuition and fees in the event, and within thirty days of the date, a student fails to enter the course, withdraws, or has been discontinued therefrom at any time prior to completion. The policy shall provide for at least the following:

(a) A full refund of all money paid if the applicant is not accepted by the school;

(b) A full refund of tuition and fees paid if the applicant withdraws within three days after signing the contract or making an initial payment if the applicant has not commenced training;

(c) A full refund of tuition and fees paid in the event that the school discontinues a course or program of education during a period of time within which a student could have reasonably completed the same; except that this provision shall not apply in the event that the school ceases operation;

(d) That the school use a method of determining the official termination date of the student that complies with the established criteria of the state board for community colleges and occupational education;

(e) That except for retention of a cancellation charge not to exceed one hundred fifty dollars or twenty-five percent of the contract price, whichever is less, the policy for cancellation, settlement, and refund of tuition and fees provides for at least the following:

(I) For a student terminating his or her training within the first ten percent of his or her program, the student shall be entitled to a refund of ninety percent of the contract price of the program exclusive of books, tools, and supplies;

(II) For a student terminating his or her training after ten percent but within the first twenty-five percent of his or her program, the student shall be entitled to a refund of seventy-five percent of the contract price of the program exclusive of books, tools, and supplies;

(III) For a student terminating his or her training after twenty-five percent but within the first fifty percent of his or her program, the student shall be entitled to a refund of fifty percent of the contract price of the program exclusive of books, tools, and supplies;

(IV) For a student terminating his or her training after fifty percent but within the first seventy-five percent of his or her program, the student shall be entitled to a refund of twenty-five percent of the contract price of the program exclusive of books, tools, and supplies;

(V) A student who has completed seventy-five percent of his or her program and has entered the final twenty-five percent shall not be entitled to any refund and shall be obligated for the full price of the program, which constitutes the maximum obligation.

(2) (a) A school offering education using an individualized instruction method shall:

(I) Establish a time period during which a student should complete the training;

(II) Outline school policies relative to satisfactory progress, including an average rate of assignment completion;

(III) Establish a policy for termination in the event that a student does not maintain the rate of assignment completion.

(b) Under these conditions, a refund of tuition and fees required by this section may be computed based on the time period or on assignments completed in accordance with the policy previously adopted by the school.

(3) The board may require a school to submit to the board a notice of each tuition refund paid or contract cancelled in the manner and to the extent determined by the board.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1192, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-114 as it existed prior to 2017.

23-64-121. Bonds - definitions. (1) Schools located within this state shall file as a part of their application for a certificate of approval evidence of a savings account, deposit, or certificate of deposit meeting the requirements of section 11-35-101, or one bond as set forth in this section covering the school and its agents. Schools located outside this state shall file evidence of a savings account, deposit, or certificate of deposit meeting the requirements of section 11-35-101, or bonds as set forth in this section covering the school's agents.

(2) At the time application is made for a certificate of approval, the board shall require an applicant to file with the division a surety bond in a sum as determined pursuant to subsection (3) of this section. The bond shall be executed by the applicant as principal and by a surety company authorized to do business in this state. The bond shall be conditioned to provide indemnification to any student or enrollee or to any parent or guardian of the student or enrollee determined by the board to have suffered loss of tuition or any fees as a result of any act or practice that is a violation of any minimum standard as set forth in this article 64 or any criterion established pursuant thereto by a school or its agents, to provide train-out for students enrolled in an approved school ceasing operation as provided in subsection (5) of this section, and to reimburse the department of higher education for any actual administrative and related costs associated with an approved school ceasing operation. The bond shall be continuous unless the surety is released as set forth in this section.

(3) The amount of the bond to be submitted with an application for a certificate of approval shall be equal to a reasonable estimate of the maximum prepaid, unearned tuition and fees of the school for a period or term during the applicable school training year for which programs of instruction are offered, including, but not limited to, on a semester, quarter,

monthly, or class basis; except that the period or term of greatest duration and expense shall be utilized for this computation where a school's training year consists of one or more such periods or terms. Following the initial filing of the surety bond with the division, the amount of the bond shall be recalculated annually based upon a reasonable estimate of the maximum prepaid, unearned tuition and fees received by the school for such period or term. In no case shall the amount of the bond be less than five thousand dollars.

(4) (a) A student, enrollee, or parent or guardian of the student or enrollee claiming loss of tuition or fees may file a claim with the board if the claim results from an act or practice that violates a minimum standard or criterion established pursuant to section 23-64-112. Such claims that are filed with the board shall constitute public records and are subject to the provisions of article 72 of title 24; except that no such claims records shall be made public if the release would violate any federal privacy law.

(b) Notwithstanding the provisions of subsection (4)(a) of this section, the board shall not consider any claim that is filed more than two years after the date the student discontinues his or her training at the school.

(5) (a) In the event that a private occupational school ceases operation, the board is authorized to make demand on the surety of the school upon the demand for a refund by a student or for the implementation of a train-out for the students of the school, and is authorized to make demand on the surety to reimburse the department of higher education for actual administrative costs associated with the school ceasing operation, and the surety shall pay the claim due in a timely manner. To the extent practicable, the board shall use the amount of the bond to provide train-out for students of the private occupational school ceasing operation through a contract with another approved private occupational school, a community college, an area technical college, or any other training arrangement acceptable to the board. The train-out provided to a student replaces the original enrollment agreement or contract between the student and the private occupational school ceasing operation; except that tuition and fee payments shall be made by the student as required by the original enrollment agreement or contract.

(b) Any student enrolled in a private occupational school ceasing operation who declines the train-out required to be offered pursuant to subsection (5)(a) of this section may file a claim with the board for the student's prorated share of the prepaid, unearned tuition and fees paid by the student subject to the limitations of subsection (5)(c) of this section. No subsequent payment shall be made to a student, unless proof of satisfaction of any prior debt to a financial institution is submitted in accordance with the board rules concerning the administration of this section.

(c) If the amount of the bond is less than the total prepaid, unearned tuition and fees that have been paid by students at the time the private occupational school ceased operation, the amount of the bond shall be prorated among the students.

(c.5) Any amount of the surety that is greater than the amount necessary to satisfy costs to provide a train-out for students pursuant to subsection (5)(a) of this section and any demand for a refund by a student pursuant to subsection (5)(b) of this section may be retained by the department of higher education as reimbursement up to the amount of any actual administrative costs incurred by the department of higher education that are associated with the school closure.

(d) The provisions of this subsection (5) shall be applicable only to those students enrolled in the private occupational school at the time it ceases operation, and, once a school ceases operation, no new students shall be enrolled therein.

(e) The board shall be designated as the trustee for all prepaid, unearned tuition and fees, student loans, Pell grants, and other student financial aid assistance in the event that an approved private occupational school ceases operation.

(f) The board shall determine whether the offering of a train-out for students enrolled in an approved private occupational school ceasing operation is practicable without federal government designation of the board as trustee for student loans, Pell grants, and other student financial aid assistance pursuant to subsection (5)(e) of this section.

(6) At the time that application is made for an agent's permit to represent a school located outside this state, the application shall be accompanied by a surety bond in the sum of fifty thousand dollars. The bond shall be executed by the applicant as principal and by a surety company authorized to do business in this state. The bond shall be conditioned to provide indemnification to any student or enrollee or his or her parent or guardian determined by the board to have suffered loss of tuition or any fees as a result of any act or practice that is a violation of any deceptive trade or sales practice as set forth in this article 64 or any criteria established pursuant thereto by the agent. Regardless of the number of years that the bond is in force, the aggregate liability of the surety thereon shall in no event exceed the penal sum of the bond. The bond shall be continuous, unless the surety is released as set forth in this section, and may be blanket in form. Any student or enrollee or his or her parent or guardian claiming loss of tuition or any fees as a result of any deceptive trade or sales practice shall file a notarized claim with the board. In no event, however, shall the board consider any such complaint filed one hundred eighty days after the date the student discontinued his or her training at the school.

(7) Except with respect to a claim for tuition and fees made by a student enrolled in an approved private occupational school ceasing operation, the board shall conduct a hearing for the purpose of determining any loss of tuition or fees, and, if any claim is found to be correct and due the claimant, the board shall make demand upon the principal and the surety on the bond. If the principal or surety fails or refuses to pay the claim due, the board shall commence an action on the bond in any court of competent jurisdiction; except that no such action may be filed more than six years subsequent to the date of any violation that gives rise to the right to file a claim pursuant to this section. A claim for tuition and fees made by a student enrolled in an approved private occupational school ceasing operation shall be handled in the manner provided in subsection (5) of this section.

(8) A certificate of approval or an agent's permit shall be suspended by operation of law when the school or agent is no longer covered by a surety bond as required by this section. The board shall give written notice to the school or agent, or both, at the last-known address, at least forty-five days prior to the release of the surety, to the effect that the certificate of approval or agent's permit shall be suspended by operation of law until another surety bond is filed in the same manner and like amount as the bond being released.

(9) A surety on any bond filed under the provisions of this section shall be released therefrom after the surety serves written notice thereof to the board at least sixty days prior to the release. The release shall not discharge or otherwise affect any claim filed by any student or enrollee or his or her parent or guardian for loss of tuition or any fees that occurred while the bond was in effect or that occurred under any note or contract executed during any period of time when the bond was in effect, except when another bond is filed in a like amount and provides indemnification for any such loss.

(10) (a) The board shall allow, at a reasonable price, alternate surety methods in lieu of the bonding requirements of this section. The alternate sureties shall be conditioned to provide indemnification to any student or enrollee or to any parent or guardian of the student or enrollee for any loss of tuition or any fees as a result of any act or practice that is a violation of this article 64 and to provide train-out for students enrolled in an approved school ceasing operation as provided in subsection (5) of this section. In the event that a school covered by an alternate surety ceases operation, the board shall act in the manner provided in subsection (5) of this section.

(b) Prior to September 1, 1991, and each year thereafter, any alternate surety allowed by the board shall be required to contract for an independent financial audit. The audit shall be included in a report to the board due by January 1 of the following year. The board may disapprove an alternate surety if it deems that the surety is not able to provide students with the indemnification and train-out required by this section.

(11) For the purposes of this section, "school" and "private occupational school" shall include a for-profit private college or university, as defined in section 23-2-102 (11), in which the majority of students are enrolled in courses and programs that are occupational in nature, as defined by the board.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1194, § 1, effective August 9. **L. 2018:** (2) and (5)(a) amended and (5)(c.5) added, (SB 18-177), ch. 196, p. 1289, § 2, effective August 8.

Editor's note: This section is similar to former § 12-59-115 as it existed prior to 2017.

23-64-122. Fees - private occupational schools fund - annual adjustment - rules. (1) The board by rule shall establish fees for the direct and indirect costs of the administration of this article 64, which fees shall accompany any application for a certificate of approval for a new school or for a school other than a new school, for an in-state or out-of-state agent's permit, or for a change of ownership. All fees collected shall be transmitted to the state treasurer, who shall credit the same to the private occupational schools fund, which fund is hereby created. The money in the fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs of the administration of this article 64. All money credited to the fund shall be used for the direct and indirect costs of the administration of this article 64 and shall not be deposited in or transferred to the general fund of this state or to any other fund.

(2) In addition to the fees specified in subsection (1) of this section, the board by rule shall establish and receive fees for reviewing the qualifications of and for issuing appropriate credentials to instructors and administrators pursuant to section 23-64-112 (1)(e). Such fees shall be collected and administered in the same manner as the fees specified in subsection (1) of this section.

(3) (a) The board shall propose, as part of the division's annual budget request, an adjustment in the amount of the fees that it is authorized to collect pursuant to this section. The budget request and the adjusted fees shall reflect the direct and indirect costs of administering this article 64.

(b) Based upon the appropriation made, the board shall adjust its fees so that the revenue generated from the fees approximates the direct and indirect costs of administering this article

64. The adjusted fees must remain in effect for the fiscal year for which the budget request applies.

(c) Beginning July 1, 1995, and each July 1 thereafter, whenever money appropriated to the division for its activities for the prior fiscal year are unexpended, the money shall be made a part of the appropriation to the division for the next fiscal year, and the amount shall not be raised from fees collected by the division. If a supplemental appropriation is made to the division for its activities, the division's fees shall be adjusted in the following fiscal year by an additional amount that is sufficient to compensate for the supplemental appropriation. Funds appropriated to the division in the annual general appropriations bill shall be designated as cash funds and shall not exceed the amount anticipated to be raised from fees collected by the division.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1197, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-116 as it existed prior to 2017.

23-64-123. Deceptive trade or sales practices. (1) It is a deceptive trade or sales practice for:

(a) A school or agent to make or cause to be made any statement or representation, oral, written, or visual, in connection with the offering of educational services if the school or agent knows or reasonably should have known the statement or representation to be false, substantially inaccurate, or misleading;

(b) A school or agent to represent falsely, directly or by implication, through the use of a trade or business name or in any other manner, including the use of "help wanted" or other employment columns in a newspaper or other publication, that it is an employment agency or agent or authorized training facility for another industry or member of such industry or to otherwise deceptively conceal the fact that it is a school;

(c) A school or agent to represent falsely, directly or by implication, that any of its educational services have been approved by a particular industry or that successful completion thereof qualifies a student for admission to a labor union or similar organization or for the receipt of a state license to perform certain functions;

(d) A school or agent to represent falsely, directly or by implication, that the lack of a high school education, prior training, or experience is not a handicap or impediment to completing successfully a course or program of study or for gaining employment in the field for which the educational services were designed;

(e) A school or agent to adopt a name, trade name, or trademark that represents falsely, directly or by implication, the quality, scope, nature, size, or integrity of the school or its educational services;

(f) A school or agent to represent falsely, directly or by implication, that students completing a course or program of instruction successfully may transfer credit therefor to any institution of higher education;

(g) A school or agent to represent falsely, directly or by implication, in its advertising or promotional materials or in any other manner, the size, location, facilities, or equipment of the school, the number or educational experience qualifications of its faculty, the extent or nature of

any approval received from any state agency, or the extent or nature of any accreditation received from any accrediting agency or association;

(h) A school or agent to provide prospective students with any testimonials, endorsements, or other information that has the tendency to mislead or deceive prospective students or the public regarding current practices of the school, current conditions for employment opportunities, or probable earnings in the industry or occupation for which the educational services were designed or as a result of the completion of any such educational service;

(i) A school or agent to enroll a student when it is reasonably obvious that the student is unlikely to complete successfully a program of study or is unlikely to qualify for employment in the field for which the education is designed, unless this fact is affirmatively disclosed to the student;

(j) An agent representing an out-of-state school to represent directly or by implication that the school is approved or accredited by the state of Colorado;

(k) A school or agent to designate or refer to its sales representatives as "counselors" or "advisors" or to use words of similar import that have the tendency to mislead or deceive prospective students or the public regarding the authority or qualifications of the sales representatives or agents.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1198, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-117 as it existed prior to 2017.

23-64-124. Complaints of deceptive trade or sales practices. (1) A person claiming pecuniary loss as a result of a deceptive trade or sales practice, pursuant to section 23-64-123, by a school or agent may file with the board a written complaint against the school or agent. The complaint must set forth the alleged violation and any other relevant information as the board may require. A complaint filed under this section is a public record subject to the provisions of article 72 of title 24 and must be filed within two years after the student discontinues his or her training at the school or at any time prior to the commencement of training.

(2) The board shall investigate any such complaint and thereafter may consider the complaint at a hearing. If, upon all the evidence at a hearing, the board finds that a school or agent has engaged in or is engaging in any deceptive trade or sales practice, the board may issue and cause to be served upon the school, the agent, or the designated agent for service of process, notice, or demand an order requiring the school or agent to cease and desist from such practice. The board may obtain an order for enforcement of its order in the district court pursuant to section 24-4-106.

(3) If the board finds that the complainant or class of complainants has suffered pecuniary loss as a result of such practice, the board, at its discretion, may award the complainant or class of complainants full restitution for the loss. The board may also commence a civil action against a school or agent believed by the board to have caused a complainant or class of complainants to suffer pecuniary loss as a result of any deceptive trade or sales practice. Upon a finding that the complainant or class of complainants has suffered pecuniary loss as a

result of any deceptive trade or sales practice, the court shall order the school or agent to pay to the complainant or class of complainants full restitution for the loss.

(4) Any person filing a complaint alleging a deceptive trade or sales practice pursuant to this section shall exhaust the remedies provided in this section prior to filing a complaint with the district court alleging a deceptive trade or sales practice.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1199, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-118 as it existed prior to 2017.

23-64-125. Preservation of records. (1) In the event that a school located in Colorado ceases operation, the owner or his or her authorized designee shall deposit with the division the original or legible true copies of all educational, financial, or other records of the school.

(2) In the event that it appears to the board that any records of a school located in Colorado that is ceasing operation are in danger of being destroyed, secreted, mislaid, or otherwise made unavailable to the board, the board may seize and take possession of the records upon making application to any court of competent jurisdiction for an appropriate order. The board shall maintain or cause to be maintained a permanent file of any such records.

(3) Any person desiring copies of any such records shall pay a fee as may be established by the board.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1200, § 1, effective August 9. **L. 2018:** (2) amended, (SB 18-177), ch. 196, p. 1290, § 3, effective August 8.

Editor's note: This section is similar to former § 12-59-119 as it existed prior to 2017.

23-64-126. Enforceability of notes, contracts, and other evidence of indebtedness. (1) No note, other instrument of indebtedness, or contract relating to payment for educational services shall be enforceable in the courts of this state by any school located within this state unless the school, at the time of execution of the note, other instrument of indebtedness, or contract, holds a valid certificate of approval nor by any school having an agent in this state unless the agent, who enrolled persons to whom educational services were to be rendered or to whom educational credentials were to be granted, held a valid agent's permit at the time of the execution of the note, other instrument of indebtedness, or contract.

(2) The enforceability of notes, contracts, and other evidence of indebtedness relating to payment for educational services shall be in compliance with applicable state and federal laws and regulations, as amended.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1200, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-120 as it existed prior to 2017.

23-64-127. Violations - civil - penalty. The board may commence a civil action against any entity believed by the board to have violated the provisions of section 23-64-113 or who fails or refuses to deposit with the division the records required by section 23-64-125. Upon a finding that the entity has violated the provisions of section 23-64-113 or has failed or refused to deposit with the division the records required by section 23-64-125, the court shall order the entity to pay to the division a civil penalty not to exceed one hundred dollars for each violation. Each day's failure by an entity to comply with the provisions of said section is a separate violation.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1200, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-121 as it existed prior to 2017.

23-64-128. Violations - criminal - penalty. Any person, group, or entity, or any owner, officer, agent, or employee thereof, who willfully violates the provisions of section 23-64-113 or who willfully fails or refuses to deposit with the division the records required by section 23-64-125 is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars, or by imprisonment in the county jail for not more than six months, or both. It is the duty of the district attorney to prosecute all violations of this section that occur within his or her district.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1200, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-122 as it existed prior to 2017.

23-64-129. State administrative procedure act. Unless otherwise provided in this article 64, the provisions of the "State Administrative Procedure Act", article 4 of title 24, shall govern the giving of notices for and the conducting of any hearings on any matter within the authority of the board as set forth in this article 64.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1201, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-123 as it existed prior to 2017.

23-64-130. Jurisdiction of courts - service of process. Any school located within or without this state that offers to provide educational services to any person in this state, whether the educational services are provided in person or by correspondence, or that offers to award any educational credentials to any person in this state submits the school to the jurisdiction of the courts of this state concerning any cause of action arising therefrom and for the purpose of enforcement of this article 64 by injunction pursuant to section 23-64-131. Service of process upon any such school subject to the jurisdiction of the courts of this state may be made by personally serving the summons upon the defendant within or without this state in the manner

prescribed by the Colorado rules of civil procedure, which shall have the same force and effect as if the summons had been personally served within this state. Nothing contained in this section shall limit or affect the right to serve any process as prescribed by the Colorado rules of civil procedure.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1201, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-124 as it existed prior to 2017.

23-64-131. Enforcement - injunction - fines - rules. (1) Whenever it appears to the board that any entity is or has been violating any of the provisions of this article 64 or any of the lawful rules or orders of the board, the board, on its own motion or on the written complaint of any person, may apply for and obtain a temporary restraining order or injunction, or both, in the name of the board in any district court in this state against the entity for the purpose of restraining or enjoining the violation or for an order directing compliance with the provisions of this article 64 and all rules and orders issued pursuant to this article 64. The board may also issue a cease-and-desist order prior to seeking court-ordered injunctive relief. It is not necessary that the board allege or prove that it has no adequate remedy at law. The right of injunction or a cease-and-desist order provided for in this section is in addition to any other legal remedy that the board has and is in addition to any right of criminal prosecution provided by law. The existence of board action with respect to alleged violations of this article 64 is not a bar to any action for injunctive relief pursuant to this section.

(2) The board shall have the authority to promulgate rules and adopt procedures to establish, impose, and collect fines from an entity that is in violation of the provisions of this article 64 or the lawful rules or orders of the board. The board may impose a fine, pursuant to said rules, in addition to or in lieu of seeking a temporary restraining order or an injunction pursuant to subsection (1) of this section. All fines collected pursuant to this subsection (2) shall be transferred to the state treasurer, who shall credit the same to the state general fund.

(3) In determining whether to impose a fine, seek a temporary restraining order or an injunction, or issue a cease-and-desist order, the board shall consider whether the entity has engaged in a pattern of noncompliance.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1201, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-125 as it existed prior to 2017.

23-64-132. Transfer of governance of private occupational schools - provisions for transition - rules. (1) (a) Any powers, duties, and functions relating to the governance, jurisdiction, and control of private occupational schools that were previously vested in the state board for community colleges and occupational education prior to July 1, 1990, are specifically transferred to the division on July 1, 1990.

(b) The powers, duties, and functions specified in section 23-64-108 relating to the governance, jurisdiction, and control of private occupational schools that were previously vested in the division prior to July 1, 1998, are specifically transferred to the board on July 1, 1998.

(2) The board shall establish minimum criteria, promulgate other rules, and adopt procedures necessary for the conduct of its work and the implementation of this article 64 pursuant to section 23-64-108.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1202, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-127 as it existed prior to 2017.

23-64-133. Repeal of article - review of functions. This article 64 is repealed, effective September 1, 2024. Prior to the repeal, the department of regulatory agencies shall review the regulation of private occupational schools and their agents under this article 64, including the functions of the division and the board, in accordance with section 24-34-104.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1202, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-128 as it existed prior to 2017.

EDUCATIONAL CENTERS AND LOCAL DISTRICT COLLEGES

ARTICLE 70

Auraria Higher Education Center

23-70-101. Legislative declaration. (1) The general assembly hereby finds and declares that this article is necessary to:

(a) Provide for the coordination of the planning and construction of a multiinstitutional higher education complex located in the city and county of Denver on land designated therefor and on land now occupied by the university of Colorado at Denver, collectively known as the Auraria higher education center and referred to in this article as the "center";

(b) Provide for the land, physical plant, and facilities necessary to accommodate and house Metropolitan state university of Denver, the university of Colorado at Denver, and the community college of Denver, Auraria campus, referred to in this article as the "constituent institutions", at and within the center;

(c) Facilitate the execution and performance of the constitutional and statutory responsibilities of the governing boards of the constituent institutions;

(d) Establish a new board to plan, construct, maintain, and manage the land and physical facilities of the center and perform the duties and exercise the powers otherwise set forth in this article;

(e) Provide a system for facilitating cooperation among the constituent institutions, their governing boards, and the governing board created by this article; and

(f) Facilitate, in conjunction with the private sector, the development of facilities at and within the center for the purposes of providing moneys to the center, providing occupational and educational opportunities consistent with the mission of the constituent institutions, and integrating the center with the adjacent Denver area.

Source: L. 74: Entire article added, p. 390, § 1, effective May 13. **L. 90:** (1)(b) amended, p. 1156, § 12, effective July 1. **L. 2008:** (1)(d) and (1)(e) amended and (1)(f) added, p. 1078, § 2, effective May 22. **L. 2012:** (1)(b) amended, (SB 12-148), ch. 125, p. 427, § 16, effective July 1.

Cross references: For the legislative declaration in the 2012 act amending subsection (1)(b), see section 1 of chapter 125, Session Laws of Colorado 2012.

23-70-101.5. Board abolished. Effective July 1, 1989, the existing board of directors of the Auraria higher education center is abolished, and the terms of members of the board then serving are terminated.

Source: L. 89: Entire section added, p. 1013, § 1, effective July 1.

23-70-102. Auraria board - membership - terms - oath or affirmation - voting. (1) Effective July 1, 1989, there is hereby created a new board of directors of the Auraria higher education center, referred to in this article as the "Auraria board", which shall consist of nine members and two ex officio nonvoting members. The members of the Auraria board shall be chosen in the following manner:

(a) (I) Three lay members appointed by the governor as soon as practicable after July 1, 1989, the first of whom shall serve for a term of one year, the second for a term of two years, and the third for a term of three years; thereafter, gubernatorial appointments shall be for three-year terms. All lay members appointed shall be residents of the Denver metropolitan area.

(II) In the event of death, resignation, or inability or refusal to act of any such appointed member, the governor shall fill the vacancy for the remainder of the term. Any vacancy in the elected office on the board shall be filled by reelection for the unexpired term.

(b) (I) The chief executive officers, respectively, of the regents of the university of Colorado, the board of trustees for Metropolitan state university of Denver, and the state board for community colleges and occupational education, or their designees, who shall be limited to the chancellor of the university of Colorado at Denver, the president of Metropolitan state university of Denver, and the president of the community college of Denver, respectively.

(II) Three members, one appointed by, and from among the members of, each of the following boards: The state board for community colleges and occupational education, the board of trustees for Metropolitan state university of Denver, and the regents of the university of Colorado, each such member to serve at the pleasure of the appointing board so long as he or she is a member of the appointing board.

(c) (I) An advisory committee of six members who are full-time students shall be elected, two from each of the student bodies of each of the three institutions governed by the Auraria board, and it shall elect one of its members to fill one office on the Auraria board to serve for one term beginning July 1. Said elected office shall be advisory, without the right to

vote. The elected member of the board shall have resided in the state of Colorado not less than three years prior to his or her election.

(II) Repealed.

(III) In the event of death, resignation, or inability or refusal to act of any such elected member of the student advisory committee, the student governing body of the institution with the vacancy shall appoint a full-time student from that institution to fill the vacancy for the remainder of the term.

(d) (I) An advisory committee of six members who are full-time faculty members shall be elected, two from each of the faculties of each of the three institutions governed by the Auraria board, and it shall elect one of its members to fill the remaining office on the Auraria board to serve for one-year terms beginning each July 1. The committee shall select such a member from the same institution only once in the same three-year period. Said elected office shall be advisory, without the right to vote. The elected member of the board shall have resided in the state of Colorado not less than three years prior to his or her election.

(II) Repealed.

(III) In the event of death, resignation, or inability or refusal to act of any such elected member of the faculty advisory committee, the faculty governing body of the institution with the vacancy shall appoint a full-time faculty member from that institution to fill the vacancy for the remainder of the term.

(2) Each member of the Auraria board shall take an oath or affirmation in accordance with section 24-12-101.

(3) All actions by the Auraria board shall be by majority vote, but, on all actions taken in which both representatives from any single system or institution have voted in the minority, the majority opinion shall prevail only if it is supported by a majority of the lay members of the Auraria board.

(4) In any instance in which no majority opinion can prevail under the terms of subsection (3) of this section, the Auraria board shall have sixty days in which to reach a determination by prevailing majority vote. If no majority determination is reached within sixty days, the commission on higher education shall thereafter consider and determine the issue at its next meeting.

(5) The Auraria board shall elect a chairman from among the lay members of the board who shall act as chairman at meetings of said board and as such board's representative in official dealings with third parties.

(6) Repealed.

Source: L. 74: Entire article added, p. 391, § 1, effective May 13. **L. 75:** IP(1) and (1)(a)(II) amended and (1)(c) added, p. 740, § 9, effective January 1, 1976. **L. 84:** IP(1) and (1)(c) amended and (1)(d) added, p. 644, § 1, effective April 5. **L. 86:** IP(1), (1)(c), and (1)(d) amended, p. 415, § 27, effective March 26. **L. 88:** (1)(b) amended, p. 862, § 22, effective July 1. **L. 89:** IP(1), (1)(a)(I), (1)(b), (1)(c)(II), and (1)(d)(II) amended and (3) to (6) added, p. 1013, § 2, effective July 1. **L. 93:** (6)(a) amended, p. 290, § 1, effective April 7; (1)(c)(II) and (1)(d)(II) repealed, p. 672, § 2, effective May 1. **L. 95:** (1)(b)(I) amended, p. 303, § 1, effective April 21; IP(1) amended, p. 1102, § 32, effective May 31. **L. 98:** (6) repealed, p. 12, § 1, effective March 6. **L. 2002:** (1)(b)(II) amended, p. 1282, § 8, effective July 1. **L. 2003:** (1)(b)(I) amended, p. 791, § 13, effective July 1. **L. 2011:** (1)(c) and (1)(d) amended, (HB 11-1017), ch. 26, pp. 65, 66, §§

1, 2, effective March 17. **L. 2012:** (1)(b) amended, (SB 12-148), ch. 125, p. 428, § 17, effective July 1. **L. 2018:** (2) amended, (HB 18-1138), ch. 88, p. 696, § 18, effective August 8.

Cross references: For the legislative declaration contained in the 2002 act amending subsection (1)(b)(II), see section 1 of chapter 307, Session Laws of Colorado 2002. For the legislative declaration in the 2012 act amending subsection (1)(b), see section 1 of chapter 125, Session Laws of Colorado 2012. For the legislative declaration in HB 18-1138, see section 1 of chapter 88, Session Laws of Colorado 2018.

23-70-103. Responsibility of governing boards of constituent institutions. (1) Except as may be expressly provided in this article, the respective governing boards of the constituent institutions are charged with the responsibility for, and shall plan, initiate, manage, and control, their respective programs within the Colorado system of higher education as provided in this article; and, in addition, said respective boards shall initiate and control joint academic and vocational programs among two or more of the constituent institutions at the center.

(2) The respective governing boards of the constituent institutions shall provide for a common academic calendar which is sufficient so that students may begin, make progress toward, and complete a course at a time which will allow full opportunity for enrollment in courses offered at any of the three constituent institutions. Registration periods shall coincide and the academic year shall commence and terminate simultaneously.

(3) The respective governing boards of the constituent institutions shall provide that credits earned at each of the constituent institutions shall be transferable between institutions insofar as they meet the degree and grade requirements of the student's chosen program of studies at one of the constituent institutions as determined by the degree-granting institution.

(4) The governing boards, through their respective chief executive officers, with the participation of the executive director of the commission on higher education, shall jointly draft a memorandum of agreement covering interinstitutional issues at the Auraria campus. The memorandum of agreement shall provide guidance and direction to the Auraria board in the determination of operationally related matters but shall not bind or otherwise limit the board in its authority to manage the Auraria campus. An initial memorandum of agreement shall be submitted to the commission on higher education to be forwarded to the general assembly not later than January 15, 1990.

Source: L. 74: Entire article added, p. 391, § 1, effective May 13. **L. 89:** (4) added, p. 1014, § 3, effective July 1.

23-70-104. Duties of the Auraria board. (1) The Auraria board has the duty:

(a) To acquire, plan, construct, own, lease, operate, maintain, manage, or dispose of all of the physical plant, facilities, buildings, and grounds in the center (except that land owned at the Auraria center by the regents of the university of Colorado shall continue under such ownership but shall be maintained and managed in a similar manner to the other facilities in the Auraria center) and such additional land and facilities as the Colorado commission on higher education may from time to time designate and approve and to accept and hold for the use of the center and its constituent institutions such property as was designated or used prior to May 13, 1974, for purposes of the center or its constituent institutions;

(b) To allocate among and assign to the constituent institutions, in accordance with needs, suitable space within the center for the use of such institutions and for such joint or cooperative educational, vocational, and other activities and programs as may be provided by the constituent institutions;

(c) To facilitate effective coordination and economies of operation of physical facilities by designating joint facilities of the constituent institutions, to include, but not be limited to, auxiliary facilities, as defined in section 23-5-101.5 (2)(a);

(d) To determine and designate the nonacademic and nonvocational joint programs or joint activities of the constituent institutions, to include, but not be limited to, security and fire protection, maintenance, and purchasing;

(e) To continually develop, review, and update annually a long-range plan for operation of the center. There shall be a five-year forecast of the operational costs and capital construction costs, which shall be submitted to the general assembly no later than January 1 of each year, commencing January 1, 1975.

(f) To decide interinstitutional disputes presented to the Auraria board by any one or more of the constituent institutions pursuant to section 23-70-106.5; and

(g) To investigate supplementary or alternative methods for delivery of selected higher educational services through the use of existing campuses and facilities in Denver and the metropolitan area.

Source: L. 74: Entire article added, p. 391, § 1, effective May 13. **L. 85:** (1)(f) amended, p. 770, § 29, effective July 1. **L. 88:** (1)(a) amended, p. 868, § 1, effective April 7. **L. 93:** (1)(c) amended, p. 1824, § 4, effective June 6.

23-70-105. General powers of the Auraria board. (1) The Auraria board is a body corporate by the name and style of the board of directors of the Auraria higher education center and, as such and by its said name, has the power to:

(a) Sue or be sued to the extent permitted by law;

(b) Contract or be contracted with;

(c) Acquire, hold, lease as lessor or lessee, or dispose of property, both real and personal;

(d) Have a common seal which it may change and alter at its pleasure;

(e) Elect officers of the board, appoint a chairman, and promulgate bylaws and rules of procedure to govern the transaction of its business as provided in this article;

(f) Employ, within funds appropriated for such purpose or otherwise made available therefor, such employees as are necessary to perform the functions and carry out the duties of the Auraria board, including a chief executive officer who shall report directly to the Auraria board;

(g) Assess, after approval of the governing boards of the constituent institutions, a special student fee, which may be pledged as provided in section 23-70-108 and shall be collected as prescribed by the Auraria board; and

(h) Do all things necessary to carry out the provisions of this article in like manner as municipal corporations of this state, including but not limited to the power to approve special districts wholly contained within the boundaries of the center in accordance with section 32-1-204.5, C.R.S., as if the board were a municipal corporation.

Source: L. 74: Entire article added, p. 392, § 1, effective May 13. **L. 88:** (1)(c) amended, p. 868, § 2, effective April 7. **L. 89:** (1)(f) amended, p. 1015, § 4, effective July 1. **L. 2008:** (1)(f) and (1)(g) amended and (1)(h) added, p. 1079, § 3, effective May 22. **L. 2015:** (1)(f) amended, (SB 15-264), ch. 259, p. 957, § 59, effective August 5.

23-70-105.5. Public-private developments - definitions. (1) As used in this article, unless the context otherwise requires, "complementary facility" means a facility, located at or within the center, that may provide moneys for the center, provide occupational and educational opportunities consistent with the respective missions of the constituent institutions, or facilitate integration of the center with the adjacent Denver area. "Complementary facility" may include, but need not be limited to, an office, retail, restaurant, residential, or mixed-use facility.

(2) The Auraria board shall have the power and authority to develop, construct, hold, lease, and dispose of complementary facilities and to facilitate the development and construction of complementary facilities by entering into leases or other contractual arrangements with private persons or entities.

(3) The Auraria board shall have the same powers with respect to a complementary facility as it has with respect to auxiliary facilities under this article and under article 5 of this title.

(4) Without limiting the scope of any other power granted to the Auraria board in this article, the Auraria board shall have the power and authority to enter into one or more ground leases for portions of the center with private persons or entities, which lease shall require the lessee to develop a complementary facility upon the leased premises. The Auraria board shall not subordinate its interest in land subject to such a ground lease but may enter into attornment and nondisturbance agreements with any party providing financing to the lessee.

(5) Any moneys derived from a complementary facility shall be devoted first to payment of any debt service on bonds that are secured by the moneys and all expenses connected with the complementary facility and then to furthering the mission of the Auraria board and the center, including but not limited to applying the moneys pursuant to subsection (3) of this section. Moneys derived from a complementary facility shall be continuously appropriated to the Auraria board and shall remain in the control of the Auraria board and shall not be transferred or revert to the general fund of the state at the end of any fiscal year.

Source: L. 2008: Entire section added, p. 1079, § 4, effective May 22.

23-70-106. Auraria board to have certain powers similar to powers exercised by the governing bodies of other state institutions of higher education. (1) The Auraria board may exercise the following powers to the same extent and in the same manner as may be provided or extended by law to the governing boards of state institutions of higher education:

(a) To promulgate rules and regulations for the safety of students, employees, and property located within the center;

(b) To promulgate rules and regulations providing for the operation and parking of vehicles upon the grounds, driveways, or roadways within the center under the control of the Auraria board;

(c) To cede jurisdiction for the enforcement of traffic laws;

(d) To institute and carry out a system of registration and identification of vehicles owned or operated by students, faculty, and staff attending or employed by the constituent institutions and the Auraria staff located at the center; and

(e) To receive gifts and bequests of money or property which may be tendered to the Auraria board.

Source: L. 74: Entire article added, p. 393, § 1, effective May 13.

23-70-106.5. Resolution of disputes at Auraria center. (1) After notification to the affected chief executive officers, which notification provides for a deadline of not more than ten days for the resolution of a dispute, the chief executive officer of any governing board at the Auraria center, including the Auraria board, may request the Colorado commission on higher education to resolve a conflict concerning an academically related issue at the Auraria center. The commission shall have the authority to make the final decision to resolve the issue presented to it or may delegate its responsibility and authority for the final decision of the issue to the Auraria board. The decision of either the commission or the Auraria board shall be binding on all of the governing boards and institutions and on the Auraria board. It is the policy of the general assembly that the commission is encouraged to delegate to the Auraria board, to as great an extent as possible, its authority for making final decisions at the Auraria center.

(2) The chief executive officer of any governing board at the Auraria center, including the Auraria board, may request the Auraria board to resolve a conflict concerning the operation, administration, or use of the physical facilities at the Auraria center. The Auraria board shall have the authority to make the final decision to resolve the issue presented to it, and such decision shall be binding on all of the governing boards and institutions and on the Auraria board.

(3) All issues involving interinstitutional disputes at the Auraria center shall be considered as either academically related or operationally related, and the commission is authorized to determine whether it or the Auraria board shall have jurisdiction in regard to the resolution of the dispute.

Source: L. 85: Entire section added, p. 770, § 30, effective July 1.

23-70-107. Borrowing funds for auxiliary or complementary facilities. (1) For the purposes of obtaining funds for constructing, otherwise acquiring, and equipping auxiliary facilities, as defined in section 23-5-101.5 (2)(a), for the use of students and employees at the center, the Auraria board is authorized, after approval by the Colorado commission on higher education and subsequent affirmative vote by the combined student bodies of the Auraria campus if student fees are to be used in financing such projects, to enter into contracts with any one or more persons or corporations or state or federal government agencies for the advancement of moneys for such purposes and to provide for the repayment of such advancements with interest at a specified net effective interest rate.

(2) The Auraria board, by resolution, may issue revenue bonds on behalf of any auxiliary facility or group of auxiliary facilities managed by the Auraria board for the purpose of obtaining funds for constructing, otherwise acquiring, equipping, or operating such auxiliary facility or group of auxiliary facilities. Any bonds issued on behalf of any auxiliary facility or group of

auxiliary facilities other than dining facilities, recreational facilities, health facilities, parking facilities, student center facilities, or research facilities which are funded from a revolving fund 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. Bonds issued pursuant to this subsection (2) shall be payable only from revenues generated by the auxiliary facility or group of auxiliary facilities on behalf of which such bonds are issued. Such bonds shall be issued in accordance with the provisions of section 23-70-108 (2).

(3) The Auraria board, by resolution, may issue revenue bonds secured by a pledge of lease payments or any other revenues derived from a complementary facility or group of complementary facilities for the purpose of raising moneys for constructing or otherwise acquiring and equipping any facility necessary or useful to the accomplishment of the mission of the Auraria board and the center. Bonds issued pursuant to this subsection (3) shall be payable only from revenues generated by the lease payments or by the complementary facility or group of complementary facilities that are subject to the pledge. The bonds shall be issued in accordance with the provisions of section 23-70-108 (2).

(4) The Auraria board, by resolution, may issue revenue bonds secured by a pledge of rental payments or other payments to be received from a constituent institution or constituent institutions. The Auraria board shall use the proceeds of said bonds to acquire, construct, or equip any physical plant, facility, building, or ground within the center for the use of one or more constituent institutions pursuant to section 23-70-104. Bonds issued pursuant to this subsection (4) shall be payable only from payments received by the Auraria board from the constituent institutions for the acquisition, construction, or equipping of the physical plant, facility, building, or ground for which the bonds are issued. The bonds shall be issued in accordance with the provisions of section 23-70-108 (2).

Source: L. 74: Entire article added, p. 393, § 1, effective May 13. **L. 75:** Entire section amended, p. 746, § 1, effective April 9. **L. 93:** Entire section amended, p. 1824, § 5, effective June 6. **L. 2008:** (3) and (4) added, p. 1080, § 5, effective May 22.

23-70-108. Pledge of income. (1) When the Auraria board enters into a contract for the advancement of moneys described in section 23-70-107, the board is authorized, in connection with or as a part of such contract, to pledge special student fees or the net income derived or to be derived from such land or facilities so constructed, acquired, and equipped or special student fees and said net income 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, the Auraria board is also authorized to use the net income derived from the Tivoli brewery and parking areas associated with the Tivoli brewery and to pledge the net income derived from any other auxiliary facility which is not individually designated as an enterprise and which is not acquired and not to be acquired with moneys appropriated to the Auraria board by the state of Colorado and to pledge the net income, fees, and revenues derived from said sources, if such be 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.

(2) Any advancement of moneys may be evidenced by interim warrants, if necessary, and bonds to be executed by and on behalf of the Auraria board containing such terms and provisions, including provisions for redemption prior to maturity, as may be determined by the Auraria board. Such warrants or bonds may, at the discretion of the Auraria board, be registrable as to principal or interest, or both, and shall never be sold at less than ninety-five percent of the principal amount thereof and accrued interest thereon to the date of delivery or at a price which will result in a net effective interest rate which exceeds that specified in the contract for the advancement of moneys. Any of the warrants or bonds of the Auraria board issued pursuant to this section or any other law may be refunded pursuant to article 54 of title 11, C.R.S., if in the judgment of the Auraria board such refunding shall be to its best interests. Such refunding obligations may be made payable from any source which may be legally pledged for the payment of the obligations being refunded at the time of the issuance of the obligations so refunded or from any of the sources described in subsection (1) of this section, notwithstanding that the pledge for the payment of the outstanding obligations being refunded is thereby modified.

(3) In the event that 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, the Auraria board may retain such surplus and utilize the same for such purposes as in its judgment shall be in the best interests of the center, including, but not limited to, rehabilitation, alteration, addition to, or equipping of any existing auxiliary facilities, as defined in section 23-5-101.5 (2)(a), acquired pursuant to the provisions of this section and the acquisition of sites for the construction, acquisition, and equipping of additional auxiliary facilities pursuant to such provisions or for prior redemption of outstanding bonds. Use of such surplus shall be reviewed in advance by the student advisory committee to the Auraria board.

(4) Anticipation warrants or bonds issued pursuant to this section may be used as security for any depository bond or obligation where any kind of bond or other security must or may, by law, be deposited as security.

Source: L. 74: Entire article added, p. 393, § 1, effective May 13. **L. 75:** (1) amended, p. 746, § 2, effective April 9. **L. 86:** (1) amended, p. 842, § 1, effective April 3. **L. 93:** (1) and (3) amended, p. 1824, § 6, effective June 6.

23-70-109. No property lien. The Auraria board shall not create a mortgage upon any property belonging to the board or to the state of Colorado or to any constituent institution, nor shall the state be obligated to secure or repay any funds advanced pursuant to the provisions of sections 23-70-107 and 23-70-108 or the interest on such funds.

Source: L. 74: Entire article added, p. 394, § 1, effective May 13.

23-70-110. Tax exemption. Any bonds, certificates, or warrants issued pursuant to the provisions of sections 23-70-107 and 23-70-108 by the Auraria board shall be exempt from taxation for any state, county, school district, special district, municipal, or other purpose in the state of Colorado.

Source: L. 74: Entire article added, p. 394, § 1, effective May 13.

23-70-111. Certain debts and expenses prohibited. The Auraria board is prohibited from creating any debt as against the state of Colorado or the governing boards of the constituent institutions or from incurring any expense beyond its ability to pay the same from the annual income or appropriated funds for the then current year.

Source: L. 74: Entire article added, p. 394, § 1, effective May 13.

23-70-112. Limitation of actions. No action shall be brought questioning the legality of any contract, proceeding, or warrants or bonds executed or to be executed by the Auraria board in connection with the provision of any auxiliary facilities, as defined in section 23-5-101.5 (2)(a), provided or to be provided for the purposes authorized by this article after thirty days have expired after the effective date of any resolution or other official action authorizing such contract, adopting such proceedings, or authorizing the issuance of such warrants or bonds.

Source: L. 74: Entire article added, p. 394, § 1, effective May 13. **L. 75:** Entire section amended, p. 747, § 3, effective April 9. **L. 85:** Entire section amended, p. 1361, § 16, effective June 28. **L. 93:** Entire section amended, p. 1825, § 7, effective June 6.

23-70-113. Possible change of Auraria higher education center. (Repealed)

Source: L. 79: Entire section added, p. 840, § 1, effective June 15. **L. 82:** Entire section repealed, p. 624, § 22, effective April 2.

23-70-114. Powers of board not limited. Subject to the approval of the Colorado commission on higher education, the Auraria board may exercise any and all powers conferred by this article with respect to any land or facility not otherwise a part of the Auraria center. Nothing in this section shall be construed to limit the powers of governing boards of constituent institutions to acquire or dispose of facilities not otherwise part of the Auraria center; however, any building or facility acquired by a constituent institution in support of academic programs shall be subject to the approval of the Auraria board, including the renewal of existing leases.

Source: L. 88: Entire section added, p. 868, § 3, effective April 7.

23-70-115. Directive - master plans. (1) In order to maximize economic and administrative efficiency at the Auraria center and to further the goals articulated in section 23-1-101, the general assembly finds it necessary that there be comprehensive academic and facilities master planning for the use and development of the Auraria center constituent institutions. Therefore, the governing boards of the constituent institutions and the Auraria board, in consultation with the Colorado commission on higher education, shall prepare comprehensive master plans according to the following requirements and schedule:

(a) On or before a date to be set by the Colorado commission on higher education, and in accordance with commission policies and procedures, the commission shall coordinate, and the governing boards of the constituent institutions shall submit to the commission, academic master

plans for the constituent institutions. The coordinated academic master plans shall address all Auraria multiinstitutional issues that the commission determines to be relevant to the role and mission of each institution and academic program requirements for fulfilling that role and mission.

(b) The commission shall review the master plans and shall, after consultation with the governing boards, order revisions to the extent that the plans fail to maximize efficiency and academic program effectiveness. When approved by the commission, the academic master plans shall be submitted to the Auraria board which shall prepare a comprehensive facilities master plan for the Auraria constituent institutions. The facilities master plan shall be submitted to the commission at a date to be established by the commission.

Source: L. 88: Entire section added, p. 869, § 4, effective April 7. **L. 2000:** (1)(b) amended, p. 2446, § 8, effective August 2.

23-70-116. Auraria library - economic development data base. (1) The library located at the center, which is administered by the university of Colorado at Denver and which serves Metropolitan state university of Denver and the community college of Denver, is hereby designated and shall be the site of the state economic development data base. The library shall compile data which is useful and relevant to persons concerned with economic development in the state, including but not limited to statistical and demographic profiles of Colorado communities, labor and market statistics, statutory and regulatory requirements for business formation, and such other information as will assist the creation, expansion, and relocation of business in Colorado. The library is authorized to receive and expend all moneys, public and private, tendered to it for the performance of its duties under this section. The department of local affairs shall assist the library in the performance of such duties.

(2) No policy shall be established that would prevent equal access by any individual or organization in the state of Colorado to the data base relating to economic development.

Source: L. 88: Entire section added, p. 870, § 1, effective April 20. **L. 90:** (1) amended, p. 1156, § 13, effective July 1. **L. 2012:** (1) amended, (SB 12-148), ch. 125, p. 428, § 18, effective July 1.

Cross references: For the legislative declaration in the 2012 act amending subsection (1), see section 1 of chapter 125, Session Laws of Colorado 2012.

ARTICLE 71

Local District Colleges

PART 1

LOCAL DISTRICT COLLEGES - ORGANIZATION

Editor's note: This part 1 is similar to article 70 of title 22 as it existed prior to 1975.

23-71-101. Short title. This part 1 shall be known and may be cited as the "Local District College Organization Act".

Source: L. 75: Entire article added, p. 748, § 1, effective July 1.

23-71-102. Definitions. As used in this article 71, unless the context otherwise requires:

(1) (a) "Local district college" means an educational institution that provides not more than two years of training in the arts, sciences, and humanities beyond the twelfth grade of the public high school curriculum or vocational education and that conducts occupational, technical, and community service programs, with no term limitations, and general education, including college transfer programs, with unrestricted admissions.

(b) Notwithstanding the provisions of subsection (1)(a) of this section:

(I) Colorado mountain college, in addition to its mission as a local district college, may also offer a limited number of baccalaureate degree programs as its board of trustees determines appropriate to address the needs of the communities within its service area and that are approved by the Colorado commission on higher education. Colorado mountain college should confer with regional education providers to determine the feasibility of cooperative delivery of new bachelor's programs in adjacent localities.

(II) Aims community college, in addition to its mission as a local district college, may also offer, as its board of trustees determines appropriate to address the needs of the communities within its service area that are approved by the Colorado commission on higher education pursuant to the criteria set forth in section 23-1-133 (2):

(A) Bachelor of applied science degree programs; and

(B) Bachelor of science degree in nursing programs as a completion degree to students who have or are pursuing an associate degree in nursing.

Source: L. 75: Entire article added, p. 748, § 1, effective July 1. **L. 83:** (1) amended, p. 820, § 2, effective July 1. **L. 2010:** Entire section amended, (SB 10-101), ch. 335, p. 1538, § 2, effective May 27. **L. 2014:** Entire section amended, (SB 14-004), ch. 13, p. 123, § 8, effective August 6. **L. 2018:** IP, IP(1)(b), and (1)(b)(II) amended, (HB 18-1300), ch. 278, p. 1751, § 1, effective August 8. **L. 2019:** (1)(b)(I) amended, (HB 19-1153), ch. 80, p. 288, § 1, effective August 2.

Cross references: For the legislative declaration in the 2010 act amending this section, see section 1 of chapter 335, Session Laws of Colorado 2010. For the legislative declaration in SB 14-004, see section 1 of chapter 13, Session Laws of Colorado 2014.

23-71-102.5. Local district college - local college district - change in terms - authority of revisor. (1) The revisor of statutes is authorized to change all references to "local junior college" or "junior college" that appear in the Colorado Revised Statutes to "local district college".

(2) The revisor of statutes is authorized to change all references to "local junior college district" and "junior college district" that appear in the Colorado Revised Statutes to "local college district".

Source: L. 2016: Entire section added, (HB 16-1259), ch. 123, p. 350, § 6, effective April 21.

23-71-103. Districts organized - when. Local college districts in Colorado may be organized in an area approved for organization by the state board for community colleges and occupational education. The area to be approved for organization shall also have a twelfth-grade school population, as determined by the immediately preceding school census, of four hundred or more and a valuation for assessment at the time of organization of such district of sixty million dollars or more. A district may be entirely within one county or partly in two or more counties. Any existing school districts shall be entirely included or entirely excluded.

Source: L. 75: Entire article added, p. 748, § 1, effective July 1.

23-71-104. Petition of electors. A local college district may be formed upon the petition of five hundred eligible electors residing in the area of the proposed district and having the qualifications prescribed in section 23-71-107. If the petition is for the formation of a local college district consisting of an area within a single county, it must be filed with the county clerk and recorder of the county, and, if the petition is for the formation of a local college district situated in two or more counties, the petition must be filed with the secretary of state. Each petition must specify whether the first board of trustees consists of five, seven, nine, or eleven elected members following a successful election to organize the local college district.

Source: L. 75: Entire article added, p. 749, § 1, effective July 1. **L. 86:** Entire section amended, p. 846, § 6, effective July 1. **L. 92:** Entire section amended, p. 848, § 49, effective January 1, 1993. **L. 2016:** Entire section amended, (HB 16-1259), ch. 123, p. 347, § 1, effective April 21.

23-71-105. Election to organize. Upon receipt of the petition provided in section 23-71-104, the county clerk and recorder or, in the event the proposed district is situated in two or more counties, the secretary of state shall review the petition to determine whether it contains the number of signatures required for an organizational election. In the event that the petition contains the requisite number of signatures, the county clerk and recorder or secretary of state shall give notice to the school electors residing in the area of the proposed district that at the next regular biennial school election, or at a special election which is requested in the petition, the question of organizing a local college district will be submitted to the eligible electors of the respective school districts located in the area of the proposed local college district.

Source: L. 75: Entire article added, p. 749, § 1, effective July 1. **L. 86:** Entire section R&RE, p. 846, § 7, effective July 1. **L. 92:** Entire section amended, p. 848, § 50, effective January 1, 1993.

23-71-106. Notice to be given - when. (Repealed)

Source: L. 75: Entire article added, p. 749, § 1, effective July 1. **L. 86:** (3) amended, p. 846, § 8, effective July 1. **L. 92:** Entire section repealed, p. 849, § 51, effective January 1, 1993.

23-71-107. Qualifications of voters - conduct of elections. (1) An eligible elector is an elector who has complied with the registration provisions of article 2 of title 1, C.R.S., and who resides within the jurisdiction of the proposed local college district. All elections authorized under this article shall be conducted pursuant to articles 1 to 13 of title 1, C.R.S. The county clerk and recorder in each county in which a part of the district is located shall be the designated election official for an organizational election. Thereafter the designated election official shall be the secretary of the board, unless otherwise provided by the board.

(2) (Deleted by amendment, L. 92, p. 849, § 52, effective January 1, 1993.)

Source: L. 75: Entire article added, p. 749, § 1, effective July 1. **L. 86:** (1) amended, p. 846, § 9, effective July 1. **L. 92:** Entire section amended, p. 849, § 52, effective January 1, 1993.

23-71-108. Certification of returns. (Repealed)

Source: L. 75: Entire article added, p. 750, § 1, effective July 1. **L. 86:** Entire section amended, p. 846, § 10, effective July 1. **L. 92:** Entire section repealed, p. 850, § 53, effective January 1, 1993.

23-71-109. Record of votes. (1) If the proposed local college district is situated entirely within one county and a majority of the votes cast on the question of organizing a local college district are in favor of the organization, the district shall be formed in accordance with the provisions of this part 1.

(2) If the proposed local college district is situated in two or more counties, the respective county clerk and recorders, within ten days after the election, shall determine the results from the counties and shall certify the results to the secretary of state who shall survey the results. If a majority of all votes cast in the proposed district are in favor of the organization, the district shall be formed in accordance with the provisions of this part 1.

(3) If it appears that one-half or more of the votes cast are not in favor of the organization, the district shall not be organized; but the provisions of this section shall not be construed to prevent the filing of a subsequent petition for the formation of a similar local college district.

Source: L. 75: Entire article added, p. 750, § 1, effective July 1. **L. 76:** (1) and (2) amended, p. 305, § 39, effective May 20. **L. 86:** Entire section amended, p. 847, § 11, effective July 1. **L. 92:** Entire section amended, p. 850, § 54, effective January 1, 1993.

23-71-110. Election of board - members and terms. (1) Each public local college district established under the provisions of this part 1 must have a board of control, known as the board of trustees, consisting of five, seven, nine, or eleven members elected at public elections for staggered terms of four years each. The first board of trustees is elected in the manner provided in section 23-71-111. Thereafter, regular elections of board members are held in accordance with subsection (2) of this section.

(2) The regular election of the members of a board of trustees shall be held on the first Tuesday after the first Monday in November in odd-numbered years, as provided by law for

regular biennial school elections in school districts. Special elections shall be held on the first Tuesday after the first Monday in February, May, September, or December.

(3) The board of trustees of each local college district existing on or after July 1, 1984, and before July 1, 1986, shall determine whether the board of trustees consists of five, seven, nine, or eleven members. The board of trustees of each local college district created after July 1, 1986, consists of five, seven, nine, or eleven members as specified in the organization petition; except that the board of trustees may subsequently increase the number of board members as provided in subsection (8) of this section. The board of trustees of each local college district shall determine the number of vacancies existing and the length of term of each vacancy for the next and subsequent regular elections for board members. Except for the election of members who were appointed pursuant to subsection (8) of this section and section 23-71-121, the board of trustees shall ensure that there are no more than three vacancies at any regular election for a five-member board, no more than four vacancies at any regular election for a seven-member board, no more than five vacancies at any regular election for a nine-member board, and no more than six vacancies at any regular election for an eleven-member board and that each board member has a term of four years.

(4) A board of trustees may establish board member districts for its local college district if it determines that such districts are in the best interests of the local college district. Such board member districts shall be established on the basis of nearly equal population or on the basis of geography and population if the local college district consists of more than one county.

(5) Members of a board of trustees shall be elected at the regular biennial school election of school districts within the local college district. Any person desiring to be a candidate for the office of trustee shall file a petition for nomination pursuant to section 1-4-803 and part 9 of article 4 of title 1, C.R.S. The election shall be conducted pursuant to the provisions of articles 1 to 13 of title 1, C.R.S. The secretary of the board of trustees shall be the designated election official responsible for the election.

(6) (Deleted by amendment, L. 92, p. 851, § 55, effective January 1, 1993.)

(7) The cost of the election of members of the board of trustees as provided in this section shall be paid by the local college district in which the elections are conducted, or, in the event of a coordinated election, the costs shall be allocated pursuant to sections 1-5-506 and 1-5-507, C.R.S.

(8) A local college district that has a five-member board of trustees may increase the board membership to seven members at any time by the appointment of two new members. A local college district that has a seven-member board of trustees may increase the board members to nine or eleven members by the appointment of new members if one or more additional school districts is annexed into the local college district as provided in section 23-71-128. Each person appointed pursuant to this subsection (8) must be appointed at least one hundred twenty days prior to the next regular biennial local district college election and may serve as an appointee only until the election and until the appointed person, if he or she seeks election, or his or her successor has been elected and has qualified.

Source: L. 75: Entire article added, p. 751, § 1, effective July 1. **L. 84:** Entire section amended, p. 646, § 1, effective July 1. **L. 86:** (1) to (3) amended and (8) added, p. 848, § 12, effective July 1. **L. 92:** (2) and (5) to (7) amended, p. 851, § 55, effective January 1, 1993. **L. 93:**

(7) amended, p. 1437, § 130, effective July 1. **L. 2016:** (1), (3), and (8) amended, (HB 16-1259), ch. 123, p. 347, § 2, effective April 21.

23-71-111. Election of first board - new district. (1) In all local college districts organized under the provisions of this part 1 or other applicable statutes on or after July 1, 1984, the first board of trustees must be elected in the following manner:

(a) An election for members of the first board shall be called within sixty days of the successful election to organize the local college district.

(b) At the election, a board consisting of the number of persons specified in the organization petition must be elected so that the first board members serve staggered terms and thereafter their successors in office serve staggered terms of four years.

(c) The county clerk and recorder of each county included in the new local college district shall call and conduct such election in the manner provided in section 23-71-107.

(d) The costs of the election of board members as provided in this section shall be paid by the local college district in which the elections are conducted.

Source: L. 75: Entire article added, p. 752, § 1, effective July 1. **L. 84:** IP(1), (1)(a), (1)(b), and (1)(d) amended, p. 648, § 2, effective July 1. **L. 86:** (1)(b) amended, p. 848, § 13, effective July 1. **L. 92:** Entire section amended, p. 852, § 56, effective January 1, 1993. **L. 2016:** IP(1) and (1)(b) amended, (HB 16-1259), ch. 123, p. 348, § 3, effective April 21.

23-71-112. Precincts and polling places. (Repealed)

Source: L. 75: Entire article added, p. 752, § 1, effective July 1. **L. 86:** (1)(a) and (1)(b) amended, p. 849, § 14, effective July 1. **L. 92:** Entire section repealed, p. 852, § 57, effective January 1, 1993.

23-71-113. Judges. (Repealed)

Source: L. 75: Entire article added, p. 753, § 1, effective July 1. **L. 86:** (1) amended, p. 849, § 15, effective July 1. **L. 92:** Entire section repealed, p. 853, § 5, effective January 1, 1993.

23-71-114. Candidates for board of trustees. Any person who desires to be a candidate for the local district college board of trustees and who is an eligible elector in the local college district shall file a petition for nomination pursuant to section 1-4-803 and part 9 of article 4 of title 1, C.R.S.

Source: L. 75: Entire article added, p. 754, § 1, effective July 1. **L. 86:** Entire section amended, p. 849, § 16, effective July 1. **L. 92:** Entire section amended, p. 854, § 59, effective January 1, 1993.

23-71-115. Notice of election. (Repealed)

Source: L. 75: Entire article added, p. 754, § 1, effective July 1. **L. 86:** Entire section amended, p. 850, § 17, effective July 1. **L. 92:** Entire section repealed, p. 854, § 60, effective January 1, 1993.

23-71-116. Ballots, ballot boxes, voting machines, and electronic voting equipment. (Repealed)

Source: L. 75: Entire article added, p. 754, § 1, effective July 1. **L. 80:** (2) amended, p. 409, § 10, effective January 1, 1981. **L. 81:** (2) amended, p. 2028, § 29, effective July 14. **L. 86:** (1) amended, p. 850, § 18, effective July 1. **L. 92:** Entire section repealed, p. 854, § 61, effective January 1, 1993.

23-71-117. Qualification of voters. (Repealed)

Source: L. 75: Entire article added, p. 755, § 1, effective July 1. **L. 86:** Entire section amended, p. 850, § 19, effective July 1. **L. 92:** Entire section repealed, p. 855, § 62, effective January 1, 1993.

23-71-118. Officers. Within sixty days after the close of polls in an election of any local district college board of trustees, the board shall meet and select from among its members a president, a secretary, and a treasurer, who shall serve until the first meeting of the board following the next election for members of the board.

Source: L. 75: Entire article added, p. 755, § 1, effective July 1. **L. 86:** Entire section amended, p. 851, § 20, effective July 1. **L. 2014:** Entire section amended, (HB 14-1365), ch. 333, p. 1484, § 1, effective June 5.

23-71-119. Regular meetings. (1) The local district college board of trustees shall hold regular meetings as the board decides; except that the board shall hold no fewer than four regular meetings each year. The board may hold additional or special meetings upon call of the president or a majority of the board. The secretary of the board shall notify the members of all meetings. The board shall hold all special and regular meetings of the board at locations that are within the boundaries of the district or that are within the boundaries of a county in which the district is located, in whole or in part, or in any county so long as the meeting location is not farther than twenty miles from the district boundaries. The board may waive the provisions of this section governing the location of meetings only if the proposed change of location of a meeting of the board appears on the agenda of a regular or special meeting of the board and if the board adopts a resolution stating the reason for which a meeting of the board is to be held in a location other than under the provisions of this section and further stating the date, time, and place of the meeting.

(2) (a) The board of trustees of Colorado mountain college, without holding a meeting, may take an action that is otherwise required or permitted to be taken at a board meeting if:

(I) The secretary of the board transmits in writing to each member of the board notice of the proposed action to be taken without a meeting;

(II) A board member does not demand in writing that the action described in the notice be discussed in a regular or special board meeting;

(III) After the board receives notice of the proposed action, the board secretary provides full and timely notice of the proposed action to the public by posting notice of the proposed action in the designated public place for posting notice of meetings described in section 24-6-402 (2)(c), C.R.S., and a member of the public does not request that the proposed action be discussed in a regular or special board meeting; and

(IV) Every member of the board, by the date stated in the notice, delivers a written vote in favor of taking the action.

(b) The notice required by this subsection (2) must, at a minimum, state:

(I) The action to be taken;

(II) The date by which each board member must respond; and

(III) That failure to respond by the date stated in the notice has the same effect as voting against the action stated in the notice.

(c) The board of trustees of Colorado mountain college may take an action without a meeting as provided in this subsection (2) only if, by the date stated in the notice transmitted pursuant to this subsection (2), the board president receives an affirmative vote in favor of the action in writing from each member of the board and does not receive a written demand by a board member that the action not be taken without a meeting. Unless the notice transmitted pursuant to this subsection (2) states a different effective date, an action taken pursuant to this subsection (2) is effective on the date for response stated in the notice transmitted pursuant to this subsection (2).

(d) A writing by a board member under this subsection (2) must, at a minimum, specify the identity of the board member; the vote, abstention, demand, or revocation of the board member; and the proposed action to which the vote, abstention, demand, or revocation relates. Unless otherwise provided by an action of the board, all communications under this subsection (2) may be transmitted or received by electronically transmitted facsimile, electronic mail, or other form of wire or wireless communication. For purposes of this subsection (2), communications are not effective until received.

(e) An action taken pursuant to this subsection (2) has the same effect as an action taken at a regular or special meeting of the board and may be described as such in any document. Electronic mail or other written communications used to provide notice or to discuss the proposed action are subject to the open meeting requirements specified in part 4 of article 6 of title 24, C.R.S.

(f) The board secretary shall ensure that all writings made pursuant to this section are filed with the minutes of the board meetings.

(g) In addition to the list described in section 24-6-402 (7), C.R.S., the board secretary shall maintain a list of persons who ask for notice of a proposed action to be taken pursuant to this subsection (2). The board secretary shall notify each person on the list of a proposed action and shall specify in the notice that a member of the public may request that the board discuss the proposed action in a regular or special board meeting.

Source: L. 75: Entire article added, p. 755, § 1, effective July 1. **L. 86:** Entire section amended, p. 851, § 21, effective July 1. **L. 90:** Entire section amended, p. 1496, § 2, effective July 1. **L. 2016:** Entire section amended, (HB 16-1259), ch. 123, p. 349, § 5, effective April 21.

23-71-120. District - body corporate. Each regularly organized local college district which may be formed as provided in this part 1 is declared to be a body corporate, by the name and style of "..... Local College District", and in that name may hold property and be a party to suits and contracts, the same as municipal corporations in this state.

Source: L. 75: Entire article added, p. 755, § 1, effective July 1.

23-71-120.5. Recall of board members. (1) Any board member may be recalled from office at any time. Any recall shall be initiated and conducted pursuant to part 1 of article 12 of title 1, C.R.S.

(a) to (d) (Deleted by amendment, L. 92, p. 855, § 63, effective January 1, 1993.)

(2) to (4) (Deleted by amendment, L. 92, p. 855, § 63, effective January 1, 1993.)

Source: L. 90: Entire section added, p. 1174, § 1, effective March 20. **L. 92:** Entire section amended, p. 855, § 63, effective January 1, 1993.

23-71-121. Vacancies. (1) An office of a board member shall be deemed vacant if the person who was duly elected or appointed to the board:

(a) Does not attend three consecutive regular meetings of the board, unless such absence is excused by the board;

(b) Submits a written resignation to the board and such resignation is duly accepted by the board;

(c) Becomes a nonresident of the local college district or board member district from which he was elected; or

(d) Dies during his term of office.

(2) At the next meeting of the board immediately following the occurrence of a vacancy, the board shall adopt a resolution declaring a vacancy in said office and shall appoint a person to fill the vacancy within sixty days after said vacancy has occurred. If the appointment is not made by the board within such sixty-day period, the president of the board shall forthwith appoint a person to fill the vacancy. The appointment shall be evidenced by an appropriate entry in the minutes of the meeting, and the board shall cause a certificate of appointment to be delivered to the person so appointed.

(3) If the vacancy occurs more than ninety days prior to the next regular biennial local district college election and the unexpired term is for more than two years, an appointee to the board shall serve until the next regular biennial local district college election and until the successor for the remainder of the term is elected and has qualified. If the vacancy occurs within the ninety-day period prior to a regular biennial local district college election and the unexpired term is for more than two years, an appointee to an office of the board shall serve until the next succeeding regular biennial local district college election at which a candidate for the board may lawfully be nominated pursuant to section 1-4-803 and part 9 of article 4 of title 1, C.R.S., and until a successor has been elected and has qualified. Except as otherwise provided in this subsection (3), an appointee to an office of the board shall serve the remainder of the unexpired term.

Source: L. 75: Entire article added, p. 755, § 1, effective July 1. **L. 80:** (3) amended, p. 409, § 11, effective January 1, 1981. **L. 86:** IP(1), (1)(a) to (1)(c), (2), and (3) amended, p. 851, § 22, effective July 1. **L. 92:** (3) amended, p. 857, § 64, effective January 1, 1993.

23-71-122. Local college district board of trustees - specific powers - rules - definitions. (1) In addition to any other power granted by law to a board of trustees of a local college district, each board has the power to:

(a) Take and hold in the name of the district so much real and personal property as may be reasonably necessary for any purpose authorized by law;

(b) Sue and be sued and be a party to contracts for any purpose authorized by law;

(c) Purchase real property on such terms, including but not limited to installment purchase plans, as the board sees fit or lease or rent real property on such terms as the board sees fit for any school sites, buildings, or structures or for any school purpose authorized by law; determine the location of each school site, building, or structure; and construct, erect, repair, alter, and remodel buildings and structures;

(d) Sell and convey district property for any purpose authorized by law, upon such terms and conditions as it may approve; and lease any such property, pending sale thereof, under an agreement of lease, with or without an option to purchase the same;

(e) Rent or lease district property and permit the use of district property by community organizations upon such terms and conditions as it may approve;

(f) Employ a chief executive officer to administer the affairs and the programs of the district, pursuant to a contract;

(g) Procure group life, health, or accident insurance covering employees of the district pursuant to section 10-7-203, C.R.S.;

(h) Provide for the necessary expenses of the board in the exercise of its powers and the performance of its duties and reimburse a board member for necessary expenses incurred by him in the performance of his official duties, whether within or without the territorial limits of the district;

(i) Procure such insurance coverage on the building, structures, and equipment owned by the district, or in which the district has an insurable interest, as, in the judgment of the board, may be adequate from time to time;

(j) Procure such casualty insurance coverage on the personal property owned by the district, or in which the district has an insurable interest, as may, in the judgment of the board, be adequate from time to time;

(k) Procure public liability insurance covering the district and the directors and employees thereof;

(l) Procure liability and property damage insurance on buses or motor vehicles owned or rented by the district and accident insurance covering the medical expenses incurred by any pupil who is injured while being furnished transportation by the district, including injury received in the course of entering or alighting from any school bus or other means of transportation furnished by the district;

(m) Elect to have moneys belonging to the district withdrawn from the custody of the county treasurer and paid over to the treasurer of the board in the manner provided by law;

(n) Accept gifts, donations, or grants of any kind made to the district and expend or use said gifts, donations, or grants in accordance with the conditions prescribed by the donor; but no gift, donation, or grant shall be accepted by the board if subject to any condition contrary to law;

(o) Authorize the use of facsimile signatures on teacher contracts, bonds, and bond coupons by appropriate resolution;

(p) Take and hold, under the provisions of any law in effect providing for the exercise of the rights of eminent domain, so much real estate as may be necessary for the location and construction of a local district college building and for the convenient use of said local district college;

(q) Contract with another local college district or public school district or with the governing body of a state college or university, with the tribal corporation of any Indian tribe or nation, with any federal agency or officer or any county, city, or city and county, or with any natural person, body corporate, or association for the performance of any service, activity, or undertaking which any school may be authorized by law to perform or undertake. Such contract shall set forth fully the purposes, powers, rights, obligations, and responsibilities, financial or otherwise, of the parties so contracting and shall provide that the service, activity, or undertaking be of comparable quality and meet the same requirements and standards as would be necessary if performed by the school district. A contract executed pursuant to this paragraph (q) may include, among other things, the purchase or renting of necessary building facilities, equipment, supplies, and employee services.

(r) Issue general obligation bonds, refund the same, and provide for the payment thereof by taxation for the purposes, to the extent, and in the manner provided by parts 5 and 6 of this article and pledge the revenues of the district as additional security for the payment of general obligation bonds. Each local college district also has the power to issue general obligation refunding bonds to refund revenue bonds or to refund other revenue securities upon the approval of a majority of the eligible electors voting at an election called and held in the manner provided by part 5 of this article for elections on school building bonds.

(s) Cooperate with the state board for community colleges and occupational education in carrying out the provisions of the national and state vocational education and rehabilitation acts, or amendments thereto, or any such acts providing for vocational education or vocational rehabilitation of individuals with disabilities;

(t) Enter into a contract for administrative services with a term not to exceed five years, for capital outlay purposes in accordance with paragraph (c) of this subsection (1) and parts 5, 6, and 7 of this article, or for the purchase of real property pursuant to paragraph (c) of this subsection (1). Any such contract shall be valid and enforceable between the parties to the contract.

(u) Adopt written policies, rules, and regulations, not inconsistent with law, which may relate to study, discipline, conduct, safety, and welfare of all students, or any classification of students, enrolled in the local district college and adopt written procedures not inconsistent with this article for the expulsion of or denial of admission to a student, which procedures shall afford due process to students and school personnel;

(v) (I) Determine the location of each school site, building, or structure and construct, erect, repair, alter, rebuild, replace, and remodel buildings and structures without a permit or fee or compliance with a local building code. The authority delegated by this subparagraph (I) shall exist notwithstanding any authority delegated to or vested in any county, town, city, or city and

county. Prior to the acquisition of land for school building sites or the construction of buildings thereon, the board of trustees of a local college district shall consult with the planning commission that has jurisdiction over the territory in which the site, building, or structure is proposed to be located, on issues related to the location of the site, building, or structure in order to ensure that the proposed site, building, or structure conforms to the adopted plan of the community insofar as is feasible. All buildings and structures shall be constructed in conformity with the building and fire codes adopted by the director of the division of fire prevention and control, referred to in this section as the "division", in the department of public safety. The board shall notify the planning commission that has jurisdiction over the territory in which a site, building, or structure is proposed to be located, in writing, of the location of the site, building, or structure before awarding a contract for the purchase or the construction thereof.

(II) (A) This paragraph (v) shall apply to building or structure construction. Except as specified in sub-subparagraph (A.5) of this subparagraph (II), the division shall conduct the necessary plan reviews, issue building permits, cause the necessary inspections to be performed, perform all final inspections, and issue certificates of occupancy to assure that a building or structure constructed pursuant to subparagraph (I) of this paragraph (v) has been constructed in conformity with the building and fire codes adopted by the director of the division. Pursuant to this sub-subparagraph (A), the division may contract with third-party inspectors that are certified by the division in accordance with section 24-33.5-1213.5, C.R.S., to perform inspections. The local college district may hire and compensate third-party inspectors under contract with the division to perform inspections or hire and compensate other third-party inspectors that are certified in accordance with section 24-33.5-1213.5, C.R.S., to perform inspections. If the local college district is unable to obtain a third-party inspector and no building department has been prequalified, the division shall perform the required inspections. If a third-party inspector is used, the director of the division shall require a sufficient number of inspection reports to be submitted to the division based upon the scope of the project to ensure quality inspections are performed. The third-party inspector shall attest that inspections are complete before the local college district is issued a certificate of occupancy unless the criteria for a temporary certificate of occupancy are met. Inspection records shall be retained by the third-party inspector for two years after the certificate of occupancy is issued. If the division finds that inspections are not completed satisfactorily, as determined by rule of the division, or that all violations are not corrected, the division shall take enforcement action against the local college district pursuant to section 24-33.5-1213, C.R.S. If inspections are not complete and a building requires immediate occupancy, and if the local college district has passed the appropriate inspections that indicate there are no life safety issues, the division may issue a temporary certificate of occupancy. The temporary certificate of occupancy shall expire ninety days after the date of occupancy. If no renewal of the temporary certificate of occupancy is issued or a permanent certificate of occupancy is not issued, the building shall be vacated upon expiration of the temporary certificate. The division shall enforce this sub-subparagraph (A) pursuant to section 24-33.5-1213, C.R.S.

(A.5) Pursuant to a memorandum of understanding between the appropriate building department and the division, the division may prequalify an appropriate building department to conduct the necessary plan reviews, issue building permits, conduct inspections, issue certificates of occupancy, and issue temporary certificates of occupancy pursuant to sub-subparagraph (A) of this subparagraph (II), to ensure that a building or structure has been

constructed in conformity with the building and fire codes adopted by the director of the division, and to take enforcement action. Nothing in the memorandum of understanding shall be construed to allow the building department to take enforcement action other than in relation to the building and fire codes adopted by the division. An appropriate building department shall meet certification requirements established by the division pursuant to section 24-33.5-1213.5, C.R.S., prior to the prequalification. An affected local college district may, at its own discretion, opt to use a prequalified building department that has entered into a memorandum of understanding with the division as the delegated authority. If a building department conducts an inspection, the building department shall retain the inspection records for two years after the final certificate of occupancy is issued. The fees charged by the department shall cover actual, reasonable, and necessary costs. For purposes of this section, "appropriate building department" means the building department of a county, town, city, or city and county and includes a building department within a fire department.

(B) The division shall cause copies of the building plans to be sent to the appropriate fire department for review of fire safety issues. The fire department shall review the building plans, determine whether the building or structure is in compliance with the fire code adopted by the director of the division, and respond to the division within twenty business days; except that the fire department may request an extension of this time from the director of the division on the basis of the complexity of the building plans.

(C) If the fire department declines to perform the plan review or any subsequent inspection, or if no certified fire inspector is available, the division shall perform the plan review or inspection. As used in this section, "certified fire inspector" has the same meaning as set forth in section 24-33.5-1202 (2.5), C.R.S.

(D) If the building or structure is in conformity with the building and fire codes adopted by the director of the division and if the fire department or the division certifies that the building or structure is in compliance with the fire code adopted by the director of the division, the division or the appropriate building department shall issue the necessary certificate of occupancy prior to use of the building or structure by the local college district.

(E) If the division authorizes building code inspections by a third-party inspector pursuant to sub-subparagraph (A) of this subparagraph (II) or authorizes building code plan reviews and inspections by an appropriate building department pursuant to sub-subparagraph (A.5) of this subparagraph (II), the plan reviews and inspections shall be in lieu of any plan reviews and inspections made by the division; except that this subparagraph (II) shall not be construed to relieve the division of the responsibility to ensure that the plan reviews and inspections are conducted if the third-party inspector or appropriate building department does not conduct the plan reviews and inspections. Nothing in this paragraph (v) shall be construed to require a county, town, city, city and county, or fire department to conduct building code plan reviews and inspections.

(III) If the division conducts the necessary plan reviews and causes the necessary inspections to be performed to determine that a building or structure constructed pursuant to subparagraph (I) of this paragraph (v) has been constructed in conformity with the building and fire codes adopted by the director of the division, the division shall charge fees as established by rule of the director of the division. Such fees shall cover the actual, reasonable, and necessary expenses of the division. Fees collected by the division pursuant to this subparagraph (III) shall be transmitted to the state treasurer, who shall credit the same to the public school construction

and inspection cash fund created pursuant to section 24-33.5-1207.7, C.R.S. The director of the division, by rule or as otherwise provided by law, may increase or reduce the amount of the fees as necessary to cover actual, reasonable, and necessary costs of the division. The rules authorized by this paragraph (v) shall be promulgated in accordance with article 4 of title 24, C.R.S.

(IV) Any moneys remaining as of December 31, 2009, in the public safety inspection fund created in section 8-1-151, C.R.S., from fees collected by the division of oil and public safety in the department of labor and employment pursuant to subparagraph (III) of this paragraph (v) as it existed prior to January 1, 2010, shall be transferred to the public school construction and inspection cash fund created in section 24-33.5-1207.7, C.R.S.

(V) The inspecting entity shall cooperate with the affected board of trustees of a local college district in carrying out the duties of this section.

(VI) If the inspecting entity and the board of trustees of a local college district disagree on the interpretation of the codes and standards of the division, the division shall set a date for a hearing as soon as practicable before the board of appeals in accordance with section 24-33.5-1213.7, C.R.S., and the rules adopted by the division pursuant to article 4 of title 24, C.R.S.

(VII) School buildings shall be maintained in accordance with the fire code adopted by the director of the division pursuant to section 24-33.5-1203.5, C.R.S.

(w) Enter into a cooperative arrangement with the division of fire prevention and control in the department of public safety to develop a system in which a qualified volunteer firefighter may receive a tuition voucher to attend courses at a local community college, including Aims community college and Colorado mountain college, in accordance with section 24-33.5-1216, C.R.S.

(1.5) Notwithstanding the provisions of subsection (1) of this section, if Colorado Northwestern community college is accepted into the state system pursuant to section 23-71-207, the powers of the Rangely junior college district board of trustees shall be limited to those specified in section 23-71-207 (3)(a)(V).

(2) Nothing in this section shall authorize a local college district to expend proceeds from the sale of general obligation or revenue bonds issued by said district to procure or erect a school or other building beyond the territorial limits of the district.

Source: L. 75: Entire article added, p. 756, § 1, effective July 1. **L. 83:** (1)(t) amended and (1)(v) added, p. 820, § 3, effective July 1. **L. 85:** (1)(t) amended, p. 734, § 6, effective May 31. **L. 86:** IP(1), (1)(c), (1)(h) to (1)(j), (1)(m), (1)(n), and (1)(v) amended, p. 852, § 23, effective July 1; (1)(v) amended, p. 500, § 119, effective July 1. **L. 92:** (1)(r) amended, p. 857, § 65, effective January 1, 1993. **L. 98:** (1.5) added, p. 902, § 4, effective May 26. **L. 2001:** (1)(v) amended, p. 1140, § 69, effective June 5. **L. 2006:** (1)(v) amended, p. 1359, § 4, effective July 1. **L. 2008:** (1)(v)(II), (1)(v)(III), (1)(v)(IV), and (1)(v)(VII) amended, p. 1088, § 2, effective August 5. **L. 2009:** (1)(w) added, (SB 09-021), ch. 414, p. 2288, § 2, effective August 5; (1)(v)(I), (1)(v)(II)(A), (1)(v)(II)(A.5), (1)(v)(II)(B), (1)(v)(II)(C), (1)(v)(II)(D), (1)(v)(III), (1)(v)(IV), (1)(v)(VI), and (1)(v)(VII) amended, (HB 09-1151), ch. 230, p. 1049, § 2, effective January 1, 2010. **L. 2011:** (1)(v)(II)(A) amended, (SB 11-251), ch. 240, p. 1044, § 5, effective June 30. **L. 2012:** (1)(v)(I) and (1)(w) amended, (HB 12-1283), ch. 240, p. 1132, § 43, effective July 1. **L. 2014:** IP(1) and (1)(s) amended, (SB 14-118), ch. 250, p. 985, § 19, effective August 6. **L. 2018:** (1)(d) and (1)(e) amended, (HB 18-1366), ch. 258, p. 1587, § 1, effective August 8.

Editor's note: Amendments to subsection (1)(v) in Senate Bill 86-12 and House Bill 86-1133 were harmonized.

Cross references: For the legislative declaration in the 2012 act amending subsections (1)(v)(I) and (1)(w), see section 1 of chapter 240, Session Laws of Colorado 2012.

23-71-123. Duties of board of trustees - degrees. (1) It is the duty of the board of trustees to determine financial and educational policies and provide for the proper execution of such by selecting competent administrators, instructors, and other personnel for the administration, operation, and maintenance of the institution, to prepare and adopt a budget pursuant to part 1 of article 44 of title 22, C.R.S., to fix tuition and fee rates, to accept gifts, to purchase, hold, sell, or rent property and equipment, to promote the general welfare of the institution for the best interests of education and the local college district, and, pursuant to contract and any other applicable provisions of law, to discharge or otherwise terminate the employment of any personnel.

(2) Notwithstanding the provisions of subsection (1) of this section, if Colorado Northwestern community college is accepted into the state system pursuant to section 23-71-207, the duties of the Rangely junior college district board of trustees shall be limited to those specified in section 23-71-207 (3)(a)(VII).

(3) A local district college may offer a two-year degree program with or without academic designation. Before a local district college offers a two-year degree program with academic designation, as authorized by this subsection (3), the local district college shall determine the program designation for the degree. The local district college shall then submit the degree program designation to the board of trustees for its review and approval. The local district college may offer the degree program only after it has been approved by the board of trustees and by the Colorado commission on higher education. The local district college shall exclusively use the degree program designation name in official publications, course catalogs, diplomas, and official transcripts.

Source: L. 75: Entire article added, p. 758, § 1, effective July 1. **L. 86:** Entire section amended, p. 853, § 24, effective July 1. **L. 98:** Entire section amended, p. 902, § 5, effective May 26. **L. 2010:** (3) added, (SB 10-088), ch. 154, p. 531, § 4, effective August 11.

23-71-124. President - duties. The president of the board of trustees shall preside at all meetings of the board and shall sign all orders on the county treasurer for the payment of money; but no orders shall be drawn upon the county treasurer except in favor of parties to whom the local college district has become lawfully indebted. He shall appear in behalf of the local college district in all suits brought by or against the district, but, if the president is individually interested, this duty shall be performed by the secretary of the board. In the absence of the president, the secretary shall preside at any meeting of the board.

Source: L. 75: Entire article added, p. 758, § 1, effective July 1. **L. 86:** Entire section amended, p. 854, § 25, effective July 1.

23-71-125. Secretary - duties. The secretary of the board of trustees shall keep an accurate record of the expenses incurred by the local college district and shall present the same to the board whenever called upon. He shall give the required notice of all regular and special meetings. He shall keep the same records and make the same reports as are required by law. Any of the special duties of the secretary may be delegated by the board to a paid secretary who may be appointed by the board.

Source: L. 75: Entire article added, p. 758, § 1, effective July 1. **L. 86:** Entire section amended, p. 854, § 26, effective July 1.

23-71-126. Treasurer - duties. The treasurer of the board of trustees shall countersign all warrants drawn by the president and secretary on the county treasury and shall keep an account of the same. He shall take charge of all moneys received by the board on account of the local college district. He shall render a statement of the finances of the district as shown by the records of his office at the close of each fiscal year and at any other time when required by the board. Financial statements and records of the local college district shall be in accordance with the provisions of part 5 of article 1 of title 29, C.R.S. The treasurer shall perform such additional duties and be subjected to such additional obligations as are imposed by law.

Source: L. 75: Entire article added, p. 758, § 1, effective July 1. **L. 83:** Entire section amended, p. 822, § 4, effective June 1. **L. 86:** Entire section amended, p. 857, § 27, effective July 1.

23-71-127. Credits accepted by state institutions. Credits received by students attending local district colleges shall be accepted in full by other state institutions of higher education for provisional enrollment in such major courses for which courses the students in the local district college qualify.

Source: L. 75: Entire article added, p. 759, § 1, effective July 1.

23-71-128. Additions to district - procedure. (1) If a school district or group of districts that is adjacent to a local college district or located entirely within the boundaries of the local district college's service area, as determined by the Colorado commission on higher education, desires to be annexed to the existing local college district, it may do so by satisfying both of the following requirements:

(a) By obtaining approval of the existing local college district. The approval shall be given only upon a majority vote of the eligible electors of the existing local college district as expressed by a majority polled at the time of the regular biennial school election held in the local college district. The election shall be called only upon the affirmative vote of the board of trustees.

(b) By the school district desiring to be annexed voting on the question of annexation at a regular biennial school election. The election shall be called only upon the affirmative vote of the school district board of education. If a single school district desires to be annexed, the annexation shall be effected by a majority vote of the eligible electors of the district. If two or more school districts desire annexation as a group, the annexation shall be effected only by a

majority vote in favor thereof in each district desiring annexation. If there is not a majority vote in favor of the annexation in any district comprising the group, then the annexation shall not occur for the group of districts, but any individual district in the group which had a majority vote in favor of the annexation shall be annexed to the local college district.

(2) If the town of Berthoud desires to be annexed to its existing local college district, it may do so by satisfying both of the following requirements:

(a) By obtaining approval of the existing local college district. Approval shall only be given upon a majority vote of the eligible electors of the existing local college district as expressed by a majority polled at the time of the regular election held in the local college district. The election shall be called only upon the affirmative vote of the board of trustees.

(b) By the town of Berthoud voting on the question of annexation at a regular election. The election shall only be called upon the affirmative vote of the governing body of the municipality, and the annexation shall be effected by a majority vote of the eligible electors of the municipality.

Source: L. 75: Entire article added, p. 759, § 1, effective July 1. **L. 81:** (1)(b) amended, p. 1123, § 1, effective April 30. **L. 86:** (1)(a) amended, p. 854, § 28, effective July 1. **L. 92:** Entire section amended, p. 857, § 66, effective January 1, 1993. **L. 2009:** (2) added, (HB 09-1079), ch. 66, p. 232, § 1, effective August 5. **L. 2010:** IP(1) and IP(2) amended, (HB 10-1422), ch. 419, p. 2081, § 57, effective August 11. **L. 2016:** IP(1) amended, (HB 16-1259), ch. 123, p. 348, § 4, effective April 21.

23-71-129. Dissolution of district. Any local college district may be dissolved in the following manner: A plan for the dissolution of the local college district may be submitted to the eligible electors of the local college district at a special election held for that purpose. The plan shall provide for the payment of all district debts and liabilities and the distribution of all district assets. If the eligible electors authorize the dissolution by a vote of the majority of electors voting at the special election, the local district college board of trustees of the district shall proceed to carry out the plan so authorized and, upon accomplishment thereof, shall file its certificate of dissolution with the county clerk and recorder of the county wherein the district is situate. Thereupon the district shall be considered dissolved. If any property or funds remain in the hands of the board, credit after the dissolution of the property or funds shall be distributed as provided in the plan of dissolution for the distribution of the assets of the local college district.

Source: L. 75: Entire article added, p. 759, § 1, effective July 1. **L. 86:** Entire section amended, p. 854, § 29, effective July 1. **L. 92:** Entire section amended, p. 858, § 67, effective January 1, 1993.

23-71-130. Bonds as legal investments. Any general obligation bonds issued or validated in accordance with the provisions of this article shall be eligible for any investment of proceeds which is a legal investment authorized by part 6 of article 75 of title 24, C.R.S., for school districts of this state.

Source: L. 75: Entire article added, p. 759, § 1, effective July 1. **L. 89:** Entire section amended, p. 1129, § 64, effective July 1.

Cross references: For the legality of school bonds as an investment, see part 6 of article 75 of title 24.

23-71-131. Local district colleges subject to section 29-1-302. For the purposes of section 29-1-302, C.R.S., a local college district board of trustees shall not be deemed to be a school board.

Source: L. 75: Entire article added, p. 760, § 1, effective July 1. **L. 86:** Entire section amended, p. 855, § 30, effective July 1.

23-71-132. Definition and interpretation of terms. (Repealed)

Source: L. 84: Entire section added, p. 648, § 3, effective July 1. **L. 86:** Entire section repealed, p. 870, § 66, effective July 1.

23-71-133. Local district colleges - approval of baccalaureate degrees - attorney general to advise. (1) When approving baccalaureate degrees for any local district college pursuant to the authority in section 23-71-102 (1), the Colorado commission on higher education shall make its determination based on the following criteria:

(a) Whether the local district college can demonstrate workforce and student demand for the baccalaureate degree program by providing data;

(b) Whether the local district college can demonstrate regional and professional accreditation requirements, when applicable, and compliance with those requirements as deemed appropriate at both the institutional and program levels;

(c) Whether the local district college can demonstrate that its provision of the baccalaureate degree program is the most cost-effective method of providing the baccalaureate degree program in its service area; and

(d) Whether the local district college can provide a cost-benefit analysis showing that the additional baccalaureate degree program will not create a negative impact for the local district college or require additional state-appropriated money to operate.

(2) Upon request of its board of trustees, the attorney general shall serve as legal advisor to Colorado mountain college, and the board has the authority to select and retain legal counsel at the board's discretion.

(3) In accordance with the budget adopted by the board of trustees pursuant to section 23-71-123 (1), a local district college may use any state-appropriated money it receives, in addition to any other revenues of the college, to operate any baccalaureate degree program that the Colorado commission on higher education approves pursuant to this section.

Source: L. 2010: Entire section added, (SB 10-101), ch. 335, p. 1539, § 3, effective May 27. **L. 2014:** (2) added, (HB 14-1365), ch. 333, p. 1484, § 2, effective June 5. **L. 2015:** (3) amended, (HB 15-1224), ch. 94, p. 267, § 1, effective April 10. **L. 2018:** (1) and (3) amended, (HB 18-1300), ch. 278, p. 1752, § 2, effective August 8.

Cross references: For the legislative declaration in the 2010 act adding this section, see section 1 of chapter 335, Session Laws of Colorado 2010.

PART 2

LOCAL DISTRICT COLLEGES - STATE SYSTEM

Editor's note: This part 2 is similar to part 4 of article 60 of this title as said part 4 existed prior to 1975.

23-71-201. Definitions. As used in this part 2, unless the context otherwise requires:

(1) "Board" means the state board for community colleges and occupational education created pursuant to section 23-60-104.

(2) "Eligible elector" of a local college district means an elector who has complied with the registration provisions of article 2 of title 1, C.R.S., and who resides within the local college district.

Source: L. 75: Entire article added, p. 760, § 1, effective July 1. **L. 86:** (2) R&RE, p. 855, § 31, effective July 1. **L. 92:** (2) amended, p. 858, § 68, effective January 1, 1993.

23-71-202. Joining state system - state support. (1) Any local college district organized or authorized to be organized under the provisions of this article may apply to the board to become a part of the state system as provided in this part 2; but this subsection (1) shall not apply to any local college district organized on or after December 31, 1967, pursuant to title 22, C.R.S. 1973, or to this title unless the board has approved the district prior to its organization. The application shall include a plan of dissolution and report of finances as required by section 23-71-203 and shall be considered by the board and the Colorado commission on higher education as provided in section 23-71-204.

(2) In advance of entering the state system, local college districts shall receive annually such state support for the education of Colorado resident students as is appropriated for operating purposes.

(3) Any local college district organized or authorized to be organized after July 1, 1967, which is not a part of the state system shall not be eligible to receive any state funds for capital construction purposes unless the board has approved the district prior to its organization.

(4) After the entry of any local college district into the state system, no general property taxes shall be levied for the operational expenses of the local college district; except that a tax levy shall be continued for the purposes of payment of any general obligation of the district, whether bonded indebtedness or otherwise, owed by the district and not assumed by the state.

Source: L. 75: Entire article added, p. 760, § 1, effective July 1.

Editor's note: The reference in subsection (1) to "any junior college district organized on or after December 31, 1967, pursuant to title 22, C.R.S. 1973" is to any junior college organized pursuant to article 70 of title 22 prior to its repeal on July 1, 1975.

23-71-203. Submission of plan for joining state system. (1) Any local college district desiring to become a part of the state system shall use the following procedures: The local district college board of trustees of the district shall submit to the board a plan of dissolution,

together with a detailed report of the finances and programs of the existing local district college. The plan of dissolution shall be in such form as may be prescribed by the board. The plan shall provide for the transfer of district assets to the board and shall make provision for meeting all liabilities of the district through assumption by the board or by other lawful means which will not impair existing obligations of contract. Liabilities to be assumed by the board shall include all revenue bonds and other special obligations which by their terms are not payable from revenues derived from ad valorem taxes of the district (such obligations being sometimes collectively designated in this article as "revenue bonds"). The revenue bonds shall continue to be payable from the revenues designated therein and shall not become the general obligation of the board or of the state of Colorado. In each case where there exist outstanding general liabilities at the time of dissolution, the plan shall provide for continuing the tax levy within the boundaries of the dissolved district as may be necessary to retire all general liabilities, including without limitation all general obligation bonded indebtedness, both principal and interest. It is the intention of this part 2 that the general assembly will make timely appropriations for the retirement, and, to the extent moneys are thereby made legally available, the levy shall be diminished or eliminated. Notwithstanding any other provision of this part 2, no local college district shall be dissolved pursuant to this part 2 if, subsequent to May 27, 1967, it has incurred liabilities (evidenced by other than revenue bonds) for capital improvements without the approval of the board prior to the incurrence unless the liabilities have been fully paid as to principal and interest before the dissolution. The plan shall include a timetable for dissolution of the district and estimates of potential enrollment and operating and capital expenditures for a period of five years after dissolution. The date of dissolution and entry into the state system shall be the first day of July immediately following the survey of the dissolution election returns.

(2) (a) If the local district college board of trustees fails to submit a plan of dissolution on its own initiative within five years after May 27, 1967, the eligible electors of the local college district may petition the board of trustees to submit a plan to the board. The petition shall be signed by at least five percent of the eligible electors residing within each county in the local college district and shall be filed with the secretary of the local college district. The signatures need not all be on one sheet of paper, but each sheet shall contain an oath, subscribed to by the person circulating the sheet, that the signatures thereon are genuine. Each person signing the petition shall add to the signature the date of the signing and the elector's place of residence. To the extent practicable, the provisions of article 40 of title 1, C.R.S., regarding circulation of petitions, elector information and signatures on petitions, and affidavits and requirements of circulators of petitions shall apply to petitions under this section.

(b) Upon receipt of the petition, the secretary shall refer the petition to the local district college board of trustees. The board shall, without undue delay, determine if the petition has been signed by the requisite number of eligible electors residing in each county of the local college district. If the petition is found to contain the requisite number of signatures, the board of trustees shall proceed to develop and submit to the board within ninety days a plan of dissolution in accordance with the provisions of subsection (1) of this section. If the petition does not contain the requisite number of signatures, the board of trustees shall make the determination by written resolution.

(c) If a petition and plan of dissolution is submitted pursuant to this section and dissolution of the local college district should not be effected because of rejection or nonapproval of the plan, or otherwise, at any stage of the process provided for by subsection (1)

of this section and section 23-71-204, no further petition or plan of dissolution pursuant to this section shall be submitted or accepted for a period of five years from the date of rejection or nonapproval or other action causing the prior plan of dissolution not to be effected.

Source: L. 75: Entire article added, p. 760, § 1, effective July 1. **L. 86:** Entire section amended, p. 855, § 32, effective July 1. **L. 92:** Entire section amended, p. 858, § 69, effective January 1, 1993. **L. 93:** (2) amended, p. 696, § 3, effective May 4; (2)(c) amended, p. 1798, § 106, effective June 6.

23-71-204. Approval of plan - election. (1) The board shall review each application for admission to the state system to determine whether the plan and date of entry specified by the local college district will best promote the orderly development of higher education and of the applicant institution. The board shall transmit to the local district college board of trustees any suggested changes in the plan within ninety days after the date of submission.

(2) When the board has approved the plan and date of entry, it shall forward the application to the Colorado commission on higher education for its action. The commission may approve the recommendation of the board. If the commission does not approve the entry into the state system, the board may require a joint meeting of the board and the commission to hear the reasons and to explain the position taken by the board. After review, the commission may reaffirm its position or take such other action as it deems appropriate. The board shall notify the local district college board of trustees of any action taken by the commission under this subsection (2).

(2.5) After the Colorado commission on higher education has approved the recommendation of the board, it shall forward such recommendation to the general assembly. If the general assembly, acting by bill, approves the entry of the district into the state system, the local district college board of trustees may call a special election pursuant to subsection (4) of this section. If the general assembly does not so approve such entry, it shall be deemed rejected, and the district shall not become a part of the state system.

(3) Except to the extent inconsistent with this part 2, the dissolution election shall be called, held, and canvassed by the board of trustees in substantially the same manner as provided for elections authorizing the issuance of local college district general obligation bonds.

(4) When the Colorado commission on higher education, the board, and the general assembly have approved the application, the board of trustees shall call a special election at which only eligible electors of the district may vote. The question shall be:

Shall the _____ local college district be dissolved, all assets transferred to the state board for community colleges and occupational education and provision made for meeting all liabilities as provided in the plan of dissolution by _____(date)?

Yes ___ No ___.

(5) If a majority of the eligible electors voting vote "yes", the board of trustees and the board shall proceed with the transfer of all assets to the board and with all necessary steps to meet liabilities pursuant to the approved plan. If revenue bonds of the district remain outstanding or unpaid, the board as successor to the board of trustees and to the district shall continuously operate the college, pay principal and interest, and do all things in such manner as to fulfill the

obligations of the district under existing resolutions and instruments constituting contracts among the district and bondholders and other contracting parties. Nothing in this part 2 shall impair or authorize the impairment of any obligation of contract. The board shall serve ex officio as the board of trustees of the district until all existing general liabilities, including without limitation all general obligation bonded indebtedness and the interest thereon but not including revenue bonds, are paid, and, except as provided in this part 2, the levy required for the payment shall continue until the payment is made in full. General obligation bonds of a dissolved district may be refunded in the manner provided in part 6 of this article.

Source: L. 75: Entire article added, p. 761, § 1, effective July 1. **L. 85:** (2.5) added and (4) amended, p. 789, § 1, effective May 3. **L. 86:** Entire section amended, p. 856, § 33, effective July 1. **L. 92:** (4) and (5) amended, p. 860, § 70, effective January 1, 1993.

23-71-205. Withdrawal from state system. Any community college may withdraw from the state system and establish a local college district pursuant to procedures established by the Colorado commission on higher education. The procedures shall provide for a vote by the eligible electors of the area proposed to be incorporated into a local college district. The Colorado commission on higher education shall provide for the transfer of college property and liabilities to the district in the event of such a withdrawal and establishment.

Source: L. 85: Entire section added, p. 767, § 20, effective July 1. **L. 92:** Entire section amended, p. 860, § 71, effective January 1, 1993.

23-71-206. Northeastern junior college - approval of plan - date of entry into state system - continuation of mill levy. (1) (a) The general assembly hereby approves the plan of dissolution submitted by Northeastern junior college pursuant to section 23-71-203, referred to in this section as the "plan". Contingent upon approval of the plan in a special election held pursuant to section 23-71-204 and enactment of an appropriation of general fund moneys to the board for allocation to Northeastern junior college, whether in an annual general appropriations bill or by supplemental appropriation, the general assembly approves the entry of Northeastern junior college into the state system of community and technical colleges.

(b) Notwithstanding the provisions of section 23-71-204 (4), at the special election for approval of the plan, the question shall be:

Shall Northeastern junior college join the state system of community and technical colleges upon enactment of an appropriation to fund Northeastern junior college as part of the state system of community and technical colleges, and shall the Northeastern junior college district continue to collect property taxes for three years after the appropriation is enacted in the amount of 20.311 mills in year one, 18.000 mills in year two, and 16.000 mills in year three, after which time the Northeastern junior college district shall be dissolved, all assets be transferred to the state board for community colleges and occupational education, and provision be made for meeting all liabilities as provided in the plan of dissolution?

Yes ___ No ___.

(2) Notwithstanding the provisions of section 23-71-203 (1), if the plan is approved and moneys are appropriated as provided in subsection (1) of this section, Northeastern junior college shall enter the state system of community and technical colleges on the effective date of the appropriation, but the Northeastern junior college district shall continue as provided in subsection (3) of this section. On entry into the state system of community and technical colleges, Northeastern junior college shall be under the management and control of the board. On entry into the state system of community and technical colleges, the assets and liabilities of Northeastern junior college, with the exception of the property tax moneys collected and the physical education and events center built pursuant to subsection (3) of this section and the property on which said center is located, shall be transferred to the board; except that, if construction of the physical education and events center is completed prior to approval of the plan and appropriation of moneys pursuant to subsection (1) of this section, the physical education and events center and the property on which said center is located shall be transferred to the board at the time Northeastern junior college enters the state system of community and technical colleges.

(3) (a) If the plan is approved and moneys are appropriated as provided in subsection (1) of this section, the Northeastern junior college district shall be dissolved three years after Northeastern junior college enters the state system of community and technical colleges. Prior to dissolution of the Northeastern junior college district and notwithstanding any other provisions of this part 2 to the contrary, the Northeastern junior college district shall continue to collect property tax in the district. Following approval of the plan, the mill levy imposed by the Northeastern junior college district shall not exceed the mill levy imposed for the tax year during which the plan is approved and may be reduced prior to dissolution of the district.

(b) Northeastern junior college district shall use a portion of the property tax moneys collected pursuant to this subsection (3) for construction of a physical education and events center on the Northeastern junior college campus, as provided in the plan; except that, if construction of the physical education and events center is completed prior to the time that the plan is approved and moneys are appropriated as provided in subsection (1) of this section, all of the property tax moneys collected pursuant to this subsection (3) shall be used as provided in paragraph (c) of this subsection (3).

(c) Northeastern junior college district shall use the property tax moneys collected pursuant to this subsection (3) that are not used for construction of the physical education and events center on the Northeastern junior college campus to assist residents of the Northeastern junior college district who are enrolled at Northeastern junior college in defraying any increases in tuition that may result from entry into the state system of community and technical colleges.

(d) On dissolution of the Northeastern junior college district, the physical education and events center built pursuant to paragraph (b) of this subsection (3), regardless of whether said center is completed, the property on which said center is located, and any moneys remaining under control of the district shall be transferred to the board.

Source: L. 96: Entire section added, p. 1040, § 1, effective May 23.

23-71-207. Colorado Northwestern community college - approval of plan - date of entry into system - continuation of mill levy. (1) (a) The general assembly hereby approves the plan submitted by Colorado Northwestern community college pursuant to section 23-71-203,

referred to in this section as the "plan". Contingent upon approval of the plan at the November 1998 general election and enactment of an appropriation of general fund moneys to the board for allocation to Colorado Northwestern community college, whether in an annual general appropriations bill or by supplemental appropriation, the general assembly approves the entry of Colorado Northwestern community college into the state system of community and technical colleges.

(b) (I) Notwithstanding the provisions of sections 23-71-202 (4) and 23-71-204 (4), the ballot question submitted to the voters of the Rangely junior college district for the approval of the plan at the 1998 general election shall be:

Shall Colorado Northwestern community college join the state system of community and technical colleges upon enactment of an appropriation to fund Colorado Northwestern community college as a part of the state system of community and technical colleges, and shall the Rangely junior college district continue to collect property taxes after the appropriation is enacted in the amount of five mills, until such time as the Rangely junior college district board and the voters of the Rangely junior college district approve an increase in the mill levy, for tuition, supplemental program funding, and capital construction purposes plus the mill levy required for the continuation of the debt service on outstanding general obligation bonds previously approved by voters, and shall all assets be transferred to the state board for community colleges and occupational education, and provision be made for meeting all liabilities as provided in the plan?

Yes ___ No ___.

(II) At the 1998 general election, the voters of the Moffat county affiliated junior college district shall decide the following question:

If the majority of the voters of the Rangely junior college district approve Colorado Northwestern community college joining the state system of community and technical colleges and an appropriation is enacted for such purpose, shall the Moffat county affiliated junior college district, as part of the area served by Colorado Northwestern community college pursuant to the plan, continue to collect property taxes through the 2008 property tax year in the amount of three mills, until such time as the Moffat county affiliated junior college district board and the voters of the Moffat county affiliated junior college district approve an increase in the mill levy, for tuition, supplemental program funding, and capital construction purposes?

Yes ___ No ___.

(2) (a) Notwithstanding the provisions of section 23-71-203 (1), if the plan is approved by a majority of the voters in the Rangely junior college district and if moneys are appropriated as provided in subsection (1) of this section, Colorado Northwestern community college shall enter the state system of community and technical colleges on the effective date of the appropriation. The Rangely junior college district shall continue as provided in subsection (3) of this section. If a majority of the voters of the Moffat county affiliated junior college district approve the measure set forth in subparagraph (II) of paragraph (b) of subsection (1) of this section, the Moffat county affiliated junior college district shall continue as provided in subsection (4) of this section.

(b) Upon entry into the state system of community and technical colleges:

(I) Colorado Northwestern community college shall be under the management and control of the board;

(II) The assets and liabilities of Colorado Northwestern community college shall be transferred to the board in accordance with the plan; and

(III) The educational facilities of Colorado Northwestern community college shall be immediately eligible for state controlled maintenance funds.

(3) (a) In the 1998 general election, voters of the Rangely junior college district approved a plan for Colorado Northwestern community college to join the state system for community colleges and occupational education, the collection of up to five mills of property taxes, and the indefinite continuation of Rangely junior college district with the following authority:

(I) The Rangely junior college district remains in existence but not as a local college district under this article 71;

(II) Notwithstanding any other provision of this part 2 to the contrary, the Rangely junior college district shall continue to collect property tax and specific ownership tax in the district. The Rangely junior college district in December, 1999, shall initially levy five mills for the purposes specified in subparagraph (III) of this paragraph (a) in addition to the mill levy required for debt service on outstanding general obligation bonds previously approved by voters;

(III) The Rangely junior college district shall use the revenues collected pursuant to this subsection (3), other than those collected for outstanding general obligation bonds previously approved, to:

(A) Assist residents of the Rangely junior college district who are enrolled at Colorado Northwestern community college in defraying increases in tuition that may result from entry into the state system of community and technical colleges;

(B) Provide supplemental funding to the state for the operating costs of current or future programs offered by Colorado Northwestern community college;

(C) Erect new or renovate existing facilities for Colorado Northwestern community college; and

(D) Provide capital funding for technology enhancement and supplemental equipment for Colorado Northwestern community college;

(IV) All assets and liabilities of the Rangely junior college district shall be transferred to the board; except that the outstanding general obligation bonds and associated debt service assets and liabilities of the Rangely junior college district in existence as of June 30, 1999, shall remain with such district and the Rangely junior college district shall administer the mill levy for the retirement of said bonds pursuant to section 23-71-204 (5);

(V) Notwithstanding section 23-71-122, the Rangely junior college district board of trustees has only the powers necessary to levy taxes and distribute the revenues generated therefrom in accordance with the purposes listed in subsection (3)(a)(III) of this section and the powers enumerated in section 23-71-122 (1)(b), (1)(d), (1)(h), (1)(k), (1)(m), (1)(n), and (1)(q);

(VI) The Rangely junior college district board of trustees shall not have employees;

(VII) Notwithstanding section 23-71-123, the Rangely junior college district board of trustees has only the duty to prepare and adopt a budget pursuant to part 1 of article 44 of title 22 and any additional duties enumerated in the plan;

(VIII) The Rangely junior college district board of trustees is authorized to execute any instrument necessary to convey title for the Rangely campus of Colorado Northwestern community college to the board; and

(IX) The Rangely junior college district board of trustees continues to consist of five members elected by voters in the Rangely junior college district who serve four-year staggered terms, with a limit of two consecutive terms. The board is subject to the requirements of the "Colorado Open Records Act", part 2 of article 72 of title 24, and the open meetings law, part 4 of article 6 of title 24.

(b) Upon the future dissolution of the Rangely junior college district, any assets remaining as of the date of dissolution shall be transferred to the board.

(4) (a) (I) In the 1998 general election, voters of the Moffat county affiliated junior college district approved a plan for Colorado Northwestern community college to join the state system for community colleges and occupational education, the collection of up to three mills of property taxes through the 2008 property tax year, and the dissolution of the Moffat county affiliated junior college district on January 1, 2009. In the 2006 general election, pursuant to subsection (5) of this section, voters of the Moffat county affiliated junior college district approved the collection of up to three mills of property taxes and the indefinite continuation of the Moffat county affiliated junior college district. The Moffat county affiliated junior college district shall use the tax money collected pursuant to this subsection (4)(a)(I) to:

(A) Assist residents of the Moffat county affiliated junior college district who are enrolled at Colorado Northwestern community college in defraying increases in tuition that may result from entry into the state system of community and technical colleges;

(B) Provide supplemental funding to the state for the operating costs of current or future programs offered by Colorado Northwestern community college;

(C) Erect new or renovate existing facilities for Colorado Northwestern community college;

(D) Provide capital funding for technology enhancement and supplemental equipment for Colorado Northwestern community college; and

(E) Provide for the operating costs of the facilities owned by the Moffat county affiliated junior college district.

(II) The Moffat county affiliated junior college district is not a local college district under this article 71 and the Moffat county affiliated junior college district board has only the powers necessary to levy taxes and distribute the revenues generated therefrom in accordance with the purposes listed in subsection (4)(a)(I) of this section.

(III) The Moffat county affiliated junior college district board shall not have employees.

(IV) All assets and liabilities of the Moffat county affiliated junior college district are transferred to the board except the revenues generated pursuant to subsection (4)(a)(I) of this section, those assets specified in the plan, and revenues generated from certain real estate owned by the Moffat county affiliated junior college district as of January 1, 2019.

(V) Repealed.

(VI) The Moffat county affiliated junior college district board had the authority to convey a certain parcel of land to the board for the Craig campus on January 11, 2010, and has the authority to execute any instrument necessary to quiet title to that parcel.

(VII) The Moffat county affiliated junior college district board has the authority to hold and sell land in its ownership as of January 1, 2009, so long as the sale of any land satisfies the following requirements:

(A) The sale is for at least a fair market value as determined by an independent appraiser; and

(B) Proceeds from the sale are used in accordance with subsection (4)(a)(I) of this section.

(VIII) The Moffat county affiliated junior college district board continues to consist of five members elected by voters in the Moffat county affiliated junior college district who serve four-year staggered terms, with a limit of two consecutive terms. The board is subject to the requirements of the "Colorado Open Records Act", part 2 of article 72 of title 24, and the open meetings law, part 4 of article 6 of title 24.

(b) Repealed.

(5) (a) At the 2006 general election, the voters of the Moffat county affiliated junior college district shall decide the following question:

Shall the Moffat county affiliated junior college district, as part of the area served by Colorado Northwestern community college, continue indefinitely to collect property taxes in the amount of up to three mills, until such time as the Moffat county affiliated junior college district board and the voters of the Moffat county affiliated junior college district approve an increase in the mill levy, for tuition, supplemental program funding, and capital construction purposes?

Yes ___ No ___.

(b) If the ballot question set forth in paragraph (a) of this subsection (5) is rejected by the voters at the 2006 general election, the Moffat county affiliated junior college district board may resubmit the ballot question set forth in paragraph (a) of this subsection (5) to the voters of the Moffat county affiliated junior college district in the 2007 general election. If the ballot question set forth in paragraph (a) of this subsection (5) is rejected by the voters at the 2006 or 2007 general election, the Moffat county affiliated junior college district board may resubmit the ballot question set forth in paragraph (a) of this subsection (5) to the voters of the Moffat county affiliated junior college district in the 2008 general election.

(c) If a majority of voters of the Moffat county affiliated junior college district approve the measure set forth in subsection (5)(a) of this section, then, notwithstanding subsection (4)(a)(I) of this section, the Moffat county affiliated junior college district shall not dissolve on January 1, 2009, but shall continue to exist and shall continue to collect property tax in the initial amount of three mills. The Moffat county affiliated junior college district shall use the property tax money collected pursuant to this subsection (5)(c) as provided in subsections (4)(a)(I)(A) to (4)(a)(I)(E) of this section.

(d) If a majority of the voters of the Moffat county affiliated junior college district approve the measure set forth in paragraph (a) of this subsection (5), the Moffat county affiliated junior college district board shall continue to exist subject to the restrictions specified in subparagraphs (II) and (III) of paragraph (a) of subsection (4) of this section.

(e) If a majority of the voters of the Moffat county affiliated junior college district do not approve the measure set forth in paragraph (a) of this subsection (5), then the Moffat county

affiliated junior college district shall dissolve on January 1, 2009, as provided in subparagraphs (I) and (V) of paragraph (a) of subsection (4) of this section.

Source: L. 98: Entire section added, p. 897, § 1, effective May 26. **L. 2006:** (5) added, p. 162, § 1, effective March 31. **L. 2020:** IP(3)(a), (3)(a)(I), (3)(a)(III)(C), (3)(a)(V), (3)(a)(VI), (3)(a)(VII), IP(4)(a)(I), (4)(a)(I)(C), (4)(a)(II), (4)(a)(III), (4)(a)(IV), and (5)(c) amended, (3)(a)(VIII), (3)(a)(IX), (4)(a)(VI), (4)(a)(VII), and (4)(a)(VIII) added, and (4)(a)(V) and (4)(b) repealed, (HB 20-1067), ch. 47, p. 161, § 1, effective September 14.

23-71-208. Colorado Northwestern community college - disposal of assets. Any aircraft or other equipment used by the Colorado Northwestern community college in its aviation-related programs may be disposed of by the state board for community colleges and occupational education, created in section 23-60-104, by sale, trade, or other method of disposal. Any proceeds from the disposal of such aircraft shall be the property of the state board for community colleges and occupational education for the use and benefit of Colorado Northwestern community college. The disposal of such aircraft or equipment shall be exempt from section 17-24-106.6, C.R.S., relating to surplus state property and any rules promulgated thereunder.

Source: L. 2006: Entire section added, p. 163, § 2, effective March 31.

PART 3

DIRECT GRANTS TO LOCAL COLLEGE DISTRICTS

23-71-301. Direct grants to local college districts - occupational courses. (1) Colorado mountain college and Aims community college shall each annually receive a direct grant, from funds appropriated for this purpose, in an amount specified annually by the general assembly pursuant to section 23-18-304.

(2) and (3) Repealed.

(4) (a) If a school district or group of school districts is annexed into an existing local college district pursuant to section 23-71-128, for at least five years after the date of the annexation, the commission shall annually consider recommending that the local college district's direct grant, after applying any adjustments set forth in section 23-18-304 (3), be increased as provided in section 23-18-304 (3)(b) to recognize increases in resident enrollment resulting from the annexation process.

(b) Prior to recommending an increase to a local college district's direct grant pursuant to subsection (4)(a) of this section, the Colorado commission on higher education shall consult with the governing board of the affected local college district.

Source: L. 75: Entire article added, p. 762, § 1, effective July 1; entire section amended, p. 789, § 1, effective July 28. **L. 77:** (1) amended, p. 280, § 28, effective June 29. **L. 78:** (1) and (2) amended, p. 388, § 1, effective May 5. **L. 81:** (3) amended, p. 1124, § 1, effective May 18. **L. 87:** (1)(b) amended and (2) and (3) repealed, p. 840, §§ 2, 4, effective June 16. **L. 94:** (1) amended, p. 486, § 1, effective March 31. **L. 2014:** (1)(a) amended, (HB 14-1319), ch. 169, p.

612, § 7, effective May 9. **L. 2015:** (1) amended, (HB 15-1224), ch. 94, p. 268, § 3, effective April 10. **L. 2019:** (4) added, (HB 19-1153), ch. 80, p. 288, § 2, effective August 2.

23-71-302. Distribution of grants. (1) The board shall annually certify to the state treasurer the amount of the direct grants to be paid to Colorado mountain college, Aims community college, and the area technical colleges, as specified by the general assembly and appropriated pursuant to section 23-18-304 for the applicable fiscal year. Each institution or area technical college may use the direct grants for current operating costs or for capital construction.

(2) Repealed.

Source: L. 75: Entire article added, p. 752, § 1, effective July 1. **L. 81:** (1) amended, p. 1125, § 1, effective July 1. **L. 2015:** (1) amended and (2) repealed, (HB 15-1224), ch. 94, p. 268, § 4, effective April 10. **L. 2016:** (1) amended, (HB 16-1082), ch. 58, p. 151, § 36, effective August 10.

23-71-303. Distributions to area technical colleges. (1) Any area technical college operating or organized and operating as such during the entire school year may be reimbursed by the state in an amount specified annually by the general assembly pursuant to section 23-18-304. Such reimbursement must not exceed the total direct cost of the vocational program per FTE.

(2) Distributions made under this section shall be only for students with a declared objective in approved occupational courses and shall not include students enrolled with avocational objectives.

Source: L. 75: Entire article added, p. 763, § 1, effective July 1. **L. 77:** (1) amended, p. 1128, § 1, effective July 1. **L. 80:** (1) amended, p. 574, § 1, effective July 1. **L. 87:** (1) amended, p. 840, § 3, effective June 16. **L. 94:** (1) amended, p. 487, § 2, effective March 31. **L. 2014:** (1) amended, (HB 14-1319), ch. 169, p. 612, § 8, effective May 9. **L. 2016:** (1) amended, (HB 16-1082), ch. 58, p. 151, § 37, effective August 10.

23-71-304. Area technical college grant program - established - report - definitions - repeal. (1) As used in this section, unless the context otherwise requires:

(a) "Area technical college" has the same meaning as defined in section 23-60-103 (1).

(b) "Commission" means the Colorado commission on higher education established pursuant to section 23-1-102.

(c) "Department" means the department of higher education created pursuant to section 24-1-114.

(d) "Grant program" means the area technical college grant program established pursuant to subsection (2) of this section.

(2) There is established in the department the area technical college grant program to provide up to four million dollars each fiscal year in grants to area technical colleges for identified capital construction and equipment purposes in addition to the direct grants received pursuant to section 23-18-304 (2)(a). On or before July 15, 2019, and on or before each July 15 thereafter, an area technical college may submit a grant application developed pursuant to subsection (3) of this section to the department. If more than one grant application is submitted during any year, on or before July 30, the area technical colleges shall jointly submit to the

department a list of the grants in prioritized order. The department shall review the application and recommend to the commission whether to include money for the grant in its budget request pursuant to section 23-18-304 (2) for the following state fiscal year. The commission shall determine whether to include money for the grant in the budget request, and, if the commission includes more than one grant in its request, the commission shall prioritize the requests. If the department receives money for the grant, the department shall transmit the full amount of the grant to the area technical college.

(3) The department shall develop a form for the grant application that must include:

(a) Identification of how the grant money will be spent;

(b) Specification of how the grant money will benefit students and any program at the school; and

(c) Any matching money to be added to the grant money and the source of the matching money.

(4) If an area technical college receives grant money pursuant to this section, on or before August 1 of the budget year following any expenditure of money from a grant, the area technical college shall submit a report to the department on a form developed by the department that must include:

(a) The amount of the grant received;

(b) The total amount of grant expenditures made during the previous budget year;

(c) An itemization of the grant expenditures made during the previous budget year; and

(d) the impact of the grant expenditures on students.

(5) This section is repealed, effective July 1, 2026.

Source: L. 2019: Entire section added, (SB 19-097), ch. 115, p. 489, § 2, effective April 16.

Cross references: For the legislative declaration in SB 19-097, see section 1 of chapter 115, Session Laws of Colorado 2019.

PART 4

TAX LEVIES AND REVENUES

23-71-401. Definitions. As used in this part 4, unless the context otherwise requires:

(1) "Board of trustees" means the local college district board of trustees authorized by law to administer the affairs of any district.

(2) "District" means a local college district organized and existing pursuant to law.

Source: L. 75: Entire article added, p. 764, § 1, effective July 1. **L. 86:** (1) amended, p. 857, § 34, effective July 1.

23-71-402. Certification - tax revenues. (1) In accordance with the schedule prescribed by section 39-5-128, C.R.S., the district shall certify to the board of county commissioners of the county wherein said district is located the separate amounts necessary, in the judgment of the board of trustees, to be raised from levies against the valuation for

assessment of all taxable property located within the boundaries of said district for its general, bond redemption, and capital reserve funds to defray its expenditures therefrom during its next ensuing fiscal year.

(2) If only a portion of a district is located within a county, the board of trustees of said district shall certify the separate amounts to the board of county commissioners of each county wherein a portion of said district is located. The board of county commissioners of each such county shall levy a tax upon the taxable property located within said portion of the district included in its county at a rate sufficient to produce a pro rata share of each separate amount certified, such pro rata share to be based on the ratio of the valuation for assessment of taxable property located within that portion of said school district located within said county to the total valuation for assessment of taxable property located in the entire district; except that the rate of tax levies for said district shall be the same throughout the territorial limits of said district except for a variation in the tax levy needed for the bond redemption fund of said district, which rate may vary because of changes in the boundaries of said district.

(3) The levy for the capital reserve fund shall not exceed four mills in any year.

(4) (a) Whenever, after a reorganization, any district has within its boundaries any new territory, the board of trustees of the district shall certify to the board of county commissioners the amount required during the next ensuing fiscal year to satisfy such territory's proportionate share of the obligations of the outstanding bonded indebtedness.

(b) If, after reorganization of the district, there is any territory liable for the payment of bonded indebtedness, different either in amounts, dates of creation, or dates of interest or principal maturities, then, in certifying to the boards of county commissioners the statement of the amount necessary to be raised from levies pursuant to subsection (1) of this section, it is the duty of the board of trustees of such district to also certify to the board of county commissioners the territory which has bonded indebtedness outstanding, the legal description of the territory liable for the payment of such bonded indebtedness, or portion thereof, and the amount required during the ensuing fiscal year to meet payments of interest and principal falling due therein. A separate levy, sufficient to raise the amount so certified, shall be made against the valuation for assessment of all taxable property located within such territory. The proceeds of such levy shall be credited to the bond redemption fund of the district, but a separate account within such bond redemption fund shall be maintained to clearly reflect the amount raised from such separate levy.

Source: L. 75: Entire article added, p. 764, § 1, effective July 1. **L. 86:** (1), (2), and (4) amended, p. 858, § 35, effective July 1. **L. 87:** (1) amended, p. 1406, § 2, effective April 22.

23-71-403. Change in needed tax revenues - unlawful. A board of trustees or a board of county commissioners shall not modify the amount certified pursuant to section 23-71-402 as needed for any fiscal year, nor shall said board of county commissioners be charged with any discretion in determining or reviewing the amounts so certified other than to ascertain if said amounts are within the limitations as prescribed by law.

Source: L. 75: Entire article added, p. 765, § 1, effective July 1. **L. 86:** Entire section amended, p. 858, § 36, effective July 1.

23-71-404. County treasurer - accounts - warrants. (1) It is the duty of the county treasurer to keep separate accounts by funds and subsidiary accounts for the bond redemption fund of each district in his county, and said funds and accounts shall be subject to the warrants of said district. The tax revenues shall be credited to the proper fund and account, together with any penalty interest collected thereon.

(2) If only a portion of a district is situate within the territorial limits of said county and the headquarters of said district are not located therein, the county treasurer shall transfer, at the end of each month, all moneys which have accrued to the credit of said district to the county treasurer of the county wherein the headquarters of said district is located. No warrant shall be drawn by a district situate in more than one county against its moneys except against those moneys in the custody of the county treasurer of the county wherein the district headquarters is located.

(3) If a district warrant is presented to the county treasurer of a district situate in his county and there are no moneys or insufficient moneys to the credit of said district in the proper fund or account thereof to pay such warrant, it is the duty of said county treasurer to register such warrants in the order of presentment and endorse each such warrant "no funds". Registered warrants shall draw interest from the date of such registration and endorsement at the rate and in the manner as registered county warrants. The county treasurer shall keep a list of all warrants so registered and endorsed and furnish a copy of said list to the treasurer of said district. The county treasurer shall pay both the principal and interest of said warrants, in the order of registration, when there are sufficient moneys to the credit of the district fund or account upon which any such warrant was drawn. It is his duty to cause to be published in a newspaper with general distribution in said district for five days a notice that certain district warrants, describing said warrants by numbers and amounts, will be paid upon presentation at the expiration of said five-day notice, at which time said warrants shall cease to bear interest.

(4) It is unlawful for a district to issue warrants in excess of the amount budgeted or appropriated to or the anticipated revenues for any fund, whichever is less, for said district's fiscal year whether or not the board of trustees of said district has elected to withdraw its moneys from the custody of the county treasurer.

(5) It is the duty of the county treasurer to cancel all paid district warrants with a proper cancelling stamp and indicate the date of payment thereof.

Source: L. 75: Entire article added, p. 765, § 1, effective July 1. **L. 84:** (1) amended, p. 1002, § 2, effective March 16. **L. 86:** (4) amended, p. 859, § 37, effective July 1.

23-71-405. Depositories. (1) When the board of trustees of a district has elected to have all moneys belonging to the district paid over to the treasurer of said board, the treasurer shall deposit, or cause to be deposited, all such moneys in such depositories as shall be designated by such board.

(2) Each designated depository shall be required to give a surety bond in an amount equal to at least one hundred ten percent of the amount on deposit to the credit of the district at any time, with sureties approved by the board of trustees of the district and conditioned for the payment of all moneys on deposit to the credit of the district, upon demand of the treasurer thereof through presentation of checks, warrants, or orders. In lieu of such surety bond, the board of trustees may accept obligations of the United States or the state of Colorado or general

obligation bonds of any district located within the state in an amount equal to said surety bond, and such securities shall be placed with and held in trust by some bank, other than the depository, within the state or with the Denver branch of the federal reserve bank of Kansas City, Missouri, contingent upon the issuance of a joint custody receipt subject to the joint order of the depository and the treasurer of said board and conditioned to secure and guarantee payment of all moneys on deposit to the credit of said district, upon demand of the district through presentation of a warrant or order.

(3) Any moneys belonging to a district which are temporarily not needed in the conduct of its operations may be invested or deposited by the board of trustees of such district pursuant to the provisions of sections 24-75-601 to 24-75-603, C.R.S.

(4) Notwithstanding the provisions of this section, the board of trustees of any district may provide for the establishment, operation, and maintenance of refunding escrow agreements and accounts and may provide for payment of principal and interest on the outstanding bonds of such district by paying agents, pursuant to the provisions of parts 5 and 6 of this article.

Source: L. 75: Entire article added, p. 756, § 1, effective July 1. **L. 86:** Entire section amended, p. 859, § 38, effective July 1.

23-71-406. Registered warrants by treasurer of the board of trustees. If a board of trustees has elected to withdraw all district moneys from the temporary custody of the county treasurer and there are no moneys or insufficient moneys to the credit of the proper fund of said district on deposit with a depository to pay any warrant or order drawn against said fund, the treasurer of said board of trustees shall register said warrant in the same manner as otherwise prescribed for a county treasurer under the provisions of section 23-71-404. Registered warrants shall draw interest from the date of such registration and endorsement at the rate and in the same manner as warrants registered by the county treasurer. The treasurer of said board of trustees shall perform all duties required of the county treasurer under section 23-71-404 (3) in the registration and payment of district warrants registered by said treasurer of the board of trustees, including publication for notice of payment thereof.

Source: L. 75: Entire article added, p. 766, § 1, effective July 1. **L. 86:** Entire section amended, p. 859, § 39, effective July 1.

23-71-407. Short-term loans. The board of trustees of any district may negotiate or contract with any person, corporation, association, or company for a loan not to exceed the difference between the anticipated revenues for the current fiscal year for the general fund and the amount credited to date to said general fund in order to eliminate the necessity of issuing registered warrants upon said general fund. Such loan shall be liquidated within six months thereafter from moneys subsequently credited to said general fund. The total rate of interest, including fees to be paid on such loan, shall not exceed seventy-five percent of the discount rate set by the federal reserve board for the tenth federal reserve district establishing the rate of interest which federal reserve banks shall charge member banks when such member banks borrow money from a federal reserve bank.

Source: L. 75: Entire article added, p. 766, § 1, effective July 1. **L. 80:** Entire section amended, p. 556, § 2, effective April 13. **L. 86:** Entire section amended, p. 860, § 40, effective July 1.

PART 5

BONDED INDEBTEDNESS

23-71-501. Definitions. As used in this part 5, unless the context otherwise requires:

(1) "Board of trustees" means the governing body authorized by law to administer the affairs of any local college district.

(2) "District" means a local college district organized and existing pursuant to law.

(2.5) "Eligible elector" means an elector who has complied with the registration provisions of article 2 of title 1, C.R.S., and who resides within the local college district calling the election.

(3) "Net effective interest rate" of a proposed issue of bonds means the net interest cost of the issue divided by the sum of the products derived by multiplying the principal amount of such issue maturing on each maturity date by the number of years from the date of said proposed bonds to their respective maturities. In all cases, the net effective interest rate shall be computed without regard to any option of redemption prior to the designated maturity dates of the bonds.

(4) "Net interest cost" of a proposed issue of bonds means the total amount of interest to accrue on said bonds from their date to their respective maturities, plus the amount of any discount below par or less the amount of any premium above par at which said bonds are being or have been sold. In all cases the net interest cost shall be computed without regard to any option of redemption prior to the designated maturity dates of the bonds.

(5) and (6) (Deleted by amendment, L. 92, p. 860, § 72, effective January 1, 1993.)

Source: L. 75: Entire article added, p. 767, § 1, effective July 1. **L. 86:** (1) amended, p. 860, § 41, effective July 1. **L. 92:** (2.5) added and (5) and (6) amended, p. 860, § 72, effective January 1, 1993.

23-71-502. Bonded indebtedness - elections. (1) No general obligation bonded indebtedness shall be contracted by any district for the purpose of purchasing, erecting, improving, remodeling, and furnishing local district college buildings, sites, facilities, and equipment unless the proposition to create such debt has first been submitted to and approved by the eligible electors of the district.

(2) The board of trustees of any district, at any regular biennial school election or at a special election called for the purpose, shall submit to the eligible electors of the district the question of contracting a bonded indebtedness for the purpose of purchasing, erecting, improving, remodeling, and furnishing local district college buildings, sites, facilities, and equipment, which purposes shall be broadly construed, subject to the limitations provided in section 23-71-503.

(3) All elections authorized under this article shall be conducted pursuant to the provisions of articles 1 to 13 of title 1, C.R.S. The secretary of the board of trustees shall be the designated election official for all elections unless otherwise provided by the board of trustees.

Any notice given shall contain a statement of the amount of the bonded indebtedness proposed to be contracted, the maximum net effective interest rate at which the indebtedness shall be incurred, and the maximum period of time within which the amount shall be payable, and the day and the place of the election.

(4) and (5) (Deleted by amendment, L. 92, p. 861, § 73, effective January 1, 1993.)

(6) (a) The board of trustees of any district, having received approval at an election to issue bonds and having determined that the limitations of the original election question are too restrictive to permit the advantageous sale of the bonds so authorized, may submit at another regular or special election:

(I) The question of issuing the bonds, or any portion thereof, at a higher maximum net effective interest rate than the maximum interest rate or maximum net effective interest rate approved at the original election; or

(II) The question of issuing the bonds, or any portion thereof, to mature over a longer period of time than the maximum period of maturity approved at the original election.

(b) An election held pursuant to this subsection (6) shall be held in substantially the same manner as an election to authorize bonds initially, except as may be required for the submission of the limited question permitted under this subsection (6).

(c) If a majority of those voting at an election held pursuant to this subsection (6) fail to approve the changes submitted, such result shall not impair the authority of the board of trustees at a later time to issue the bonds originally approved within the limitations established at the first election.

Source: L. 75: Entire article added, p. 767, § 1, effective July 1. **L. 86:** (2) to (5), IP(6)(a), and (6)(c) amended, p. 860, § 42, effective July 1. **L. 92:** (1) to (5) amended, p. 861, § 73, effective January 1, 1993.

23-71-503. Limitations on elections. The question of contracting bonded indebtedness may be submitted or resubmitted after the same or any other such question has previously been rejected at an election held pursuant to this part 5; but no such question shall be submitted or resubmitted at any election held less than one hundred twenty days after a previous submission of such question, and the board of trustees of a district shall not submit any question of contracting bonded indebtedness at more than two elections within any twelve-month period. The provisions of this section shall not apply to elections on assumption of existing bonded indebtedness held pursuant to law.

Source: L. 75: Entire article added, p. 768, § 1, effective July 1. **L. 86:** Entire section amended, p. 861, § 43, effective July 1.

23-71-504. Limit of bonded indebtedness. (1) Each district shall have a limit of bonded indebtedness of twenty percent of the latest valuation for assessment of the taxable property in such district as certified by the assessor to the board of county commissioners. The indebtedness of the former districts or parts of districts, constituting any new district, shall not be considered in fixing the limit of such twenty percent; but, if any district assumes the bonded indebtedness of any other district, or a proportionate share thereof, existing at the time of

inclusion in the assuming district, pursuant to law, such bonded indebtedness shall be included in the twenty percent limitation.

(2) The permission to incur additional bonded indebtedness, granted by the property tax administrator in the department of local affairs, and any district bonds issued pursuant thereto on or after May 10, 1972, are hereby validated. This subsection (2) shall not be construed to grant authority to incur bonded indebtedness in excess of said twenty percent limitation.

Source: L. 75: Entire article added, p. 769, § 1, effective July 1.

23-71-505. Voting precincts. (Repealed)

Source: L. 75: Entire article added, p. 769, § 1, effective July 1. **L. 86:** Entire section amended, p. 861, § 44, effective July 1. **L. 92:** Entire section repealed, p. 862, § 74, effective January 1, 1993.

23-71-506. Ballots. (Repealed)

Source: L. 75: Entire article added, p. 769, § 1, effective July 1. **L. 86:** Entire section amended, p. 862, § 45, effective July 1. **L. 92:** Entire section repealed, p. 862, § 75, effective January 1, 1993.

23-71-507. Joint election for directors and bonds. (Repealed)

Source: L. 75: Entire article added, p. 769, § 1, effective July 1. **L. 92:** Entire section amended, p. 862, § 76, effective January 1, 1993. **L. 93:** Entire section repealed, p. 1438, § 131, effective July 1.

23-71-508. Pollbooks - certificate of return. (Repealed)

Source: L. 75: Entire article added, p. 769, § 1, effective July 1. **L. 86:** Entire section amended, p. 862, § 46, effective July 1. **L. 92:** Entire section repealed, p. 862, § 77, effective January 1, 1993.

23-71-509. Registration. (Repealed)

Source: L. 75: Entire article added, p. 770, § 1, effective July 1. **L. 86:** Entire section amended, p. 863, § 47, effective July 1. **L. 92:** Entire section repealed, p. 863, § 78, effective January 1, 1993.

23-71-510. Registration list omissions - challenges - oath - rejection of vote. (Repealed)

Source: L. 75: Entire article added p. 770, § 1, effective July 1. **L. 80:** (4) amended, p. 410, § 12, effective January 1, 1981. **L. 86:** (1) and (3) amended, p. 863, § 48, effective July 1. **L. 92:** Entire section repealed, p. 863, § 79, effective January 1, 1993.

23-71-511. Count and canvass. (Repealed)

Source: L. 75: Entire article added, p. 771, § 1, effective July 1. **L. 86:** (1) amended, p. 863, § 49, effective July 1. **L. 92:** Entire section repealed, p. 864, § 80, effective January 1, 1993.

23-71-512. Absentee voting. (Repealed)

Source: L. 75: Entire article added, p. 771, § 1, effective July 1. **L. 80:** Entire section amended, p. 410, § 13, effective January 1, 1981. **L. 92:** Entire section repealed, p. 864, § 81, effective January 1, 1993.

23-71-513. Use of voting machines. (Repealed)

Source: L. 75: Entire article added, p. 771, § 1, effective July 1. **L. 86:** Entire section amended, p. 863, § 50, effective July 1. **L. 92:** Entire section repealed, p. 865, § 82, effective January 1, 1993.

23-71-514. Board of trustees may issue bonds - exemption from Colorado income tax. When approved at an election held pursuant to section 23-71-502, the board of trustees, from time to time, as the proceeds thereof are needed for the purposes specified in the notice of said bond election, shall issue bonds of the district in denominations of one thousand dollars or any multiple of one thousand dollars, in its discretion, bearing interest at a rate such that the net effective interest rate of the bond issue does not exceed the maximum net effective interest rate specified in the notice of said bond election, payable at such time, determined in the discretion of the board of trustees, which bonds shall mature serially, commencing not later than five years and extending not more than twenty-five years from the date thereof. Principal and interest thereon shall be payable at such place as shall be determined by said board of trustees and designated in said bonds. Said bonds shall be made callable for redemption commencing no later than eleven years from their date in such manner, with or without premium, as may be determined by the board of trustees. Interest on local college district bonds issued on or after July 1, 1973, shall be exempt from Colorado income tax.

Source: L. 75: Entire article added, p. 772, § 1, effective July 1. **L. 86:** Entire section amended, p. 863, § 51, effective July 1.

23-71-515. Form of bonds. The bonds issued under the provisions of this part 5 shall be numbered consecutively, beginning with number one. The board of trustees of the district is authorized to prescribe the form of such bonds. Said bonds shall recite that they are issued pursuant to this part 5, and said bonds shall be signed by the president of the board of trustees, bear an impression of the seal of the district, and be attested by signature of the secretary. Coupons, if any, evidencing the interest thereon shall bear the signature of the president of the board of trustees, which may be affixed by him in person, or it may be an engraved or lithographed facsimile thereof. At the discretion of the board of trustees, any bonds may be issued with privileges for registration of such bonds for payment as to principal, interest, or both. In the execution of bonds authorized pursuant to this part 5, the board of trustees may provide

for the use of facsimile signatures and facsimile seals in the manner set forth in article 55 of title 11, C.R.S.

Source: L. 75: Entire article added, p. 772, § 1, effective July 1. **L. 86:** Entire section amended, p. 864, § 52, effective July 1.

23-71-516. Sale at less than par - discount. If it is found to be in the best interest of the district, the board of trustees may issue such bonds and accept therefor less than their face value; but such bonds shall be sold at a price such that the net effective interest rate for the issue of bonds does not exceed the maximum net effective interest rate approved by the voters in the election authorizing such bonds.

Source: L. 75: Entire article added, p. 772, § 1, effective July 1. **L. 86:** Entire section amended, p. 864, § 53, effective July 1.

23-71-517. Board of trustees to certify needed revenues. (1) If the board of trustees has issued any of said bonds at the time of certifying to the board of county commissioners a statement showing the amount necessary to raise from the taxable property of said district for the general fund as required by law, it shall also certify to said board of county commissioners the amount needed for its bond redemption fund to pay all installments of principal and interest of said bonds, which, according to their terms, have already become due and payable or shall become due and payable during the next ensuing fiscal year, or both, together with such additional amount, if any, as, in the judgment of the board of trustees, is desirable to raise from the taxable property of said district for the purpose of redeeming, during the said ensuing fiscal year, any of said bonds which are redeemable but not due.

(2) The board of trustees has the authority to include in each amount certified for said bond redemption fund an amount to create a reserve for the redemption of bonds in future years prior to their maturities or for purchasing at a discount and cancellation any bond on which the interest is being paid from the current district debt service mill levy; but said reserve shall be restricted to the subsidiary account in the bond redemption fund for which said tax levy was made. A total of not more than one mill on the then current valuation for assessment may be carried in the reserve at any one time to be available for prior redemption purposes.

Source: L. 75: Entire article added, p. 772, § 1, effective July 1. **L. 86:** Entire section amended, p. 864, § 54, effective July 1.

23-71-518. Tax levy to pay principal and interest. (1) If any district has issued bonds under the provisions of this part 5, it is the duty of the board of county commissioners of the county in which said district is situated, at the time of levying other district taxes, to levy a tax on all the taxable property of said district at a rate sufficient to produce such amount as has been certified by the board of trustees of said district for the purpose of paying bonds not yet due, as provided in section 23-71-517.

(2) Except when said district has sufficient moneys or securities in a refunding escrow account to satisfy the bonded indebtedness obligations which will be due and payable during said district's next ensuing fiscal year, if the board of trustees fails to certify such an amount to the

board of county commissioners as required by section 23-71-517, the board of county commissioners, nevertheless, shall levy upon the appropriate taxable property of said district a tax in addition to the taxes levied for other purposes in an amount sufficient to pay all installments of principal and interest of said bonds that shall become due during the next ensuing fiscal year or, if said bonds do not become due and payable in series at different times, in an amount sufficient to pay all installments of interest then to become due and the aforesaid portion of principal.

(3) The amount certified pursuant to section 23-71-517 and the rate of the tax levy required by this section shall be sufficient to cover any deficiency which may occur by reason of delinquent payment of taxes.

(4) The county treasurer shall not collect any fee on the moneys received by virtue of a tax levied pursuant to this section or by virtue of his office having been designated as the place of payment or optional place of payment for bonds issued under this part 5 or under part 6 of this article, nor shall he collect any fee on any moneys received from any other source to pay bonds or interest thereon.

Source: L. 75: Entire article added, p. 773, § 1, effective July 1. **L. 86:** (1) and (2) amended, p. 865, § 55, effective July 1.

23-71-519. Bond fund - payment and redemption. (1) Such taxes shall be collected in the same manner as district taxes and when collected shall be placed by the county treasurer in the bond redemption fund of said district. The moneys in said fund shall be used only for payment of interest upon and for the redemption of such bonds, upon orders signed and countersigned in the manner provided by law for the execution of other district orders; but the board of trustees of said district may withdraw any or all of such moneys credited to said fund which are temporarily not needed to satisfy the obligations of bonded indebtedness, for the purpose of depositing or investing such moneys in the manner prescribed by law.

(2) Redemption of said bonds prior to the respective maturities thereof may be made in either direct or inverse numerical order as determined by the board of trustees in the resolution authorizing the issuance of said bonds and set forth on the face of said bonds. Notice of the redemption of said bonds, prior to maturity, shall be made in the manner prescribed in said bond resolution. In the absence of such prescribed manner in the bond resolution, a redemption prior to maturity shall be made in the following manner: When authorized by the board of trustees, the treasurer of said board shall advertise in some newspaper published in the district once a week for two consecutive weeks that on a certain day, named in said advertisement, not less than four weeks after the time of the first publication thereof, he will redeem certain of said bonds therein described by number, amount, and date of issue thereof and that the principal, interest to redemption date, and redemption premium, if any, of said bonds will be paid in accordance with the bond resolution authorizing such bonds. The notice shall indicate also that, after the day so fixed for redemption, the interest on the bonds shall cease. After the day of redemption so fixed in said notice the bonds so advertised and called to be redeemed shall cease to draw interest.

(3) If the bonds are made payable at the office of the county treasurer, any redemption of such bonds shall also be made at the office of the county treasurer of the county, who shall make a notation of such payment or redemption upon his books.

(4) If the bonds are made payable at some place other than the office of the county treasurer, such bonds shall be redeemable at the place where payable, and the treasurer of the board of trustees shall, immediately after the payment or redemption, inform the county treasurer that certain bonds, describing them by number, amount, and date of issue, have been paid or redeemed and cancelled, and said county treasurer shall make a record of such payment or redemption upon his books.

(5) In all cases bonds when paid or redeemed shall be cancelled by the treasurer of the board of trustees and preserved by him and his successors for a period of one year after the date of their payment or redemption.

Source: L. 75: Entire article added, p. 773, § 1, effective July 1. **L. 86:** (1), (2), (4), and (5) amended, p. 865, § 56, effective July 1.

23-71-520. Place of payment. (1) The board of trustees is authorized to designate the office of the county treasurer of the county in which the headquarters of such district is situated as the place of payment or optional place of payment of the principal of or interest on any bonds issued by any such district or to designate any commercial bank or trust company as the place of payment or optional place of payment of the principal of or interest on any bonds issued by any such district, and the commercial bank or trust company so designated may be located either within or without this state.

(2) It is the duty of the board of trustees to cause sufficient moneys from said tax levy or refunding escrow account to be placed from time to time at the place of payment, or optional place of payment, designated on said bonds in an amount to satisfy the principal and interest obligations of said bonds as the same may become due and payable from time to time. It is the duty of the treasurer of said board to pay or cause to be paid the obligations of said bonds as the same may become due and payable, upon presentation of the bonds and coupons respectively evidencing such obligations, from any moneys to the credit of the appropriate account available for that purpose.

Source: L. 75: Entire article added, p. 774, § 1, effective July 1. **L. 86:** Entire section amended, p. 866, § 57, effective July 1.

23-71-521. Registration of bonds. When any district issues bonds under the provisions of this part 5, the board of trustees may make and enter in its record a request that the county clerk and recorder of the county wherein the headquarters of such district is situated register the bonds in a book to be kept by him for that purpose. When so registered, the legality thereof shall not be open to contest by such district, or any person whomsoever, for any reason whatever. A certified copy of the order of the board of trustees, so made and entered of record, shall be furnished to the said county clerk and recorder by the said board, and, thereupon, it shall be his duty to register said bonds, noting the name of the district and the amount, the date of issuance and maturity, and the rate of interest of said bonds. He shall receive a fee of twenty-five dollars for registering each such issue.

Source: L. 75: Entire article added, p. 774, § 1, effective July 1. **L. 86:** Entire section amended, p. 867, § 58, effective July 1.

23-71-522. Changes in boundaries - liability. (1) Nothing in this part 5 or in any other provision of law shall release the taxable property within a district which incurred bonded indebtedness from liability for its proportionate share of the outstanding obligations thereof.

(2) The taxable property located within the territory of a district which is dissolved shall be liable for its proportionate share of the bonded indebtedness incurred by the district.

(3) The taxable property of a district which is detached and annexed shall be liable for its proportionate share of the bonded indebtedness previously incurred by the annexing district.

Source: L. 75: Entire article added, p. 775, § 1, effective July 1.

23-71-523. Validation. All outstanding bonds and all acts and proceedings had or taken, or purportedly had or taken, prior to July 1, 1964, by or on behalf of any district under law or under color of law preliminary to and in the authorization, execution, sale, issuance, and payment of all such bonds are validated, ratified, approved, and confirmed, notwithstanding any lack of power or authority or otherwise, other than constitutional, and notwithstanding any defects and irregularities, other than constitutional, in such bonds, acts, and proceedings and in such authorization, execution, sale, issuance, and payment, including, without limiting the generality of the foregoing, such acts and proceedings appertaining to bonds, all or any part of which have not been issued nor purportedly issued.

Source: L. 75: Entire article added, p. 775, § 1, effective July 1.

23-71-524. Prior obligations not impaired. Nothing in this part 5 shall impair the obligations of any bonds, or the refunding thereof, issued by a school district prior to July 1, 1964, or otherwise invalidate any such bond or the obligations or refunding thereof.

Source: L. 75: Entire article added, p. 775, § 1, effective July 1.

23-71-525. Public disclosure of terms of sale. (1) When bonds are sold, the board of trustees of the district selling the same shall cause to be prepared and filed with the state board for community colleges and occupational education, within ten days after said sale, a report setting forth a description of the bond issue, the applicable interest rate, including the net effective interest rate, any other terms of the sale, and any applicable statistical, comparative bond market data, ratings, and indices relative to prevailing market conditions prior to and at the time of said sale and explaining the reasons why it was necessary, if it was, that the bonds be sold at a negotiated sale instead of by public competitive bidding. The state board for community colleges and occupational education may request additional information from the district or from the purchaser of the bonds regarding terms of the sale.

(2) One or more copies of said report shall be retained on file at the administrative headquarters of the district.

Source: L. 75: Entire article added, p. 775, § 1, effective July 1. **L. 86:** (1) amended, p. 867, § 59, effective July 1.

23-71-526. Validation. All elections and all acts and proceedings had or taken, or purportedly had or taken, prior to June 2, 1971, by or on behalf of any district, under law or under color of law, preliminary to and in the holding and canvass of all elections are validated, ratified, approved, and confirmed, notwithstanding any lack of power, authority, or otherwise and notwithstanding any defects or irregularities in such elections, acts, and proceedings.

Source: L. 75: Entire article added, p. 775, § 1, effective July 1.

23-71-527. Validation - effect - limitations. (1) All bonds issued and other contracts, leases, or agreements executed by districts, all district bond elections held and carried, and all acts and proceedings had or taken prior to July 1, 1973, by or on behalf of such districts, preliminary to and in the authorization, execution, sale, and issuance of all bonds, the authorization and execution of all other contracts, leases, or agreements, and the exercise of other powers in section 23-71-504 are hereby validated, ratified, approved, and confirmed, notwithstanding any defects and irregularities, other than constitutional, in such bonds, acts, and proceedings, in such authorization, execution, sale, and issuance, and in such exercise of powers; and such bonds and other contracts, leases, or agreements are and shall be binding, legal, valid, and enforceable obligations of the district to which they appertain in accordance with their terms and their authorization proceedings.

(2) This section shall operate to supply such legislative authority as may be necessary to accomplish the validations provided and authorized in this section but shall be limited to validations consistent with all provisions of applicable law in effect at the time of such action or other matter. This article shall not operate to validate any action or other matter the legality of which is being contested or inquired into in any legal proceedings pending and undetermined prior to July 1, 1973, nor to validate any action or other matter which has been determined in any legal proceedings prior to July 1, 1973, to be illegal, void, or ineffective.

Source: L. 75: Entire article added, p. 776, § 1, effective July 1.

PART 6

REFUNDING BONDS

23-71-601. Definitions. As used in this part 6, unless the context otherwise requires:

(1) "Board of trustees" means the governing body authorized by law to administer the affairs of any local college district.

(2) "District" means a local college district organized and existing pursuant to law.

(3) "Federal securities" means the bills, certificates of indebtedness, notes, or bonds which are direct obligations of, or the principal and interest of which obligations are unconditionally guaranteed by, the United States.

(4) "Net effective interest rate" of a proposed issue of refunding bonds means the net interest cost of said refunding issue divided by the sum of the products derived by multiplying the principal amounts of such refunding issue maturing on each maturity date by the number of years from the date of said proposed refunding bonds to their respective maturities. "Net effective interest rate" of an outstanding issue of bonds to be refunded means the net interest cost

of said issue to be refunded divided by the sum of the products derived by multiplying the principal amounts of such issue to be refunded maturing on each maturity date by the number of years from the date of the proposed refunding bonds to the respective maturities of the bonds to be refunded. In all cases the net effective interest rate shall be computed without regard to any option of redemption prior to the designated maturity dates of the bonds.

(5) "Net interest cost" of a proposed issue of refunding bonds means the total amount of interest to accrue on said refunding bonds from their date to their respective maturities, less the amount of any premium above par at which said refunding bonds are being or have been sold. "Net interest cost" of an outstanding issue of bonds to be refunded means the total amount of interest which would accrue on said outstanding bonds from the date of the proposed refunding bonds to the respective maturity dates of said outstanding bonds to be refunded. In all cases the net interest cost shall be computed without regard to any option of redemption prior to the designated maturity dates of the bonds.

Source: L. 75: Entire article added, p. 776, § 1, effective July 1. **L. 86:** (1) amended, p. 867, § 60, effective July 1.

23-71-602. Refunding bonds may be issued. (1) Any district in this state may issue negotiable coupon bonds to be denominated refunding bonds for the purpose of refunding any of the bonded indebtedness of such district, whether said indebtedness is due or not due or has or may hereafter become payable or redeemable at the option of such district, or by consent of the bondholders, or by any lawful means, whether such bonded indebtedness be now existing or may hereafter be created.

(2) The bonded indebtedness of any district outstanding at the time of the inclusion of all such district's territory in another district, by reorganization, consolidation, dissolution, or any other lawful means, may be refunded by action of the board of trustees of the district, including such territory at the time of such refunding, whether or not such indebtedness has been assumed by the district including such territory.

(3) When an entire district having outstanding bonded indebtedness has been divided and parts thereof included within two or more other districts by any lawful means, the refunding of such indebtedness shall require affirmative action by a majority of the members of the boards of trustees of each of the districts within which any part of the territory of such district owing said indebtedness is then included, except as is provided in this part 6 to the contrary.

(4) The bonded indebtedness of any district outstanding at the time any territory of said district is detached therefrom by any lawful means, and which district has retained its lawful corporate existence subsequent to the detachment of such territory from said district, may be refunded by action of the board of trustees of such district from which territory has been detached with or without concurrence or action by the board of trustees of the district within which said detached territory is included. Such districts from which territory has been detached and which retain their corporate existence subsequent to detachment are specifically exempted from the requirements and provisions of subsection (3) of this section.

(5) Any such refunding bonds may be issued to refund any issues of outstanding bonds; but no two or more issues of outstanding bonds may be refunded by a single issue of refunding bonds unless the taxable property upon which tax levies are being made for payment of each such outstanding issue of bonds is identical to the taxable property on which such levies are

being made for the payment of all other outstanding bonds proposed to be refunded by such single issue of refunding bonds.

Source: L. 75: Entire article added, p. 777, § 1, effective July 1. **L. 86:** (2) to (4) amended, p. 867, § 61, effective July 1.

23-71-603. Question of issuing refunding bonds. (1) When the board of trustees of any district deems it expedient to issue refunding bonds under the provisions of this part 6 and the net effective interest rate and the net interest cost of said issue of refunding bonds do not exceed the net effective interest rate and the net interest cost of the outstanding bonds to be refunded, such refunding bonds may be issued without the submission of the question of issuing the same at an election held in accordance with part 5 of this article. If two or more issues of outstanding bonds of a district are to be refunded by the issuance of a single issue of refunding bonds, as provided in section 23-71-602 (5), the net interest cost and net effective interest rate on the bonds to be refunded shall be computed as if all of said bonds had originally been combined as a single issue aggregating the total of the smaller issues, and the results of this computation shall be compared with the net interest cost and net effective interest rate on the whole of the single refunding issue for purposes of determining the necessity of submitting the question of issuing such refunding bonds at an election held in accordance with part 5 of this article.

(2) If any district proposes to issue refunding bonds, on which issue the net interest cost or net effective interest rate exceeds the net interest cost or net effective interest rate of the outstanding bonds to be refunded, the board of trustees shall submit the question of issuing such refunding bonds and the maximum net interest cost and maximum net effective interest rate at which such refunding bonds may be issued at the regular biennial election or at a special election called for that purpose. Any such election shall be called and held as nearly as may be in accordance with part 5 of this article for elections on the question of the issuance of other bonds of the issuing district.

Source: L. 75: Entire article added, p. 778, § 1, effective July 1. **L. 86:** Entire section amended, p. 868, § 62, effective July 1.

23-71-604. Authorization - form - interest. (1) Such refunding bonds shall be authorized by a resolution fixing the date, the denominations, the rate of interest on individual bonds, the maturity dates which shall not be more than twenty-five years after the date of such refunding bonds, and the place of payment, within or without the state of Colorado, of both principal and interest and prescribing the form of such refunding bonds. Such bonds shall be negotiable in form and executed in the same manner as prescribed for other school district bonds. At the discretion of the board of trustees, any such bonds may be issued with privileges for registration for payment as to principal or interest, or both.

(2) The interest accruing on such refunding bonds may be evidenced by interest coupons thereto attached in substantially the same form as prescribed for other school district bonds, and, when so executed, such coupons shall be the binding obligations of the district according to their import. Such refunding bonds shall mature serially, commencing not later than five years after the date of such bonds and maturing during a period not exceeding twenty-five years after the date thereof. The amount of such maturities shall be fixed by the board of trustees and specified

in the resolution authorizing the issuance of the refunding bonds. The right to redeem all or part of said bonds prior to their maturity, and the order of any such redemption, may be reserved in the resolution authorizing the issuance of bonds and shall be set forth on the face of said bonds. Interest on local college district refunding bonds issued on or after July 1, 1973, shall be exempt from Colorado income tax.

Source: L. 75: Entire article added, p. 778, § 1, effective July 1. **L. 86:** Entire section amended, p. 869, § 63, effective July 1.

23-71-605. Sale - proceeds - amounts. Such refunding bonds may be exchanged for the bonds to be refunded, or they may be sold at, above, or below their par value; but such refunding bonds shall be exchanged or sold at a price such that the net interest cost and the net effective interest rate for the issue of refunding bonds does not exceed the net interest cost and the net effective interest rate of the outstanding bonds to be refunded or the maximum net effective interest rate and net interest cost approved by the voters, as the case may be. Such refunding bonds shall be in a principal amount not exceeding the principal amount of the bonds to be refunded, as directed by the board of trustees, and the proceeds thereof shall be applied only to the purpose for which such refunding bonds were issued. The principal amount of said refunding bonds may be the same as or less than the principal amount of the bonds to be refunded, if due, adequate, and sufficient provision has been made for the payment or redemption and retirement of said bonds to be refunded and the payment of the interest accruing thereon in accordance with this part 6.

Source: L. 75: Entire article added, p. 779, § 1, effective July 1. **L. 86:** Entire section amended, p. 869, § 64, effective July 1.

23-71-606. Needed revenues - tax levy - miscellaneous. (1) Whenever a board of trustees issues refunding bonds under the provisions of this part 6, sections 23-71-517 to 23-71-521 shall be applicable to said refunding bonds and the procedures therefor, in the same manner as prescribed for other district bonds; except that any such refunding bonds shall be payable from the same funds which are to be derived from the same source as would have been used to pay the original bonds if no refunding thereof had occurred.

(2) After refunding bonds are issued pursuant to this part 6, the resolution authorizing the same and providing for the levy of taxes for the payment of interest upon and the principal of such refunding bonds shall not be altered or repealed until the refunding bonds so authorized have been fully paid.

Source: L. 75: Entire article added, p. 779, § 1, effective July 1. **L. 86:** (1) amended, p. 869, § 65, effective July 1.

23-71-607. Application of bond proceeds - procedures - limitations. (1) The proceeds derived from the issuance of any refunding bonds under the provisions of this part 6 shall either be immediately applied to the payment or redemption and retirement of the bonds to be refunded and the cost and expense incident to such procedures or shall immediately be placed in escrow to be applied to the payment of said bonds upon their presentation therefor and the

costs and expenses incident to such proceedings and for no other purpose whatsoever until the bonds being refunded have been paid in full and discharged and all accrued interest thereon has also been paid in full, upon which occurrences the escrow shall terminate, and any moneys remaining therein shall be returned to the district's bond redemption fund.

(2) Any such escrowed proceeds, pending such use, may be invested or, if necessary, reinvested only in securities meeting the investment requirements established in part 6 of article 75 of title 24, C.R.S., maturing at such times as to insure the prompt payment of the bonds refunded under the provisions of this part 6 and the interest accruing thereon.

(3) Such escrowed proceeds and investments, together with any interest to be derived from such investments, shall be in an amount which at all times is sufficient to pay the bonds refunded as they become due at their respective maturities or as they are called for redemption and payment on prior redemption dates, as to principal, interest, any prior redemption premium due, and any charges of the escrow agent payable therefrom. The computations made in determining such sufficiency shall be verified by a certified public accountant.

(4) For the purpose of implementing the provisions of this part 6, the committee of any district has the power to enter into escrow agreements and to establish escrow accounts with any commercial bank having full trust powers located within the state of Colorado and a member of the federal deposit insurance corporation under protective covenants and agreements whereby such accounts shall be fully secured by securities meeting the investment requirements established in part 6 of article 75 of title 24, C.R.S., or shall be invested in such securities only, in such amounts as will be sufficient and maturing at such times so as to insure the prompt payment of the bonds refunded and the interest accruing thereon, under the provisions of this part 6.

(5) In no event shall the aggregate amount of bonded indebtedness of any district exceed the maximum allowable amount as determined pursuant to section 23-71-504; except that in determining and computing such aggregate amount of bonded indebtedness of any district, bonds which have been refunded, as provided in this part 6, either by immediate payment or redemption and retirement or by the placement of the proceeds of refunding bonds in escrow, shall not be deemed outstanding indebtedness from and after the date on which sufficient moneys are placed with the paying agent of such outstanding bonds for the purpose of immediately paying or redeeming and retiring such bonds or from and after the date on which the proceeds of said refunding bonds are placed in escrow.

(6) The issuance of refunding bonds by any district for the purposes of and in the manner authorized by this part 6, or by the provisions of any other law, shall never be interpreted or taken to be the creation of an indebtedness such that the same would require the approval at an election held in accordance with part 5 of this article, and no such approval shall be required for the issuance of such refunding bonds except as is specifically required by the law under which said refunding bonds are sought to be issued or have been issued.

(7) No bonds may be refunded under the provisions of this part 6 unless the holders thereof voluntarily surrender said bonds for immediate exchange or immediate payment or unless said bonds either mature or are callable for redemption prior to their maturity under their terms within ten years after the date of issuance of the refunding bonds, and provisions shall be made for paying or redeeming and discharging all of the bonds refunded within said period of time.

(8) No bonds shall be refunded under the provisions of this part 6 within a period of one year following the actual issuance and delivery thereof to their initial purchasers unless the proceeds of said refunding bonds are immediately applied to the payment or redemption and retirement of the bonds being refunded.

(9) No bonds shall be issued under the provisions of this part 6 for the purpose of refunding any refunding bonds unless the original bonds refunded by said refunding bonds have previously been paid or redeemed and retired.

Source: L. 75: Entire article added, p. 779, § 1, effective July 1. **L. 89:** (2) and (4) amended, p. 1111, § 16, effective July 1.

23-71-608. Reports. Each district which issues refunding bonds under the provisions of this part 6 shall file a report within sixty days after the issuance of said bonds with the state board for community colleges and occupational education. The report shall indicate the principal amount of bonds refunded, the net effective interest rate of both the bonds refunded and the refunding bonds, the net interest cost of both the bonds refunded and the refunding bonds, all district costs incident to the issuance of refunding bonds, including those of the escrow agent, and such other items as may be determined by the state board for community colleges and occupational education.

Source: L. 75: Entire article added, p. 780, § 1, effective July 1.

23-71-609. Validation. All outstanding bonds and all acts and proceedings had or taken, or purportedly had or taken, prior to July 1, 1964, by or on behalf of any district under law or under color of law preliminary to and in the authorization, execution, sale, issuance, and payment of such bonds are validated, ratified, approved, and confirmed, notwithstanding any lack of power or authority, or otherwise, other than constitutional, and notwithstanding any defects and irregularities, other than constitutional, in such bonds, acts, and proceedings and in such authorization, execution, sale, issuance, and payment, including, without limiting the generality of the foregoing, such acts and proceedings appertaining to bonds, all or any part of which have not been issued nor purportedly issued.

Source: L. 75: Entire article added, p. 781, § 1, effective July 1.

23-71-610. Prior obligations not impaired. Nothing in this part 6 shall impair the obligations of any bonds, or the refunding thereof, issued by a district prior to July 1, 1964, or otherwise invalidate any such bond or the obligations or refunding thereof.

Source: L. 75: Entire article added, p. 781, § 1, effective July 1.

PART 7

LOCAL DISTRICT COLLEGES - REVENUE SECURITIES LAW

Editor's note: This part 7 is similar to article 71 of title 22 as said article existed prior to 1975.

23-71-701. Short title. This part 7 shall be known and may be cited as the "Local District College Revenue Securities Law".

Source: L. 75: Entire article added, p. 781, § 1, effective July 1.

23-71-702. Definitions. As used in this part 7, unless the context otherwise requires:

(1) "Committee" means the governing body of a district or any successor governing body of the district.

(2) "District" means any local college district operating pursuant to the laws of this state.

(3) "Facilities" means buildings, structures, or other income-producing facilities from the operation of which or in connection with which pledged revenues for the payment of any securities issued under this part 7 are derived, including without limitation any facilities to be acquired with the proceeds of the securities issued under this part 7.

(4) "Net revenues" or "net pledged revenues" means all pledged revenues after the deduction of operation and maintenance expenses.

(5) (a) "Operation and maintenance expenses" means such reasonable and necessary current expenses of the district, paid or accrued, of operating, maintaining, and repairing the facilities pertaining to the pledged revenues for the payment of the securities issued under this part 7, as may be determined by a committee, and the term may include, at a committee's option, except as limited by contract or otherwise limited by law, without limiting the generality of the foregoing:

(I) Legal and overhead expenses of the various district departments directly related and reasonably allocable to the administration of the facilities;

(II) Fidelity bond and insurance premiums appertaining to the facilities or a reasonably allocable share of a premium of any blanket bond or policy pertaining to the facilities;

(III) The reasonable charges of any paying agent or depository bank appertaining to any securities issued by a district or appertaining to any facilities;

(IV) Contractual services, professional services, salaries, administrative expenses, and costs of labor appertaining to facilities;

(V) The costs incurred by a district in the collection of all or any part of the pledged revenues, including without limitation revenues appertaining to any facilities;

(VI) Any costs of utility services furnished to the facilities by the district or otherwise.

(b) "Operation and maintenance expenses" does not include:

(I) Any allowance for depreciation;

(II) Any costs of reconstruction, improvements, extensions, or betterments;

(III) Any accumulation of reserves for capital replacements;

(IV) Any reserves for operation, maintenance, or repair of any facilities;

(V) Any allowance for the redemption of any bond securities evidencing a loan or other obligations, or the payment of any interest thereon;

(VI) Any liabilities incurred in the acquisition or improvement of any properties comprising any project or any existing facilities, or any combination thereof;

(VII) Any other ground of legal liability not based on contract.

(6) (a) "Pledged revenues" means the moneys pledged wholly or in part for the payment of securities issued under this article and, subject to any existing pledges or other contractual limitations, may include, at a committee's discretion, any grants, appropriations, or other donations from the United States or its agencies or from any other donor, except the state or its agencies or political subdivisions, and income or moneys derived from one, all, or any combination of the following revenue sources, including without limitation student fees and other fees, rates, and charges appertaining thereto and for the development thereof:

(I) Dormitories, apartments, and other housing facilities;

(II) Cafeterias, dining halls, and other food service facilities;

(III) Student union and other student activities facilities;

(IV) Store or other facilities for the sale or lease of books, stationery, student supplies, faculty supplies, office supplies, and like material;

(V) Theater, gymnasium, fieldhouse, stadium, arena, and other recreation or athletic facilities for use in part by spectators or otherwise;

(VI) Land and any structures, other facilities, or improvements thereon used or available for use for the parking of vehicles used for the transportation by land or air of persons to or from such land and any improvements thereon;

(VII) Properties providing heat or any other utility furnished by a district to any facilities on campus;

(VIII) Services, contracts, investments, and other miscellaneous unrestricted sources of income not designated in this part 7, whether presently realized or to be realized, and accounted for in a miscellaneous sales and services fund or account.

(b) "Pledged revenues" does not include income or moneys derived in connection with any of the following:

(I) Any tuition charges and registration fees;

(II) The levy of any general (ad valorem) property taxes;

(III) Any grants, appropriations, or other donations from the state, its agencies, or its political subdivisions.

(7) "Registration fees" means any charges paid by any student for the privilege of registering for attendance at a local district college in a district, except for any charges appertaining to those revenue sources set forth in subsection (6)(a) of this section.

(8) "Securities" means bonds and interim securities authorized to be issued under this part 7 in the name of and on the behalf of a district.

(9) "Tuition charges" means the price of or payment for general and special instruction of students as defined and determined from time to time by the committee.

Source: L. 75: Entire article added, p. 781, § 1, effective July 1.

23-71-703. Power to issue securities. (1) The committee of any district, pursuant to authorizing resolution and subject to the provisions and contractual limitations in resolutions authorizing outstanding revenue bonds and other securities of the district, may issue, without an election, securities to defray, in whole or in part, the cost of a project in the manner provided in and subject to the limitations imposed by this part 7.

(2) The project may be the acquisition, by purchase, construction, or otherwise, the improvement, or the equipment, or any combination thereof, of any dormitory, faculty or student

housing unit, dining hall, recreational center, student center, laboratory, classroom, classroom building, administrative office, administrative building, swimming pool, gymnasium, athletic field, stadium, and any other building, structure, or land necessary or desirable for use in connection with a local district college of a district.

(3) The cost of the project may include, in the committee's discretion, all incidental costs pertaining to the project and the financing thereof, including, without limitation, contingencies and the capitalization with proceeds of securities of operation and maintenance expenses appertaining to facilities to be acquired and interest on the securities for any period not exceeding the period estimated by the committee to effect the project plus one year, of any discount on the securities and of any reserves for payment of principal of and interest on the securities.

Source: L. 75: Entire article added, p. 783, § 1, effective July 1.

23-71-704. Interim securities. The committee may issue interim securities, which may be designated "bonds", "notes", or "warrants", evidencing any emergency loans, construction loans, and other temporary loans of not exceeding three years, in supplementation of long-term financing, such interim securities to be funded with the proceeds of long-term securities, net pledged revenues, or further interim securities, or any combination thereof, as the committee may determine.

Source: L. 75: Entire article added, p. 783, § 1, effective July 1.

23-71-705. Terms of securities. (1) Except to the extent inconsistent with this part 7, any securities issued under this part 7 for any project shall be issued in the form and manner and with the effect provided in sections 11-54-111 and 11-54-112, C.R.S., for public securities issued under the "Refunding Revenue Securities Law".

(2) The authorizing resolution, trust indenture, or other instrument appertaining thereto may contain any of the covenants, and the committee may do such acts and things as are permitted in section 11-54-113, C.R.S., of the "Refunding Revenue Securities Law".

(3) Revenue obligations issued to refund revenue bonds of a district and to refund securities issued under this part 7 may be issued under the "Refunding Revenue Securities Law".

Source: L. 75: Entire article added, p. 784, § 1, effective July 1.

Cross references: For the "Refunding Revenue Securities Law", see article 54 of title 11.

23-71-706. Payable from special fund. The securities shall be payable and collectible, as to principal, interest, and any prior redemption premium, solely out of net pledged revenues; the holder thereof may not look to any general or other fund for such payment of such securities, except the net revenues pledged therefor; the securities shall not constitute an indebtedness or a debt within the meaning of any constitutional or statutory provision or limitation, if any such provision or limitation appertains thereto; the securities shall not be considered or held to be general obligations of the district but shall constitute its special obligations; and the full faith and

credit of the district shall not be pledged for their payment. Such payment shall not be secured by an encumbrance, mortgage, or other pledge of property of the district, except for its pledged revenues. No property of the district, subject to said exception, shall be liable to be forfeited or taken in payment of securities.

Source: L. 75: Entire article added, p. 784, § 1, effective July 1.

23-71-707. Recital of regularity. A resolution providing for the issuance of bonds or other securities under this part 7 or an indenture or other proceedings appertaining thereto may provide that the securities contain a recital that they are issued pursuant to this part 7, which recital shall be conclusive evidence of their validity and the regularity of their issuance.

Source: L. 75: Entire article added, p. 784, § 1, effective July 1.

23-71-708. Committee determination conclusive. The determination of the committee that the limitations imposed under this part 7 upon the issuance of securities under this part 7 have been met shall be conclusive in the absence of fraud or arbitrary and gross abuse of discretion, regardless of whether the authorizing resolution or the securities thereby authorized contain a recital as authorized by section 23-71-707.

Source: L. 75: Entire article added, p. 784, § 1, effective July 1.

23-71-709. No impairment of contract. Nothing in this part 7 or in any other law shall impair the existing obligations of contract embodied in outstanding revenue bonds validly issued under the statutes in force at the times of their issue prior to July 1, 1967.

Source: L. 75: Entire article added, p. 784, § 1, effective July 1.

23-71-710. Tax exemption. Bonds and other securities issued under the provisions of this part 7, their transfer, and the income therefrom are exempt from taxation by this state or any subdivision thereof.

Source: L. 75: Entire article added, p. 784, § 1, effective July 1.

23-71-711. Construction. (1) This part 7, without reference to other statutes of this state, except as otherwise expressly provided in this part 7, constitutes full authority for the exercise of the incidental powers granted in this part 7 concerning the borrowing of money to defray wholly or in part the cost of any project and the issuance of securities to evidence such loans.

(2) No other act or law with regard to the authorization or issuance of securities or the exercise of any other power granted in this part 7 that requires an approval or in any way impedes or restricts the carrying out of the acts authorized to be done in this part 7 shall be construed as applying to any proceedings taken under this part 7 or acts done pursuant thereto, except as otherwise provided in this part 7.

(3) The powers conferred by this part 7 shall be in addition and supplemental to, and not in substitution for, and the limitations imposed by this part 7 shall not affect the powers conferred by any other law.

(4) Nothing in this part 7 shall prevent the exercise of any power granted to the committee or to a district acting by and through its committee, or any officer, agent, or employee thereof, by any other law.

(5) No part of this part 7 shall repeal or affect any other law or part thereof, it being intended that this part 7 provide a separate method of accomplishing its objectives and not an exclusive one; and this part 7 shall not be construed as repealing, amending, or changing any such other law.

Source: L. 75: Entire article added, p. 784, § 1, effective July 1.

23-71-712. Liberal construction. This part 7, being necessary to secure the public health, safety, convenience, and welfare, shall be liberally construed to effect its purposes.

Source: L. 75: Entire article added, p. 785, § 1, effective July 1.

23-71-713. Validation. All pledges of pledged revenues (including but not necessarily limited to grants, appropriations, and other donations from the United States or its agencies and any other donor, except the state or its agencies or political subdivisions) made to the payment of revenue bonds of local college districts and community and technical colleges prior to April 5, 1973, and all revenue bonds of local college districts and community and technical colleges which were issued prior to said date are validated, ratified, approved, and confirmed.

Source: L. 75: Entire article added, p. 785, § 1, effective July 1.

ARTICLE 72

Affiliated Junior College Districts

23-72-101 to 23-72-128. (Repealed)

Editor's note: (1) This article was added in 1988. For amendments to this article prior to its repeal in 2009, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

(2) Section 23-72-128 provided for the repeal of this article, effective July 1, 2009. (See L. 2000, p. 1860.)

ARTICLE 73

Colorado Institute of Technology

23-73-101 to 23-73-106. (Repealed)

Source: L. 2007: Entire article repealed, p. 58, § 1, effective August 3.

Editor's note: This article was added in 2000. For amendments to this article prior to its repeal in 2007, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

EDUCATIONAL PROGRAMS

ARTICLE 74

Southern Colorado Council for
Excellence in Health Careers Education

23-74-101 to 23-74-108. (Repealed)

Editor's note: (1) This article was added in 2007 and was not substantially amended prior to its repeal in 2012. For the text of this article prior to 2012, consult the 2011 Colorado Revised Statutes, chapter 189 of the Session Laws of Colorado 2012, and the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

(2) Section 23-74-108 provided for the repeal of this article, effective July 1, 2012. (See L. 2007, p. 874.)

ARTICLE 75

Pilot Program for Inclusive Higher Education for
Students with Intellectual and Developmental Disabilities

23-75-101. Short title. The short title of this article is the "Inclusive Higher Education Act".

Source: L. 2016: Entire article added, (SB 16-196), ch. 226, p. 861, § 1, effective June 6.

23-75-102. Legislative declaration. (1) The general assembly finds that:

(a) The Colorado department of education reported in 2015 that an estimated six thousand five hundred thirty students with intellectual and developmental disabilities reside in Colorado;

(b) Colorado students with intellectual and developmental disabilities are desirous of entering institutions of higher education, but are limited to costly out-of-state placement with high tuition costs and long wait lists because no inclusive higher education options exist in Colorado;

(c) Offering higher education options to students with intellectual and developmental disabilities allows these students to have all of the rights, responsibilities, privileges, benefits, and outcomes that result from a college experience to the greatest extent possible, including academic access, career development, campus engagement, self-determination, participation in

paid work experiences, on-campus or off-campus living, inclusive social activities, and access to and instruction in technology;

(d) The development of an inclusive higher education program for students with intellectual and developmental disabilities allows a student to attend an institution of higher education, pay tuition, and have access to undergraduate courses that support the student's desired outcomes and job aspirations;

(e) While forty-seven states offer opportunities for higher education for students with intellectual and developmental disabilities across two hundred fifty-three institutions of higher education, Colorado does not have an institution-approved inclusive higher education program accessible to students throughout the state;

(f) Colorado institutions of higher education have expressed an interest in building capacity for inclusive higher education; and

(g) High-quality inclusive college programs across the country are reporting competitive job placement rates at over seventy percent within six months of graduation for students with intellectual and developmental disabilities, compared to a competitive job placement rate of less than thirty percent for students without access to these types of programs, as reported in a national study conducted by the Gallup Poll and the Special Olympics. Placement in competitive jobs results in greater community participation and less dependence on government and family support.

(2) Therefore, the Colorado general assembly declares that it is beneficial for Colorado students with intellectual and developmental disabilities to create opportunities for inclusive higher education at Colorado institutions by providing financial resources for those institutions to work in collaboration with educational and nonprofit entities that have expertise in intellectual and developmental disabilities and inclusive higher education to develop inclusive higher education programs at Colorado institutions.

Source: L. 2016: Entire article added, (SB 16-196), ch. 226, p. 861, § 1, effective June 6.

23-75-103. Definitions. As used in this article, unless the context otherwise requires:

(1) "Department" means the department of higher education created and existing pursuant to section 24-1-114, C.R.S.

(2) "IN!" means the Colorado initiative for inclusive higher education, which is a stakeholder organization that collaborates with local colleges and universities in Colorado to create the development of inclusive higher education opportunities for students with intellectual and developmental disabilities.

(3) "Inclusive higher education" means institution-approved access to higher education that enables a student with intellectual and developmental disabilities to have all of the rights, responsibilities, privileges, benefits, and outcomes that result from a college experience to the greatest extent possible, including academic success, career development, campus engagement, self-determination, participation in paid work experiences, on- or off-campus living, inclusive social activities, and access to and instruction in technology, resulting in a meaningful credential conferred by the institution.

(4) "JFK Partners" means the program of the university of Colorado school of medicine, Anschutz medical campus, that is designated the university center of excellence in developmental disabilities, education, research, and service program in Colorado.

(5) "Pilot program" means the inclusive higher education pilot program created in section 23-75-104.

Source: L. 2016: Entire article added, (SB 16-196), ch. 226, p. 862, § 1, effective June 6.

23-75-104. Inclusive higher education pilot program - created - annual evaluation. (1) There is created in the department the inclusive higher education pilot program to facilitate the establishment of inclusive higher education programs for students with intellectual and developmental disabilities at certain Colorado institutions of higher education.

(2) The pilot program shall operate at three pilot sites in Colorado, including two sites at four-year institutions and one site at a community college. The pilot sites include the university of northern Colorado, the university of Colorado at Colorado Springs, and Arapahoe community college.

(3) The institutions of higher education participating in the pilot program shall develop pilot programs at the pilot sites that provide inclusive higher education opportunities for students with intellectual and developmental disabilities. The inclusive higher education pilot program at each pilot site may:

(a) Include an institutional assessment to determine training needs, technical assistance, and other capacity needed to provide a higher education program for students with intellectual and developmental disabilities;

(b) Identify state and institution regulations, policies, and practices that foster or impede inclusive higher education;

(c) Offer programming and necessary supports for students with intellectual and developmental disabilities that allow a student to take for credit or to audit a minimum of two on-campus undergraduate courses each semester in his or her chosen area of interest, and to take a course each semester that is designed to meet the needs of students with intellectual and developmental disabilities, resulting upon completion in the award of a certificate from the institution;

(d) To the greatest extent possible, integrate students socially and academically into the normative offerings of the institution and give the student all of the rights and responsibilities of a typically matriculating student;

(e) Include peer mentoring;

(f) Coordinate with available vocational rehabilitation supports through the department of labor and employment;

(g) Be outcome focused, preparing the student for gainful competitive employment;

(h) Include admissions standards that do not require a student to participate in a curriculum-based, achievement college entrance exam that is administered nationwide;

(i) Require the institution of higher education, if the institution has determined that the pilot program is sustainable, to become a certified transition program, as defined in the "Higher Education Opportunity Act", Pub.L. 110-315, giving students in the program access to federal financial aid opportunities; and

(j) Require the institution of higher education to develop a five-year plan for sustainability, including enrollment projections for the inclusive higher education program.

(4) In any fiscal year in which a pilot site or sites offer a pilot program pursuant to this article and in which sufficient money is appropriated by the general assembly for the evaluation

required pursuant to this subsection (4), JFK Partners shall evaluate the development and implementation of the inclusive higher education pilot programs at the pilot sites and shall provide a written report concerning the evaluation to the department.

(5) The institutions of higher education participating in the pilot program, JFK Partners, and IN! are encouraged to participate annually in a statewide summit concerning inclusive higher education to share best practices among the pilot sites with the goal of promoting the development of high-quality inclusive higher education programs statewide.

(6) The department shall allocate to the governing boards of the institutions of higher education participating in and evaluating the pilot program money appropriated to the department by the general assembly for the 2016-17 fiscal year, and for each fiscal year thereafter through the 2020-21 fiscal year, for a limited purpose fee-for-service contract pursuant to section 23-18-308 to implement the pilot program.

(7) Notwithstanding any provision of this article to the contrary, an institution of higher education is not required to implement or operate a pilot program if sufficient money is not appropriated by the general assembly pursuant to this section. In addition, an institution of higher education may cease to operate the pilot program, and the department may request that the general assembly reallocate pilot program appropriations among the pilot sites.

Source: L. 2016: Entire article added, (SB 16-196), ch. 226, p. 863, § 1, effective June 6.

23-75-105. Reporting requirements. (1) The department shall report to the education committees of the house of representatives and of the senate, or their successor committees, and to the joint budget committee concerning the development and implementation of the pilot program. The report shall include a summary of the evaluation of the pilot program pursuant to section 23-75-104 (4) in any year in which a pilot program is operating. The department shall report on the pilot program as part of the department's annual presentation to its legislative committee of reference pursuant to section 2-7-203.

(2) Notwithstanding section 24-1-136 (11)(a)(I), C.R.S., the reporting requirements set forth in this section continue until the pilot program repeals pursuant to section 23-75-106.

Source: L. 2016: Entire article added, (SB 16-196), ch. 226, p. 865, § 1, effective June 6. **L. 2017:** (1) amended, (SB 17-294), ch. 264, p. 1400, § 65, effective May 25.

23-75-106. Repeal of article. This article is repealed, effective July 1, 2021.

Source: L. 2016: Entire article added, (SB 16-196), ch. 226, p. 865, § 1, effective June 6.

ARTICLE 76

Teachers in Rural Colorado

23-76-101. Legislative declaration. (1) The general assembly finds that:

(a) Teachers have a great impact on student achievement. Evidence shows that the quality of teachers can account for the majority of variances in student learning and test scores.

(b) The teaching and learning conditions under which teachers practice their profession, though often overlooked, are essential elements to student achievement and retention. These conditions must be systematically studied and addressed for Colorado to develop a critical mass of teachers who are well prepared to teach and who will remain in hardest-to-staff schools long enough to make a significant difference for students and their families.

(c) Research demonstrates that the negative effects of shortages of teachers and special services providers, as well as distribution challenges, have a disproportionate impact on geographic areas of the state that are classified as "rural". As a result, children in rural areas are more likely to be taught by fewer teachers who must cover an increasingly larger number of subjects and have limited access to critical support services offered by special services providers.

(d) Approved alternative teacher preparation programs are critical for filling teacher shortages in rural schools and school districts across Colorado. Rural school leaders are able to place qualified teacher candidates, including members of their own communities, in classrooms through these alternative teacher preparation programs. Such programs provide the necessary support and coaching to an individual during his or her year-long training and allow alternative teacher candidates to earn initial teacher licensure while serving in classrooms. By helping to fill immediate needs in hard-to-staff rural schools and school districts, and by receiving the necessary training, alternative teacher candidates are able to create a positive, longitudinal impact on students and their families.

(e) Since the beginning of alternative teacher preparation pathways in Colorado, the number of alternative teacher candidates has increased steadily, with one out of every four alternative teacher candidates now completing an alternative teacher preparation program.

(2) The general assembly further finds and declares that, for purposes of section 17 of article IX of the state constitution, implementation of measures designed to improve the quality, recruitment, and retention of teachers and special services providers in the rural areas of Colorado through this article 76 is a critical element of accountable education reform, accountable programs to meet state academic standards, and performance incentives for teachers and special services providers and, therefore, may receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

Source: L. 2016: Entire article added, (SB 16-104), ch. 234, p. 944, § 1, effective June 6. **L. 2018:** Entire section amended, (SB 18-085), ch. 233, p. 1454, § 1, effective August 8.

23-76-102. Definitions. As used in this article 76, unless the context otherwise requires:

(1) "Commission" means the Colorado commission on higher education created in section 23-1-102.

(2) "Educator preparation program" means an educator preparation program approved by the commission pursuant to section 23-1-121 and that upon completion leads to a recommendation for licensure by an accepted institution of higher education in Colorado.

(3) "Institution of higher education" means a public, private, or proprietary postsecondary institution authorized by the commission to offer educator preparation programs.

(4) "Rural school or school district" means a school or school district that the department of education has determined to be rural. "Rural school or school district" includes a charter school or institute charter school that falls within the geographic range of a rural school district, as determined by the department of education.

(5) "Special services provider" means a person, other than a teacher, principal, or administrator, who provides professional services in direct support of an instructional program. "Special services providers" includes speech language pathologists, psychologists, audiologists, occupational therapists, physical therapists, counselors, nurses, and social workers.

Source: L. 2016: Entire article added, (SB 16-104), ch. 234, p. 945, § 1, effective June 6. **L. 2018:** IP amended and (5) added, (SB 18-085), ch. 233, p. 1455, § 2, effective August 8.

23-76-103. Rural education coordinator - request for proposals - reporting requirements. (1) (a) On or before July 1, 2017, the department of higher education shall establish one rural education coordinator to represent a rural region of the state. The rural education coordinator must be based in an institution of higher education. The purpose of the rural education coordinator is to:

(I) Provide an emphasis on access to teacher preparation programs that focus on rural education;

(II) Increase rural teacher recruitment;

(III) Develop an educator pipeline to rural schools and school districts; and

(IV) Provide support mechanisms for rural schools and school districts, boards of cooperative services, and alternative educator preparation providers.

(b) On or before September 1, 2016, the department of higher education, in collaboration with the department of education, the commission, and interested representatives from the education community and rural areas of Colorado, shall develop and release a request for proposals to fund a rural education coordinator. The request for proposals must include criteria for selection, timelines, data collection requirements, and reporting requirements.

(c) On or before January 1, 2017, the department of higher education shall select an institution of higher education to house a rural education coordinator for five years, based on available appropriations. An institution of higher education that has an existing rural education coordinator is eligible to be selected by the department of higher education for funding pursuant to this section.

(2) The selected institution of higher education shall collect data on the work of the rural education coordinator, as required per the request for proposals, and provide a written summary report annually to the department of higher education. Prior to the completion of the five-year funding period, the department of higher education and the department of education shall evaluate the effectiveness of the funded rural education coordinator and make recommendations for continued funding.

Source: L. 2016: Entire article added, (SB 16-104), ch. 234, p. 945, § 1, effective June 6.

23-76-104. Student teachers in rural areas - financial incentives. (1) Subject to available appropriations, the department of higher education shall provide financial stipends annually, not to exceed four thousand dollars per student, to offset tuition costs for individuals in approved educator preparation programs who agree to student teach in a rural school or rural school district of the student teacher's choice. The financial stipends awarded should, to the extent practicable, include persons with disabilities and take into consideration the geographic, racial, and ethnic diversity of the state. Money for the stipends must be allocated from the

department of higher education to the institution of higher education to be credited to the student's account and does not constitute student financial assistance. A student teacher who receives a financial stipend pursuant to this section must agree to work in a rural school or rural school district for at least two years, unless he or she can demonstrate extenuating circumstances that such employment would impose a hardship on him or her. If a recipient of a financial stipend awarded pursuant to this section does not accept an offer of employment to teach in a rural school or rural school district after the completion of his or her student teaching, he or she may, as determined by the department of education on a case-by-case basis, reimburse the department of higher education for two-thirds of the amount of the financial stipend that he or she received. If a recipient of a financial stipend awarded pursuant to this section accepts an offer of employment to teach in a rural school or rural school district but only teaches in a rural school or rural school district for one year and not the required two years, he or she may, as determined by the department of education on a case-by-case basis, reimburse the department of higher education for one-third of the amount of the financial stipend he or she received.

(2) For the 2020-21 fiscal year and each fiscal year thereafter, of the total amount appropriated to fund the programs described in this article 76 and the teaching fellowship programs described in part 3 of article 78 of this title 23, the department of higher education shall allocate to the stipends described in subsection (1) of this section twenty-five percent of the amount remaining after the teaching fellowship programs described in part 3 of article 78 of this title 23 are fully funded for the applicable fiscal year; except that the department may adjust the percentage allocated based on the demand for the stipends described in subsection (1) of this section and for the stipends described in section 23-76-106 and on input received from representatives of rural schools or school districts.

Source: L. 2016: Entire article added, (SB 16-104), ch. 234, p. 946, § 1, effective June 6. **L. 2019:** Entire section amended, (SB 19-009), ch. 48, p. 160, § 1, effective March 25. **L. 2020:** Entire section amended, (SB 20-158), ch. 198, p. 969, § 3, effective June 30.

23-76-105. Teacher cadet program. On or before July 1, 2017, the department of higher education shall establish teacher cadet programs in identified rural schools and school districts. Money may be provided to local school districts, charter schools, or the charter school institute, any of which may contract with a board of cooperative services, to identify and support high school students who are interested in pursuing teaching careers in rural Colorado, including early childhood education. Teacher cadet programs are encouraged to identify students, including students with disabilities, who reflect the geographic, racial, and ethnic diversity of the state. The department of higher education and the department of education shall evaluate the effectiveness of the teacher cadet program every five years.

Source: L. 2016: Entire article added, (SB 16-104), ch. 234, p. 947, § 1, effective June 6. **L. 2019:** Entire section amended, (HB 19-1137), ch. 57, p. 197, § 1, effective August 2.

23-76-106. National board certified teacher stipends - concurrent enrollment stipends - continuing education stipends. (1) The department of higher education shall annually provide financial stipends, not to exceed six thousand dollars each, to any:

(a) Teacher in a rural school or school district who is seeking certification as a national board certified teacher;

(b) Teacher in a rural school or school district who is seeking certification as a concurrent enrollment teacher and who needs additional course work or credentials to obtain such certification;

(c) Teacher completing an alternative licensure program approved by the department of education pursuant to article 60.5 of title 22 that leads to initial licensure in the state of Colorado and full-time employment as a teacher in a rural school or school district that serves rural schools;

(d) Individual seeking to complete the required course work leading to certification as a special services provider and employment in a rural school or school district that is providing services to rural schools; or

(e) Teacher who is employed by a rural school or school district or a rural board of cooperative services and is seeking an additional license endorsement or a master's degree to meet a faculty need of the rural school, school district, or board of cooperative services.

(1.5) If in any one fiscal year, the number of stipend applications submitted pursuant to this section exceeds the total amount appropriated for that fiscal year for stipends awarded pursuant to this section, the department of higher education shall give priority for stipend awards to teachers. After all teacher applications have been funded, stipends may then be awarded to special services providers, subject to available appropriations.

(2) The stipends may be used to offset application fees, evaluation costs, tuition costs, and any additional costs associated with obtaining initial licensure or in support of a teacher's or special services provider's professional development plan; except that the stipends may only be used to offset costs associated with an institution of higher education or an alternative licensure program that is approved by the state board of education. A stipend awarded pursuant to this section does not constitute student financial assistance.

(3) The financial stipends awarded should, to the extent practicable, include persons with disabilities and take into consideration the geographic, racial, and ethnic diversity of the state.

(4) A teacher or a special services provider who receives a stipend pursuant to this section must commit to become or remain employed in a rural school or school district that serves rural schools in the state of Colorado for a minimum of three years.

(5) (a) For the 2020-21 fiscal year and each fiscal year thereafter, of the total amount appropriated to fund the programs described in this article 76 and the teaching fellowship programs described in part 3 of article 78 of this title 23, the department of higher education shall allocate, of the amount remaining after the teaching fellowship programs described in part 3 of article 78 of this title 23 are fully funded for the applicable fiscal year:

(I) Twenty-five percent to the stipends described in subsections (1)(a), (1)(b), and (1)(e) of this section; and

(II) Fifty percent to the stipends described in subsection (1)(c) of this section.

(b) Notwithstanding the provisions of subsection (5)(a) of this section, the department may adjust the percentage allocations based on the demand for the stipends described in subsection (1) of this section and for the stipends described in section 23-76-104 and on input received from representatives of rural schools or school districts. The department may distribute any amount remaining after awarding stipends for teachers to fund the stipends described in subsection (1)(d) of this section.

Source: L. 2016: Entire article added, (SB 16-104), ch. 234, p. 947, § 1, effective June 6. **L. 2018:** Entire section amended, (SB 18-085), ch. 233, p. 1455, § 3, effective August 8. **L. 2019:** IP(1) and (1.5) amended, (SB 19-009), ch. 48, p. 161, § 2, effective March 25. **L. 2020:** (1)(c), (1)(d), and (2) amended and (1)(e) and (5) added, (SB 20-158), ch. 198, p. 970, § 4, effective June 30.

ARTICLE 77

Colorado Student Leaders
Institute Pilot Program

Editor's note: This article 77 was added with relocations in 2017. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this article 77, see the comparative tables located in the back of the index.

23-77-101. Legislative declaration. (1) The general assembly finds that:

(a) The state is committed to increasing the number of students who graduate from a Colorado high school, enroll in a Colorado institution of higher education, and graduate with a postsecondary credential in two to four academic years;

(b) Several states have implemented a summer residential education program for high school students who demonstrate exceptional intellectual curiosity, creativity, and maturity. While participating in the summer program, students attend classes, lectures, seminars, concerts, art exhibits, theatrical performances, and films and have the opportunity to learn independently and from distinguished faculty, staff members, and guest lecturers.

(c) The summer residential education programs implemented in other states have:

(I) Successfully developed a civic voice among the states' best students so that they graduate from high school as civic participants;

(II) Prepared motivated students to participate in a competitive workforce;

(III) Helped to create young leaders who are energized to find solutions for the pressing issues facing their states; and

(IV) Motivated students to remain in their home states for their postsecondary education and careers; and

(d) A high percentage of the students who have participated in the summer residential education programs have subsequently enrolled in postsecondary education in their home states and earned a baccalaureate degree in four years.

(2) The general assembly finds, therefore, that it is in the best interests of the state to establish the Colorado student leaders institute as a pilot program using the model of summer residential education programs implemented in other states and to appropriate state money to ensure the successful operations of the institute for the benefit of Colorado high school students.

(3) The general assembly further finds that, for purposes of section 17 of article IX of the state constitution, the Colorado student leaders institute is an accountable program that assists students in meeting state academic standards and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

Source: L. 2017: Entire article added with relocations, (SB 17-060), ch. 54, p. 167, § 1, effective March 20.

Editor's note: This section is similar to former § 24-44.3-101 as it existed prior to 2017.

23-77-102. Definitions. As used in this article 77, unless the context otherwise requires:

(1) "Executive board" means the executive board of the Colorado student leaders institute established pursuant to section 23-77-104.

(2) "Host institution" means the institution of higher education that the department of higher education contracts with on behalf of the executive board pursuant to section 23-77-104 to operate the institute.

(3) "Institute" means the Colorado student leaders institute created in section 23-77-103.

Source: L. 2017: Entire article added with relocations, (SB 17-060), ch. 54, p. 168, § 1, effective March 20.

Editor's note: This section is similar to former § 24-44.3-102 as it existed prior to 2017.

23-77-103. Colorado student leaders institute - created - applications. (1) There is created in the department of higher education the Colorado student leaders institute. The year-long institute shall operate a competitive residential summer academic program for students who are entering tenth or eleventh grade in the coming fall semester. The program operated by the institute must be for four weeks each summer during which time students who are accepted to the institute attend college-level classes, lectures, and seminars as well as enrichment activities, including concerts and theatrical productions. Each student who is accepted to the institute is encouraged to donate up to four hundred dollars to the institute to assist in meeting operational costs. Subject to available appropriations, up to one hundred students may annually participate in the institute.

(2) (a) The institute shall annually offer classes in at least the following two areas:

(I) Science, technology, engineering, arts, and mathematics; and

(II) International social studies.

(b) The institute shall annually provide enrichment activities for students who participate in the institute, which must include but need not be limited to activities relating to visual expression and music appreciation.

(c) In addition to participating in classes and enrichment activities, students who participate in the institute must:

(I) Complete a history research project for a competition held during the term of the institute; and

(II) Complete a public service practicum that includes a final report of findings and recommendations to the general assembly for legislative action.

(3) (a) (I) To apply to participate in the institute:

(A) A student who is enrolled in a public school that is not a charter school must be nominated by the superintendent of the school district in which the student is enrolled; and

(B) A student who is enrolled in a charter school or in a private school must be nominated by the principal of the school.

(II) A student who is participating in a nonpublic home-based educational program, as described in section 22-33-104.5, may apply without having been nominated.

(b) To apply to participate in the institute, a student must submit an application to the executive board that is in the form and meets the requirements established by the host institution. If the applying student is enrolled in a public school, the student must submit a copy of his or her individual career and academic plan, as described in section 22-2-136, with the application.

(4) The host institution shall award three hours of postsecondary academic credit to each student who successfully completes the institute. The school district or high school in which each student is enrolled is encouraged to apply the academic credit hours that a student receives for completing the institute toward academic credit hours earned in civics, to apply toward the completion of the student's high school graduation requirements.

Source: L. 2017: Entire article added with relocations, (SB 17-060), ch. 54, p. 168, § 1, effective March 20. **L. 2019:** (1) and (4) amended, (SB 19-137), ch. 152, p. 1804, § 1, effective May 10.

Editor's note: This section is similar to former § 24-44.3-103 as it existed prior to 2017.

23-77-104. Colorado student leaders institute - executive board - duties. (1) An executive board appointed pursuant to subsection (2) of this section shall oversee the operations of the institute, including contracting through the department of higher education with the host institution and annually selecting students to participate in the institute.

(2) (a) The executive board consists of eleven members as follows:

(I) The governor, with the consent of the senate, shall appoint eight persons to serve as members of the executive board as follows:

(A) Two persons who are employed as educators in high schools in Colorado, one of whom is employed in a rural school district;

(B) Two persons who are employed as teaching faculty or administrators in an institution of higher education in Colorado; and

(C) Four persons from the community who have interest or experience in education; and

(II) The commissioner of education or his or her designee, the executive director of the department of higher education or his or her designee, and the chief executive officer of the host institution or his or her designee shall serve as members of the executive board.

(b) The appointed members of the executive board serve two-year terms and may be appointed to successive two-year terms; except that, of the members first appointed, the governor shall select four members to serve one-year terms. The appointed members of the executive board serve at the pleasure of the governor. If a vacancy arises on the executive board, the governor shall appoint a person to fill the vacancy for the remainder of the term.

(c) The members of the executive board serve without compensation and without reimbursement for expenses.

(d) The governor shall appoint the initial members to the executive board as soon as possible after June 6, 2015. In making appointments, the governor shall attempt to appoint persons who are representative of the gender and racial diversity within the state and who represent areas throughout the state.

(e) Repealed.

(3) The executive board has the following duties and powers:

(a) The executive board shall oversee and direct the operations of the institute, including reviewing the student applications received, annually selecting students to participate in the institute, and annually selecting the faculty and courses for the institute, taking into account the recommendations of the host institution. In reviewing applications and selecting students to participate in the institute, the executive board shall ensure that:

(I) At least fifty percent of the students selected to attend the institute each year:

(A) Are eligible for free or reduced-price lunch pursuant to the federal "Richard B. Russell National School Lunch Act", 42 U.S.C. sec. 1751 et seq.; or

(B) Would be the first generation in their immediate families to attend an institution of higher education;

(II) The students who are selected reside in areas throughout the state; are representative of the gender, ethnic, racial, and socioeconomic diversity of the state; and are representative of the educational program options available throughout the state; and

(III) The students who are selected demonstrate, through their individual career and academic plans for students enrolled in public schools, a commitment to continuing in postsecondary education after high school graduation.

(b) (I) The department of higher education, on behalf of the executive board, shall issue a request for proposals for a public or private institution of higher education to host the institute. The department, working with the executive board, shall select and enter into a contract on behalf of the executive board and the institute with the public or private institution of higher education in accordance with the applicable provisions of the "Procurement Code", articles 101 to 112 of title 24. The department may enter into a multi-year contract with a public or private institution of higher education, subject to annual review and renewal.

(II) The contract to host the institute must require the host institution, at a minimum, to provide the following services in managing the institute:

(A) Establish requirements for and create the form of the applications that students submit to participate in the institute and establish the timelines for submitting applications and selecting participants;

(B) Review applications received from students and recommend participants to the executive board;

(C) Annually solicit educators to participate as faculty for the institute and annually recommend to the executive board faculty and courses for the institute;

(D) Provide space for classes, lectures, and seminars; and

(E) Provide living and eating facilities for students who participate in the institute.

(c) The executive board may appoint an advisory board consisting of persons in the community who are supportive of education to assist the executive board in marketing the institute and soliciting public and private gifts, grants, and donations for the institute. Any persons appointed to an advisory board pursuant to this subsection (3)(c) serve without compensation and without reimbursement for expenses.

(d) Beginning in the 2017 regular legislative session, the executive board shall annually report to the education committees of the house of representatives and the senate, or any successor committees, the executive board's progress and success in implementing the institute. The executive board must, at a minimum, report the success of the institute as measured by the enrollment and progress of institute alumni in postsecondary educational programs.

Source: L. 2017: Entire article added with relocations, (SB 17-060), ch. 54, p. 169, § 1, effective March 20.

Editor's note: (1) This section is similar to former § 24-44.3-104 as it existed prior to 2017.

(2) Subsection (2)(e)(II) provided for the repeal of subsection (2)(e), effective July 1, 2018. (See L. 2017, p. 169.)

23-77-105. Colorado student leaders institute - funding - cash fund created. (1) The general assembly shall annually appropriate money to the department of higher education for the institute to pay the direct and indirect costs that the executive board incurs in operating the institute, including costs relating to the host institution and stipends for the institute faculty members.

(2) (a) In addition to the amount appropriated pursuant to subsection (1) of this section, the executive board, with the assistance of an advisory board if appointed, may solicit, accept, and expend public or private gifts, grants, or donations to implement the institute. The executive board shall transmit any money that it receives pursuant to this subsection (2)(a) and any money it receives from participating students to the state treasurer. The state treasurer shall deposit the money in the Colorado student leaders institute cash fund, referred to in this section as the "cash fund", which is created in the state treasury. Annual operation of the institute is conditional upon receiving at least forty thousand dollars in gifts, grants, or donations by June 1 of each year.

(b) The money in the cash fund is continuously appropriated to the executive board for the direct and indirect costs incurred in implementing the institute. The state treasurer may invest as provided by law any money in the cash fund that is not expended for the purposes of this article 77. The state treasurer shall credit to the cash fund all interest and income derived from the investment and deposit of money in the cash fund. Any unexpended and unencumbered money remaining in the cash fund at the end of a fiscal year must remain in the cash fund and shall not be credited to another fund; except that the state treasurer shall credit any unexpended and unencumbered money remaining in the fund as of June 30, 2024, to the state education fund created in section 17 (4) of article IX of the state constitution.

Source: L. 2017: Entire article added with relocations, (SB 17-060), ch. 54, p. 172, § 1, effective March 20. **L. 2019:** (2)(b) amended, (SB 19-137), ch. 152, p. 1805, § 2, effective May 10.

Editor's note: This section is similar to former § 24-44.3-105 as it existed prior to 2017.

23-77-106. Repeal of article. This article 77 is repealed, effective July 1, 2024.

Source: L. 2017: Entire article added with relocations, (SB 17-060), ch. 54, p. 172, § 1, effective March 20. **L. 2019:** Entire section amended, (SB 19-137), ch. 152, p. 1805, § 3, effective May 10.

Editor's note: This section is similar to former § 24-44.3-106 as it existed prior to 2017.

ARTICLE 78

Teacher Preparation Programs

Editor's note: This article 78 was added with relocations in 2019. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this article 78, see the comparative tables located in the back of the index.

PART 1

GENERAL PROVISIONS

23-78-101. Short title. The short title of this article 78 is the "Growing Great Teachers Act".

Source: L. 2019: Entire article added with relocations, (SB 19-190), ch. 153, p. 1806, § 1, effective May 10.

23-78-102. Legislative declaration. (1) The general assembly finds that:

(a) High-quality teaching is the linchpin for effective, high-quality education in the schools of the state. To be an excellent, effective educator, an individual must receive comprehensive, rigorous, and effective training in the art and science of teaching and in the skills and subjects that the individual will teach.

(b) Local education providers who hire teachers who have not completed an adequate preparation program, including high-quality clinical practice, are likely to experience a high turnover rate because new teachers who are not well trained leave the profession in their first year of teaching at more than twice the rate of those who have had clinical practice and rigorous preparation;

(c) Student achievement is likely to suffer when teachers are not well prepared for the challenges of the classroom and when teachers do not remain on the job for more than one or two years. In addition, schools with high teacher turnover rates struggle to make long-term improvement.

(d) Research suggests that an effective teacher preparation program should include opportunities for teacher candidates to spend time in the classroom beginning in the first year of the program and continuing and increasing throughout the program, culminating in a full year of clinical practice using a classroom residency model in the final year of the program; and

(e) To be effective, clinical practice must be directed and mentored by an experienced, high-quality master teacher who devotes significant time to working with the teacher candidate. These master teachers should receive training for the role of mentor teacher that results in a license endorsement as well as meaningful compensation for the time spent working with a teacher candidate and sufficient time within the daily work schedule to spend with the teacher candidate.

(2) The general assembly finds, therefore, that it is appropriate to direct the department of education and the department of higher education to collaborate with local education providers, approved educator preparation programs, alternative teacher programs, and other

interested parties to identify best practices in providing comprehensive, rigorous, and effective teacher preparation and guidelines for implementing these best practices. The general assembly further finds that it is in the best interests of the state to establish a grant program to provide funding for training and reimbursements for mentor teachers who provide guidance and oversight for teacher candidates while they participate in clinical practice.

Source: L. 2019: Entire article added with relocations, (SB 19-190), ch. 153, p. 1806, § 1, effective May 10.

23-78-103. Definitions. As used in this part 1, unless the context otherwise requires:

(1) "Alternative teacher program" has the same meaning as provided in section 22-60.5-102.

(2) "Approved educator preparation program" means an educator preparation program for teachers that the commission on higher education has reviewed pursuant to section 23-1-121 and determined meets the performance-based standards established by the commission pursuant to section 23-1-121 and the requirements of section 23-1-108.

(3) "Clinical practice" means practical, field-based experience that a teacher candidate gains through working in a classroom under the direct supervision of a mentor teacher.

(4) "Commission" means the Colorado commission on higher education established in section 23-1-102.

(5) "Educator preparation program" or "program" means an alternative teacher program or an approved educator preparation program.

(6) "Institution of higher education" or "institution" means a public, private, or proprietary postsecondary institution authorized by the commission on higher education to offer educator preparation programs.

(7) "Local education provider" means a school district organized pursuant to article 30 of title 22; a board of cooperative services, created pursuant to article 5 of title 22, that operates a public school; or a charter school that is authorized by a school district pursuant to part 1 of article 30.5 of title 22 or by the state charter school institute pursuant to part 5 of article 30.5 of title 22.

(8) "Master certificate" means the certificate issued by the department of education pursuant to section 22-60.5-202 and the implementing rules of the state board of education, which recognizes professional teacher licensees who are involved in ongoing professional development and training and who have advanced competencies or expertise or who have demonstrated outstanding achievements.

(9) "National-board certified" means that a teacher holds a certification from the national board for professional teaching standards.

(10) "State board" means the state board of education created in section 1 of article IX of the state constitution.

(11) "Teacher candidate" means a person who is enrolled in an educator preparation program for teaching.

Source: L. 2019: Entire article added with relocations, (SB 19-190), ch. 153, p. 1807, § 1, effective May 10.

23-78-104. Educator preparation program - best practices - guidelines - report. (1) The department of higher education and the department of education, in collaboration with the deans of the schools of education in Colorado institutions of higher education, or their designees, shall review research and practices from other states and other countries to identify best practices in providing educator preparation programs, including effective curricula, teaching teacher candidates the science of teaching reading and strategies to ensure all students learn to read, course scope and sequence, and timing of and effective practices in providing clinical practice. The departments and deans, or their designees, shall work with persons who implement alternative teacher programs, local education providers, teachers, and other interested parties in identifying the best practices. No later than January 1, 2020, the departments shall jointly adopt guidelines to assist educator preparation programs in adopting and implementing the best practices, including best practices to ensure that teacher candidates are well trained to teach students to read.

(2) The department of higher education and the department of education shall jointly prepare a report concerning the identified best practices, the adopted guidelines, and regulatory and legislative recommendations to ensure that the policies and criteria for reviewing and approving educator preparation programs pursuant to sections 22-2-109 (5), 22-60.5-115 (2), 22-60.5-205 (3), and 23-1-121 align with the identified best practices and are designed to determine the degree to which educator preparation programs are implementing the best practices. On or before January 15, 2020, the departments shall submit the report to the commission, the state board, and the education committees of the house of representatives and the senate, or any successor committees. To the extent necessary, the commission shall amend its guidelines and the state board shall amend its rules to align with the best practices.

(3) On or before March 1, 2020, each educator preparation program shall submit to the department of higher education and the department of education a plan demonstrating how the educator preparation program expects to phase in implementation of the identified best practices over the following three academic years.

Source: L. 2019: Entire article added with relocations, (SB 19-190), ch. 153, p. 1808, § 1, effective May 10.

23-78-105. Teacher mentor grant program - created - standards - report. (1) There is created in the department of higher education the teacher mentor grant program to provide money to partnering local education providers and educator preparation programs to provide training and stipends for teachers who serve as mentors for teacher candidates participating in clinical practice. Subject to available appropriations and qualifying applications, the department of higher education shall award grants beginning in the 2019-20 budget year. The department shall establish the duration of each grant as a period of up to three budget years, subject to annual review and renewal.

(2) A partnership consisting of at least one local education provider and at least one educator preparation program may submit an application for a grant to the department of higher education in accordance with guidelines adopted by the department. The department shall establish the application requirements, which must include a plan by which the applicant intends to sustain the teacher mentor program after the grant period ends. In selecting grant recipients, the department shall ensure, to the extent practicable, that the grant recipients include applicants

of varying size from rural, urban, and suburban areas across the state. The department may award grants only to those applicants that commit to implementing a teacher mentor program that:

(a) Recruits only teachers who have at least three years of experience teaching and, to the extent practicable:

(I) Are rated effective or higher through a licensed personnel performance evaluation system pursuant to article 9 of title 22; and

(II) Hold a master certificate or are national-board certified;

(b) Provides training in mentoring best practices, as identified pursuant to subsection (3) of this section, for all teachers who are recruited to serve as mentor teachers;

(c) Ensures that the employing local education provider provides time within the mentor teacher's schedule to provide oversight and support for the teacher candidate;

(d) Pays each mentor teacher a stipend of at least two thousand dollars per school year or at least two thousand five hundred dollars per school year if the mentor teacher holds a master certificate or is national-board certified;

(e) In addition to mentoring teacher candidates, provides mentoring for newly employed teachers through an induction program for at least two school years after employment; and

(f) Collects and provides to the department of higher education nonidentifying data concerning teacher effectiveness ratings, retention, and other job-satisfaction and success measures, as described by the department, for teachers who receive mentoring through the teacher mentor program.

(3) The department of higher education and the department of education, in collaboration, shall work with the deans of the schools of education in Colorado institutions of higher education, or their designees, persons who implement alternative teacher programs, local education providers, teachers, and other interested parties to identify best practice standards and guidelines for teacher mentoring. The department of higher education shall adopt the standards and guidelines and make them available to local education providers and educator preparation programs by January 1, 2020, and shall review and update the standards as necessary. A teacher residency program, operating pursuant to article 60.3 of title 22, or a teaching fellowship program, operating pursuant to part 3 of this article 78, that provides mentoring for teacher candidates that meets the standards adopted pursuant to this subsection (3) may apply to receive a grant through the teacher mentor grant program, subject to the requirements specified in this section.

(4) (a) Beginning in the 2020-21 budget year, the department of higher education shall annually prepare a report concerning the implementation of the teacher mentor grant program. The report must include:

(I) The number, amount, and duration of the grants awarded and the names of educator preparation programs and local education providers participating in the grant recipient partnerships;

(II) A summary of the information received from grant recipients pursuant to subsection (2)(f) of this section; and

(III) Any regulatory or legislative recommendations for improving the implementation of teacher mentor programs across the state.

(b) Notwithstanding the provisions of section 24-1-136 (11)(a)(I), on or before January 15, 2021, and on or before January 15 each year thereafter, the department of higher education

shall submit the report to the commission, the department of education, the state board, and the education committees of the house of representatives and the senate, or any successor committees.

(5) The general assembly shall annually appropriate money to the department of higher education to implement the teacher mentor grant program, including an amount to pay the direct administrative costs incurred in implementing the teacher mentor grant program.

Source: L. 2019: Entire article added with relocations, (SB 19-190), ch. 153, p. 1809, § 1, effective May 10. **L. 2020:** (3) amended, (HB 20-1418), ch. 197, p. 944, § 16, effective June 30.

Cross references: For the legislative declaration in HB 20-1418, see section 1 of chapter 197, Session Laws of Colorado 2020.

PART 2

COLLABORATIVE EDUCATOR PREPARATION
GRANT PROGRAM

23-78-201. Legislative declaration. The general assembly finds that, after studying the teacher shortage issue in Colorado, the department of higher education and the department of education concluded that one strategy for addressing the issue is to promote collaboration among educator preparation programs, alternative teacher programs, school districts, boards of cooperative services, and public schools to facilitate more effective preparation, placement, and retention of educators. The general assembly finds, therefore, that it is appropriate to create a grant program to support educator preparation partnerships involving educator preparation programs, alternative teacher programs, school districts, boards of cooperative services, and public schools to provide targeted educator preparation initiatives that improve the quality and applicability of educator preparation and the intentional placement of newly trained educators with school districts and public schools.

Source: L. 2019: Entire article added with relocations, (SB 19-190), ch. 153, p. 1811, § 1, effective May 10.

Editor's note: This section is similar to former § 23-1-120.9 (1) as it existed prior to 2019.

23-78-202. Definitions. As used in this part 2, unless the context otherwise requires:

(1) "Board of cooperative services" means a board of cooperative services created and existing pursuant to article 5 of title 22.

(2) "Educator preparation program" means an approved educator preparation program as defined in section 23-1-121 or an alternative teacher program as defined in section 22-60.5-102.

(3) "Local education provider" means a school district, board of cooperative services, or public school.

(4) "Public school" means a school that derives its support, in whole or in part, from money raised by a general state or school district tax and includes a school of a school district, a public school operated by a board of cooperative services, and an institute charter school authorized by the state charter school institute pursuant to part 5 of article 30.5 of title 22.

(5) "School district" means a school district organized and existing pursuant to law but does not include a local college district.

Source: L. 2019: Entire article added with relocations, (SB 19-190), ch. 153, p. 1811, § 1, effective May 10.

Editor's note: This section is similar to former § 23-1-120.9 (2) as it existed prior to 2019.

23-78-203. Collaborative educator preparation grant program - created - reporting. (1) There is created in the department the collaborative educator preparation grant program to support development and implementation of targeted educator preparation initiatives by partnerships of educator preparation programs and local education providers to prepare educators specifically for employment by the partnering local education providers. Subject to available appropriations, the department shall award grants to partnerships of local education providers and educator preparation programs to fund educator preparation initiatives developed as provided in subsection (2) of this section.

(2) Beginning in August of 2018, the department, working with the rural education coordinator established pursuant to section 23-76-103, shall convene meetings between local education providers and educator preparation programs to assist them in developing joint, targeted educator preparation initiatives to submit for grant funding. The department may contract with one or more other entities to assist local education providers and educator preparation programs in developing initiatives. An educator preparation initiative may include but need not be limited to the following strategies:

(a) Teacher residency programs developed and operated jointly by an educator preparation program and a partnering local education provider;

(b) Programs to provide educator preparation for paraprofessionals already employed by the partnering local education provider or for students enrolled by or graduating from the partnering local education provider;

(c) Programs to support educator preparation specifically for local education providers in rural areas of the state;

(d) The use of technology to support long-distance supervision and support for educator candidates and newly licensed educators;

(e) Creation of a dual licensure preparation program to prepare an individual to meet multiple needs of a partnering local education provider; and

(f) Other activities or initiatives to align educator preparation programs and activities with the specific needs of the partnering local education providers.

(3) The department shall review the grant initiatives submitted by partnering educator preparation programs and local education providers, and developed as provided in subsection (2) of this section, and, subject to available appropriations, award one-time grants to the partnering educator preparation programs and local education providers. In awarding grants, the department

shall consider the quality of the initiative, the level of difficulty demonstrated by the local education provider in attracting and retaining educators, the likelihood that the initiative will assist the local education provider in attracting and retaining educators to address particular educator shortages, the likelihood that the initiative will contribute to better student outcomes, and the provisions included for continuing the initiative after the grant money is no longer available.

(4) (a) Each partnership that receives a grant shall submit a report to the department concerning implementation of the grant initiative, which must include at a minimum:

(I) A description of the strategies implemented using the grant money;

(II) The number of educator candidates and newly licensed educators served; and

(III) An evaluation of the success of the strategies in improving the quality of preparation, meeting the needs of the partnering local education provider, and improving the retention of educators by the partnering local education provider, to the extent such information is available.

(b) On or before November 1, 2020, the department shall prepare and submit to the joint budget committee and the education committees of the house of representatives and the senate, or any successor committees, a report concerning the implementation of the collaborative educator preparation grant program. The report must include a summary of the information received from grant recipients pursuant to subsection (4)(a) of this section and an evaluation of the effect of the grant program in increasing educator quality and educator retention and in reducing the educator shortage in the state.

(5) The general assembly shall appropriate money for the 2018-19 fiscal year to implement this section. Any unexpended and unencumbered money from the appropriation made for the purposes of this section remains available for expenditure by the department for the purposes of this section in the 2019-20 fiscal year without further appropriation.

Source: L. 2019: Entire article added with relocations, (SB 19-190), ch. 153, p. 1812, § 1, effective May 10.

Editor's note: This section is similar to former § 23-1-120.9 (3) to (7) as it existed prior to 2019. For a detailed comparison of this section, see the comparative tables located in the back of the index.

23-78-204. Repeal of part. This part 2 is repealed, effective July 1, 2021.

Source: L. 2019: Entire article added with relocations, (SB 19-190), ch. 153, p. 1813, § 1, effective May 10.

Editor's note: This section is similar to former § 23-1-120.9 (8) as it existed prior to 2019.

PART 3

TEACHING FELLOWSHIP PROGRAMS

23-78-301. Short title. The short title of this part 3 is the "Rural Colorado Grow Your Own Educator Act".

Source: L. 2019: Entire article added with relocations, (SB 19-190), ch. 153, p. 1813, § 1, effective May 10.

Editor's note: This section is similar to former § 23-3.9-201 as it existed prior to 2019.

23-78-302. Legislative declaration. (1) The general assembly finds that:

(a) A shortage in the availability of teachers to fill teaching positions in rural local education providers is causing a significant hardship for rural local education providers;

(b) The shortage is due, in part, to the high rate of turnover of teachers entering and leaving the profession. Following graduation and initial employment, a high percentage of teachers leave the profession within five years.

(c) The shortage in some rural local education providers also arises because teachers, after teaching in the rural local education provider for a few years, choose to relocate to a more urban area or to an area with a lower cost of living;

(d) A program through which a rural local education provider and an institution of higher education enter into an agreement to provide a teaching fellowship in the rural local education provider for selected teacher candidates in their final year of an approved educator preparation program, which leads to employment by the rural local education provider upon graduation, will help to ensure that teachers are well prepared to meet the rural local education provider's needs and expectations, have met specific competencies the rural local education provider identified as being necessary, and are acclimated into the rural local education provider upon hiring. A teacher who receives this level of specific preparation for employment with a specific employer is more likely to remain in the profession and thereby help to reduce the teacher shortage.

(e) In selecting teacher candidates to participate in a teaching fellowship program, a rural local education provider and an institution of higher education should give preference to applicants who resided within the area surrounding the rural local education provider before attending a higher education institution and are seeking the opportunity to return to the local education provider as a teacher.

Source: L. 2019: Entire article added with relocations, (SB 19-190), ch. 153, p. 1813, § 1, effective May 10.

Editor's note: This section is similar to former § 23-3.9-202 as it existed prior to 2019.

23-78-303. Definitions. As used in this part 3, unless the context otherwise requires:

(1) "Agreement" means a teaching fellowship program agreement as described in section 23-78-305.

(2) "Approved educator preparation program" has the same meaning as provided in section 23-1-121.

(3) "Eligible student" means an in-state student, as defined in section 23-7-102, who is enrolled in the final year of an approved educator preparation program at an institution of higher education.

(4) "Institution of higher education" or "institution" means:

(a) A state institution of higher education, as defined in section 23-18-102;

(b) A local district college that offers an approved educator preparation program; or

(c) A private college or university, as defined in section 23-2-102, that is authorized pursuant to article 2 of this title 23 and offers an approved educator preparation program.

(5) "Rural charter school" means a charter school that is authorized by a rural school district pursuant to part 1 of article 30.5 of title 22 or an institute charter school that is authorized by the state charter school institute pursuant to part 5 of article 30.5 of title 22 and is located within a rural school district.

(6) "Rural local education provider" means a rural school district, a rural charter school, or a board of cooperative services that operates a public school that is located within a rural school district.

(7) "Rural school district" means a school district in Colorado that the department of education determines is rural, based on the geographic size of the school district and the distance of the school district from the nearest large, urbanized area.

(8) "Stipend" means a teaching fellowship stipend distributed to a teaching fellow as wages for employment or as state-based financial aid as provided in section 23-78-306.

(9) "Teaching fellow" means an eligible student who participates in a teaching fellowship program.

(10) "Teaching fellowship program" or "program" means a teaching fellowship program created by a rural local education provider and an institution of higher education pursuant to an agreement as described in section 23-78-305.

Source: L. 2019: Entire article added with relocations, (SB 19-190), ch. 153, p. 1814, § 1, effective May 10. **L. 2020:** (8) amended, (SB 20-158), ch. 198, p. 971, § 5, effective June 30.

Editor's note: This section is similar to former § 23-3.9-203 as it existed prior to 2019.

23-78-304. Department of education - eligible rural local education provider - identified. Within thirty days after May 25, 2018, the department of education shall identify geographic areas of the state and specific subject areas and grade levels for which there are critical shortages of qualified teachers to fill elementary and secondary teaching positions in public schools. The department shall post a map showing the identified geographic areas and a list of the identified subjects on the department website. The department shall annually review the pertinent data and update the identified geographic areas and subjects as appropriate.

Source: L. 2019: Entire article added with relocations, (SB 19-190), ch. 153, p. 1815, § 1, effective May 10.

Editor's note: This section is similar to former § 23-3.9-204 as it existed prior to 2019.

23-78-305. Teaching fellowship program - agreements - requirements - report. (1) The governing board of a rural local education provider may enter into an agreement with an institution of higher education to create a teaching fellowship program if the rural local education provider:

(a) Is located within one of the geographic areas, or is seeking to fill a teaching position in one of the subjects, identified by the department of education pursuant to section 23-78-304;

(b) Demonstrates a serious, chronic difficulty in hiring or retaining teachers; and

(c) Demonstrates a level of financial need that makes payment of fifty percent of a teaching fellow's stipend a hardship for the rural local education provider.

(2) At a minimum, each agreement must describe the roles and expectations of the rural local education provider and the institution of higher education in implementing the program, including at a minimum:

(a) The commitment of the rural local education provider and the institution of higher education to jointly design an individualized, one-year teaching fellowship for each teaching fellow who is selected, which fellowship is designed to meet the needs of both the rural local education provider and the teaching fellow. At a minimum, the design must include:

(I) An evaluation at the beginning of the fellowship year of each applying eligible student's strengths and areas for growth and improvement, the needs of the rural local education provider, and the competencies that the applying eligible student, if selected, must master over the course of the fellowship year, which the rural local education provider and the institution of higher education use, in part, for determining whether the eligible student is well-matched with the rural local education provider;

(II) Joint selection by the rural local education provider and the institution of higher education of each teaching fellow and any criteria, in addition to that identified in subsection (2)(a)(I) of this section, that they apply in selecting the teaching fellows. The rural local education provider and the institution may give priority to an applying eligible student who resided within the area surrounding the rural local education provider before attending the institution and seeks to return to the rural local education provider as a teacher.

(III) Identification of the competencies that each teaching fellow is expected to master by the completion of the fellowship year, which are in addition to the teacher quality standards adopted by the state board of education pursuant to section 22-2-109 and reflect the unique needs of the rural local education provider;

(IV) Explanation of how the rural local education provider and the institution of higher education will support the teaching fellow in mastering the identified competencies;

(V) Assignment by the rural local education provider of an experienced, nonprobationary teacher who has received a highly effective rating through the rural local education provider's performance evaluation system implemented pursuant to section 22-9-106 to act as a supervising teacher for the teaching fellow; and

(VI) Inclusion of the teaching fellow in the range of activities expected of the teachers employed by the rural local education provider, including at a minimum professional development opportunities and the rural local education provider's new teacher induction program;

(b) The commitment of the rural local education provider to extend an offer of employment to each teaching fellow who successfully completes the fellowship year, as determined by the rural local education provider based on the teaching fellow's mastery of the

competencies, satisfactory completion of assigned duties, completion of graduation requirements, and attainment of an initial teacher license as provided in article 60.5 of title 22;

(c) The commitment of the institution of higher education to:

(I) Provide a stipend to each selected teaching fellow as provided in section 23-78-306;

(II) Disburse the stipend using the standard methods for allocating state-based financial aid or as wages for employment, as selected by the teaching fellow pursuant to subsection (3) of this section; and

(III) Award to the teaching fellow course credits for the fellowship and ensure the teaching fellow has the opportunity to complete during the fellowship year any other course work or other requirements to complete the approved educator preparation program in which the teaching fellow is enrolled; and

(d) The acknowledgment of the rural local education provider and the institution of higher education that either party may cancel the agreement at any time for any reason. The agreement must specify the responsibilities of each party if either cancels the agreement, including at a minimum the responsibilities owed to a teaching fellow if the agreement is cancelled during his or her fellowship year.

(3) During the one-year teaching fellowship, each teaching fellow is expected to complete the approved educator preparation program in which he or she is enrolled and any additional requirements for completing his or her postsecondary credential. Each teaching fellow must choose whether to have a stipend awarded as state-based financial aid or as wages for employment. Each teaching fellow must commit to at least two full school years of employment by the rural local education provider following completion of the fellowship year if the teaching fellow receives an offer of employment from the rural local education provider for each of the two school years. A teaching fellow who receives offers of employment for both school years and does not complete the two full school years of employment must repay the amount received as a stipend during the fellowship year.

(4) A rural local education provider that is located within one of the geographic areas, or that is seeking to fill a teaching position in one of the subjects, identified by the department of education pursuant to section 23-78-304, may enter into agreements with multiple institutions of higher education. A rural local education provider may enter into an agreement with an institution of higher education regardless of whether the rural local education provider is located within the institution's service area. A rural local education provider may seek assistance from the department of higher education in identifying an appropriate institution of higher education with which to enter into an agreement.

(5) (a) The rural local education provider and institution of higher education that enter into an agreement shall annually prepare a report concerning the implementation of the agreement. The report, at a minimum, must include:

(I) The number of teaching fellows participating in the program and the subjects they were teaching;

(II) Whether the teaching fellows mastered the competencies identified by the rural local education provider and the institution of higher education;

(III) The effectiveness of the agreement and any modifications necessary to improve the quality of the teaching fellowship program;

(IV) Whether the participating rural local education provider employed the teaching fellow at the completion of the fellowship and the number of years the teaching fellow remains employed with the rural local education provider, to the extent the information is available; and

(V) If available, data concerning the performance of teaching fellows after they are employed by the rural local education provider.

(b) A rural local education provider and an institution of higher education that enter into an agreement shall annually decide whether to renew the agreement for the upcoming school year and may modify the agreement as appropriate.

(6) An institution of higher education that enters into an agreement shall file the finalized agreement, notices of renewal of the agreement, any modifications to the agreement, documentation of the participating rural local education provider's chronic hiring difficulty and financial need, and copies of the annual report with the department of higher education.

Source: L. 2019: Entire article added with relocations, (SB 19-190), ch. 153, p. 1815, § 1, effective May 10. **L. 2020:** (2)(c)(II) and (3) amended, (SB 20-158), ch. 198, p. 971, § 6, effective June 30.

Editor's note: This section is similar to former § 23-3.9-205 as it existed prior to 2019.

23-78-306. Teaching fellowship stipends - amount - funding. (1) Subject to available appropriations, up to one hundred teaching fellows per year, selected as provided in subsection (2) of this section, shall receive financial assistance in the form of a stipend in the amount of ten thousand dollars disbursed during the fellowship year. As provided in section 23-78-305 (3), the teaching fellow must choose whether the stipend is awarded as state-based financial aid or as wages for employment. In either case, the stipend is awarded without regard to need and is in addition to any other financial assistance that may be available to the teaching fellow. A teaching fellow may apply the stipend to pay the costs of attendance during the year in which he or she participates in the teaching fellowship program.

(2) The teaching fellowship stipends shall be paid fifty percent by the department of higher education from the amount appropriated for this part 3 and fifty percent by the participating institution of higher education. An institution of higher education that participates in a teaching fellowship program shall notify the department of higher education of the enrollment of each student who enters into a teaching fellowship program. Based on the level of chronic hiring difficulty and financial need demonstrated by each participating rural local education provider, the department shall annually select up to one hundred students enrolled in teaching fellowship programs to receive the stipend and shall forward to the institution fifty percent of the amount of the stipend for each selected student. The institution shall provide the remaining fifty percent of the stipend and disburse one hundred percent of each stipend to the selected teaching fellows as provided in section 23-78-305 (2)(c).

(3) If, upon completion of a teaching fellowship program, a teaching fellow does not accept an offer of employment made by the participating rural local education provider, or does not complete two full school years of employment as required in section 23-78-305 (3), the teaching fellow must repay the amount received as a stipend during the teaching fellowship year in accordance with terms established by the participating institution of higher education, and

upon receipt of repayment the institution shall refund to the department of higher education the amount of the stipend.

(4) The general assembly shall annually appropriate to the department of higher education the amount required to implement the teaching fellowship programs as provided in this part 3. Any unexpended and unencumbered money from an appropriation made for the purposes of this part 3 for a state fiscal year commencing prior to July 1, 2020, remains available for expenditure by the department for the purposes of this part 3 and for the purposes of sections 23-76-104 and 23-76-106 in the next fiscal year without further appropriation.

Source: L. 2019: Entire article added with relocations, (SB 19-190), ch. 153, p. 1818, § 1, effective May 10. **L. 2020:** Entire section amended, (SB 20-158), ch. 198, p. 971, § 7, effective June 30.

Editor's note: This section is similar to former § 23-3.9-206 as it existed prior to 2019.

23-78-307. Department of higher education - review of agreements - report. (1) The department of higher education shall review each agreement, and any modifications to the agreement, that it receives from an institution of higher education to ensure that the agreement meets the minimum requirements specified in section 23-78-305. If the department finds that an agreement does not meet the requirements, it shall return the agreement to the appropriate rural local education provider and institution of higher education for modification.

(2) The department of higher education shall review the annual report received concerning each teaching fellowship program and submit an annual summary report to the state board of education, the Colorado commission on higher education, the joint budget committee of the general assembly, and the education committees of the house of representatives and the senate, or any successor committees. The department of higher education shall prepare and submit the summary report annually, notwithstanding section 24-1-136 (11)(a)(I), as part of the report required in section 23-1-121 (6). At a minimum, the summary report must include:

(a) Data concerning implementation of the teaching fellowship programs across the state, including:

(I) The participating rural local education providers and institutions of higher education;

(II) The number of teaching fellows; and

(III) The subjects and grade levels that the fellows are teaching; and

(b) An evaluation of the effectiveness of the teaching fellowship programs in reducing the shortage of teachers in the state, based at least in part on the number of teaching fellows who are employed by the participating rural local education providers at the completion of the fellowship, the number who remain employed through subsequent years, and the level of performance of the persons who are employed as teachers following completion of a teaching fellowship, to the extent the data is available.

Source: L. 2019: Entire article added with relocations, (SB 19-190), ch. 153, p. 1819, § 1, effective May 10.

Editor's note: This section is similar to former § 23-3.9-207 as it existed prior to 2019.