

CHAPTER 281

EDUCATION - UNIVERSITIES AND COLLEGES

SENATE BILL 94-218

BY SENATORS Wells, Norton, and L. Powers;
also REPRESENTATIVES Anderson, Clarke, and Keller.

AN ACT**CONCERNING POLICIES OF STATE-SUPPORTED INSTITUTIONS OF HIGHER EDUCATION WITH REGARD TO STUDENTS.**

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

SECTION 1. 23-1-113.5, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

23-1-113.5. Commission directive - resident admissions. (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 ~~school year which begins in the fall~~ TERM of 1994 and for THE FALL TERM OF each ~~school~~ 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 up to twenty percent of incoming freshmen students 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 ~~school~~ FISCAL year which begins ~~in the fall of~~ JULY 1, 1994, and for each ~~school~~ 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

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

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. The commission shall report to the general assembly on or before January 1, 1995, the policies it has established pursuant to this section.

(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 STATE COLLEGE.

(b) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE JULY 1, 1997.

(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.

SECTION 2. 23-5-106, Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

23-5-106. Authority of governing boards - general - health care insurance.

(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 STATE COLLEGE SHALL NOT REFUSE TO ADMIT ANY COLORADO RESIDENT QUALIFIED IN ACCORDANCE WITH APPLICABLE COLORADO COMMISSION ON HIGHER EDUCATION ADMISSION STANDARDS.

(2) (a) THE GOVERNING BOARD OF ANY INSTITUTION OF HIGHER EDUCATION SHALL NOT REQUIRE ANY STUDENT TO PURCHASE HEALTH CARE INSURANCE OR HEALTH CARE SERVICES.

(b) THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (2) DO NOT APPLY TO ANY PROGRAM THAT WAS IN EXISTENCE AT AN INSTITUTION OF HIGHER EDUCATION ON JANUARY 1, 1994.

SECTION 3. 23-5-101.5 (2) (a), (2) (b) (II) (B), and (3) (a), Colorado Revised Statutes, 1988 Repl. Vol., as amended, are amended to read:

23-5-101.5. Enterprise status of auxiliary facilities. (2) As used in this article:

(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, college store, or student or faculty parking facility or any similar facility or activity which 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;

(b) (II) "Grant" does not include:

(B) Any revenues resulting from rates, fees, assessments, or other charges imposed by an auxiliary facility for the provision of goods or services by such auxiliary facility, INCLUDING FEES PAID TO THE AUXILIARY FACILITY FOR INTERNAL SERVICES PROVIDED TO THE INSTITUTION OF HIGHER EDUCATION WITH WHICH THE AUXILIARY FACILITY IS ASSOCIATED;

(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. All designations shall expire at 11:59 p.m. on June 30 of the year following their adoption unless the general assembly, by bill, acts to postpone the expiration of a specific designation. The postponement of the expiration of a designation shall not constitute legislative approval of the designation nor be admissible in any court as evidence of legislative intent. The postponement of the expiration date of a specific designation shall not prohibit any action by the general assembly pursuant to the provisions of paragraph (b) of this subsection (3) with respect to such designation.

SECTION 4. 23-5-102 (2), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

23-5-102. Funding for auxiliary facilities - loans - bonds. (2) The governing body of any institution of higher education by resolution may issue revenue bonds on behalf of any auxiliary facility or group of auxiliary facilities managed by such governing body 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 housing facilities, dining facilities, recreational facilities, health facilities, parking facilities, ~~or~~ research facilities which 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. 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; EXCEPT THAT REVENUES GENERATED BY A DESIGNATED ENTERPRISE AUXILIARY FACILITY THAT IS ASSOCIATED WITH THE UNIVERSITY OF COLORADO MAY BE PLEDGED FOR THE REPAYMENT OF BONDS ISSUED BY ANOTHER DESIGNATED ENTERPRISE AUXILIARY FACILITY WHICH 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) shall not adversely affect the validity of or security for any revenue bonds issued on behalf of such auxiliary facility or group of auxiliary facilities.

SECTION 5. Article 20 of title 23, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

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 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.

SECTION 6. 23-5-103 (1), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

23-5-103. Pledge of income. (1) The governing board of any one or more state educational institutions, including, but not limited to, the colleges under the control and operation of the trustees of the state colleges in Colorado, which enters into such a contract for the advancement of moneys is authorized, in connection with or as a part of such contract, to pledge the net income derived or to be derived from such land or facilities so constructed, acquired, and equipped as security for the repayment of the moneys advanced therefor, together with interest thereon, and for the establishment and maintenance of reserves in connection therewith; and, for the same purpose, any such governing board is also authorized to pledge the net income derived or to be derived from other auxiliary facilities which are not individually designated as enterprises and which are not acquired and not to be acquired with moneys appropriated to the institution by the state of Colorado, and to pledge the net income, fees, and revenues derived from such sources, if unpledged, or, if pledged, the net income, fees, and revenues currently in excess of the amount required to meet principal, interest, and reserve requirements in connection with outstanding obligations to which such net income, fees, and revenues have theretofore been pledged. IF THE CONTRACT FOR THE ADVANCEMENT OF MONEYS IS ENTERED INTO BY

THE UNIVERSITY OF COLORADO ON BEHALF OF A DESIGNATED ENTERPRISE AUXILIARY FACILITY THAT IS ASSOCIATED WITH THE UNIVERSITY OF COLORADO, THE BOARD OF REGENTS IS AUTHORIZED TO PLEDGE ONLY THE NET INCOME, INCLUDING FEES AND REVENUES DERIVED OR TO BE DERIVED FROM THE DESIGNATED ENTERPRISE AUXILIARY FACILITY AND ANY OTHER DESIGNATED ENTERPRISE AUXILIARY FACILITIES.

SECTION 7. 22-35-105, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

22-35-105. Financial provisions - payment of tuition. (7) THE PROVISIONS OF THIS ARTICLE SHALL NOT APPLY TO ANY COURSE THAT IS OFFERED UNDER THE STATEWIDE EXTENDED STUDIES PROGRAM ESTABLISHED UNDER SECTION 23-1-109, C.R.S.

SECTION 8. 23-1-105 (3.5) (a), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

23-1-105. Duties and powers of the commission with respect to appropriations. (3.5) (a) Prior to January 1, 1994, AND PRIOR TO EACH JANUARY 1 THEREAFTER, the commission, in collaboration with the governor, the speaker of the house of representatives, the president of the senate, the majority and minority leaders of the house of representatives and the senate, and the joint budget committee, shall identify five policy areas for additional funding within the state system of higher education. Funding for such policy areas, if approved by the general assembly, shall be in addition to base funding for the state system of higher education. For the purposes of this section, "base funding" means the appropriation distributed pursuant to the distribution formula established by the commission pursuant to subsection (3) of this section.

SECTION 9. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 31, 1994