

CHAPTER 231

EDUCATION - UNIVERSITIES AND COLLEGES

HOUSE BILL 99-1338

BY REPRESENTATIVES Tool, Bacon, George, Scott, and Tupa;
also SENATOR Dennis.

AN ACT

CONCERNING THE ENHANCEMENT OF THE CREDIT STRENGTH OF AUXILIARY FACILITY ENTERPRISE
FINANCING BY STATE INSTITUTIONS OF HIGHER EDUCATION.

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

SECTION 1. 23-1-123 (5) (a) (II), the introductory portion to 23-1-123 (5) (a) (III), 23-1-123 (5) (b) (I) and (5) (b) (II), and the introductory portion to 23-1-123 (5) (b) (III), Colorado Revised Statutes, are amended to read:

23-1-123. Commission directive - fee policies. (5) In adopting fee policies pursuant to this section, the commission shall adopt separate policies for fees used for different purposes, including but not limited to the following fee policies:

(a) **Fees related to bonds issued on behalf of auxiliary facilities on or after July 1, 1997.** (II) ~~While bonds or other debt obligations issued or incurred pursuant to this paragraph (a) remain outstanding,~~ 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, ~~except that the pledge of any such excess revenue shall terminate upon full repayment of the bonds or other debt obligations originally incurred for the specific project, or subsequently issued or incurred to refund any bonds or other debt obligations issued or incurred for the specific project, on behalf of the pledging 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

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

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 ~~any~~ ALL bonds or other debt obligations issued, SECURED, or incurred pursuant to this paragraph (a) are fully repaid:

(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: ~~for a specific project:~~

(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 ~~the specific project 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. ~~for the specific project and the maturity date of the refunding bonds is the same or earlier than the maturity date of the existing bonds.~~

(II) ~~While bonds or other debt obligations issued or incurred pursuant to this paragraph (b) remain outstanding,~~ 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, ~~except that:~~ 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.

(A) ~~If the excess revenue is pledged on or after January 1, 1997, the pledge of such excess revenue shall terminate upon full repayment of the bonds or other debt obligations originally issued or incurred for the specific project, or subsequently issued or incurred to refund any bonds or other debt obligations issued or incurred for the specific project, on behalf of the pledging auxiliary facility;~~

~~(B) If the excess revenue is pledged prior to January 1, 1997, the pledge of such excess revenue shall terminate upon full repayment of all bonds or other debt obligations for which the user fee or portion of a general student fee was pledged as of January 1, 1997.~~

(III) On and after the date upon which ~~any~~ ALL bonds or other debt obligations issued, SECURED, or incurred pursuant to this paragraph (b) are fully repaid: ~~or, if excess revenue is pledged as provided in sub-subparagraph (B) of subparagraph (H) of this paragraph (b), on and after the date upon which the pledge terminates:~~

SECTION 2. 23-20-124, Colorado Revised Statutes, is amended to read:

23-20-124. Research building revolving fund - appropriation of fund - report. 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. An annual report of activities and the condition of the fund shall be made to the governor and the joint budget and capital development committees of the general assembly as a part of the university of Colorado's annual budget submission. Such report shall specify the amount, debt service, and purpose of any bonds issued pursuant to section 23-20-129.

SECTION 3. 23-20-125, Colorado Revised Statutes, is amended to read:

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.

SECTION 4. 23-20-129 (3), Colorado Revised Statutes, is amended to read:

23-20-129. Bonds. (3) Such bonds shall be payable ~~exclusively~~ 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.

SECTION 5. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: May 24, 1999