

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 10-0530.05 Jerry Barry

HOUSE BILL 10-1428

HOUSE SPONSORSHIP

Middleton,

SENATE SPONSORSHIP

Romer,

House Committees

Education
Appropriations

Senate Committees

Education
Finance
Appropriations

A BILL FOR AN ACT

101 CONCERNING STUDENT LOANS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Section 1 of the bill directs the department of higher education (department) to submit a restructuring report to the education committees of the general assembly on whether the department should continue to originate, disburse, service, guarantee, or administer student loans that are not guaranteed by the federal government.

If collegeinvest or any other division of the department sells its interest in student loans or obligations, **section 2** of the bill specifies

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

SENATE
Am ended 2nd Reading
May 11, 2010

HOUSE
3rd Reading Unam ended
May 6, 2010

HOUSE
Am ended 2nd Reading
May 5, 2010

where the proceeds of the sale shall be deposited.

Section 3 of the bill creates the financial need scholarship fund to receive a portion of the proceeds of the sale of the state's interest in student loans.

Sections 4 through 16 of the bill repeal, as of July 1, 2010, provisions concerning the authority of collegeinvest and any other division of the department to issue, purchase, or guarantee student loans. Collegeinvest will continue to service existing student loans.

Section 17 of the bill requires the Colorado commission on higher education to adopt policies and procedures to direct state-supported institutions of higher education to participate in student loan programs sponsored by the federal government.

The bill transfers administration of the Colorado collegeinvest scholarship program from collegeinvest to the department.

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

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

5 **23-3.1-104.7. Restructuring plan - legislative declaration -**
6 **repeal.** (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES
7 THAT:

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

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

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

1 STUDENT LOANS.

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

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

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

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

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

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

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

22 **23-3.1-205.4. Collegeinvest fund - creation - control - use.**

23 (1) (c) NOTWITHSTANDING ANY PROVISION OF PARAGRAPH (a) OF THIS
24 SUBSECTION (1) TO THE CONTRARY, IF THE AUTHORITY OR ANY OTHER
25 DIVISION OF THE DEPARTMENT SELLS, TRANSFERS, OR ENTERS INTO A
26 CONTRACT WITH ANOTHER ENTITY CONCERNING ALL OR ANY PORTION OF
27 THE AUTHORITY'S OR DIVISION'S INTEREST IN ANY STUDENT LOANS OR

1 STUDENT OBLIGATIONS, THE AUTHORITY OR THE DIVISION SHALL DEPOSIT
2 THE NET PROCEEDS OF THE SALE, TRANSFER, OR CONTRACT AS FOLLOWS:

3 (I) UP TO FIVE MILLION DOLLARS SHALL REMAIN IN THE RESERVE
4 ACCOUNT IN THE COLLEGEINVEST FUND, WHICH ACCOUNT IS HEREBY
5 CREATED, AND MAY BE USED: TO FUND THE REPURCHASE OF STUDENT
6 LOANS SOLD BY THE AUTHORITY IF A GUARANTEE AGENCY REFUSES TO
7 HONOR A CLAIM FILED WITH RESPECT TO ANY SUCH LOANS ON ACCOUNT
8 OF AN EVENT THAT OCCURRED PRIOR TO THE SALE; AND TO PAY ALL
9 LIABILITIES, COSTS, AND EXPENSES WITH RESPECT TO THE AUTHORITY'S
10 PROGRAMS TO UNDERTAKE FORGIVENESS OF INDEBTEDNESS UNDER SUCH
11 STUDENT LOANS SOLD BY THE AUTHORITY. ANY MONEYS REMAINING IN
12 THE RESERVE ACCOUNT AS OF JANUARY 1, 2011, SHALL BE TRANSFERRED
13 TO THE FINANCIAL NEED SCHOLARSHIP FUND CREATED IN SECTION
14 23-3.1-206.2.

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

26 (III) AFTER THE RETENTION OF THE AMOUNTS REQUIRED IN
27 SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH (c), UP TO FIFTEEN

1 MILLION DOLLARS OF THE REMAINING PROCEEDS SHALL BE TRANSFERRED
2 TO THE FINANCIAL NEED SCHOLARSHIP FUND CREATED IN SECTION
3 23-3.1-206.2 TO INCREASE THE AVAILABILITY OF FINANCIAL NEED
4 SCHOLARSHIPS.

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

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

15 **23-3.1-206.2. Financial need scholarships and grants - fund.**

16 (1) THE AUTHORITY AND THE DEPARTMENT OF HIGHER EDUCATION ARE
17 AUTHORIZED TO SEEK AND ACCEPT GIFTS, GRANTS, OR DONATIONS FROM
18 PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF MAKING
19 SCHOLARSHIPS OR GRANTS BASED UPON FINANCIAL NEED IN ADDITION TO
20 THOSE FUNDED PURSUANT TO SECTION 23-3.3-501; EXCEPT THAT THE
21 AUTHORITY OR THE DEPARTMENT OF HIGHER EDUCATION MAY NOT ACCEPT
22 A GIFT, GRANT, OR DONATION THAT IS SUBJECT TO CONDITIONS THAT ARE
23 INCONSISTENT WITH THIS SECTION OR ANY OTHER LAW OF THE STATE. THE
24 AUTHORITY AND THE DEPARTMENT OF HIGHER EDUCATION SHALL
25 TRANSMIT ALL PRIVATE AND PUBLIC MONEYS RECEIVED THROUGH GIFTS,
26 GRANTS, OR DONATIONS PURSUANT TO THIS SECTION TO THE STATE
27 TREASURER, WHO SHALL CREDIT THE SAME TO THE FINANCIAL NEED

1 SCHOLARSHIP FUND, WHICH FUND IS HEREBY CREATED AND REFERRED TO
2 IN THIS SECTION AS THE "FUND". IN ADDITION TO GIFTS, GRANTS, OR
3 DONATIONS, THE FUND SHALL CONSIST OF ANY MONEYS DEPOSITED IN THE
4 FUND PURSUANT TO SECTION 23-3.1-205.4 (1) (c) AND ANY MONEYS
5 APPROPRIATED TO THE FUND BY THE GENERAL ASSEMBLY. THE MONEYS
6 IN THE FUND SHALL BE CONTINUOUSLY APPROPRIATED TO THE AUTHORITY
7 AND THE DEPARTMENT OF HIGHER EDUCATION FOR THE DIRECT AND
8 INDIRECT COSTS ASSOCIATED WITH AWARDING SCHOLARSHIPS OR GRANTS
9 BASED UPON FINANCIAL NEED.

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

17

18 **SECTION 4.** 23-3.1-104 (1) (g), (1) (o), (2) (j), (2) (k), and (2)
19 (o), Colorado Revised Statutes, are amended to read:

20 **23-3.1-104. Duties and powers of division.** (1) The division
21 shall:

22

23 (g) ~~Recruit lenders to participate in the network;~~

24

25 (o) ~~Evaluate the degree of access to loans and report, at least~~
26 ~~semiannually, on the sufficiency or insufficiency of such access to the~~
27 ~~authority established by part 2 of this article;~~

1 (2) The division may:

2 [REDACTED]

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

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

7 [REDACTED]

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

11 [REDACTED]

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

14 **23-3.1-201. Legislative declaration.** The general assembly
15 hereby declares that the availability of improved access to and choice of
16 higher education opportunities in this state will benefit the residents of the
17 state and that ~~the establishment of a student obligation bond program,~~
18 ~~with proceeds of bonds to be used for the purchase or making of student~~
19 ~~obligations or the making of institutional loans, and the establishment of~~
20 a prepaid postsecondary education expense program will ~~enhance the~~
21 ~~availability of student obligations and~~ assist residents in meeting the
22 expenses incurred in availing themselves of higher education
23 opportunities. It is the intent of the general assembly in enacting this part
24 2 to create collegeinvest, which shall be a division within the department
25 of higher education and which authority shall make or purchase student
26 obligations ~~shall make institutional loans,~~ and shall develop and
27 administer a prepaid postsecondary education expense program. This part

1 2 shall be liberally construed to accomplish the intentions expressed in
2 this section.

3 [REDACTED]

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5 **SECTION 6.** 23-3.1-206 (1) (h), Colorado Revised Statutes, is
6 amended to read:

7 **23-3.1-206. General powers and duties of the authority.** (1) In
8 addition to any other powers and duties specifically granted to the
9 authority in this part 2, the authority has the following powers:

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

12 **SECTION 7.** 23-3.1-206 (1) (o), Colorado Revised Statutes, is
13 amended to read:

14 **23-3.1-206. General powers and duties of the authority.** (1) In
15 addition to any other powers and duties specifically granted to the
16 authority in this part 2, the authority has the following powers:

17 (o) To do all things necessary and convenient to carry out the
18 purposes of this part 2 and of part 3 of this article including funding of
19 grants, scholarships, and loan forgiveness; ~~and to do all things necessary~~
20 ~~and convenient in connection with the servicing of student obligations by~~
21 ~~the authority including sale, public or private, to the student loan~~
22 ~~marketing association or any successor organization;~~

23 ==

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

26 **23-3.1-206.5. Origination, disbursement, and servicing of**
27 **student obligations and institutional loans.** (2) The authority may

1 contract with the division to ~~originate, disburse, or~~ service student
2 obligations made or purchased by the authority.

3

4

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

7 **23-1-129. Commission directive - student loans.** ON OR BEFORE
8 JULY 1, 2010, THE COMMISSION SHALL ADOPT THE NECESSARY POLICIES
9 AND PROCEDURES TO REQUIRE STATE-SUPPORTED INSTITUTIONS OF HIGHER
10 EDUCATION TO PARTICIPATE IN STUDENT LOAN PROGRAMS SUPPORTED BY
11 THE FEDERAL GOVERNMENT.

12

13 **SECTION 10.** 23-3.1-205.4 (1) (c) (IV), Colorado Revised
14 Statutes, as enacted in House Bill 10-1428, is amended, and the said
15 23-3.1-205.4 (1) (c) is further amended BY THE ADDITION OF A NEW
16 SUBPARAGRAPH, to read:

17 **23-3.1-205.4. Collegeinvest fund - creation - control - use.**
18 (1) (c) Notwithstanding any provision of paragraph (a) of this subsection
19 (1) to the contrary, if the authority or any other division of the department
20 sells, transfers, or enters into a contract with another entity concerning all
21 or any portion of the authority's or division's interest in any student loans
22 or student obligations, the authority or the division shall deposit the net
23 proceeds of the sale, transfer, or contract as follows:

24 (III.5) AFTER THE RETENTION OF THE AMOUNTS REQUIRED BY
25 SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH (c) AND THE TRANSFER
26 REQUIRED BY SUBPARAGRAPH (III) OF THIS PARAGRAPH (c), UP TO ONE
27 HUNDRED THOUSAND DOLLARS OF THE REMAINING PROCEEDS SHALL BE

1 TRANSFERRED TO THE JOB RETRAINING CASH FUND CREATED PURSUANT TO
2 SECTION 23-3.1-310.

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

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

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

13 (b) Section 10 of this act shall only take effect if Senate Bill
14 10-202 is enacted and becomes law.

15 **SECTION 12. Safety clause.** The general assembly hereby finds,
16 determines, and declares that this act is necessary for the immediate
17 preservation of the public peace, health, and safety.