

CHAPTER 70

EDUCATION - UNIVERSITIES AND COLLEGES

HOUSE BILL 08-1201

BY REPRESENTATIVE(S) Kerr A., Kerr J., Merrifield, Rice, and Todd;
also SENATOR(S) Kopp, and Gibbs.

AN ACT

CONCERNING ADMINISTRATIVE POWERS FOR PROGRAMS PROVIDING FINANCIAL SUPPORT TO STUDENTS.

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

SECTION 1. 23-3.1-205.4 (2), Colorado Revised Statutes, is amended to read:

23-3.1-205.4. Collegeinvest fund - creation - control - use. (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 ~~obligations~~ EXPENSES incurred by the authority in carrying out its statutory powers and duties.

SECTION 2. 23-3.1-206 (1) (g), (1) (k), (1) (o), (1) (v), (1) (w), and (1) (x), Colorado Revised Statutes, are amended, and the said 23-3.1-206 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

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:

(g) ~~Subject to the approval of the executive director,~~ 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.;

(k) ~~Subject to the approval of the executive director,~~ To collect and pay reasonable fees and charges in connection with making, purchasing, originating,

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

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.;

(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, and TO DO ALL THINGS NECESSARY AND CONVENIENT in connection with the servicing of student obligations by the authority including sale, public or private, to the student loan marketing association or any successor organization;

(v) To implement ~~market~~, and administer, INCLUDING MARKETING, the ~~college achievement~~ COLORADO COLLEGEINVEST scholarship program established in section 23-3.1-206.9;

(w) To deposit moneys into the Colorado ~~achievement~~ 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 ~~achievement~~ COLLEGEINVEST scholarships; ~~and~~

(x) To organize entities pursuant to title 7, C.R.S., ~~with approval of the executive director~~, and transfer funds to ~~such~~ THE entities for the purpose of investing THE MONEYS IN the Colorado ~~achievement~~ COLLEGEINVEST scholarship trust fund and any other trusts and funds under the authority's control; AND

(y) TO DEVELOP AND ADMINISTER LOAN FORGIVENESS PROGRAMS, INCLUDING THOSE ESTABLISHED UNDER ARTICLE 3.6 OF THIS TITLE.

SECTION 3. 23-3.1-206.7 (5) (e) (I), Colorado Revised Statutes, is amended to read:

23-3.1-206.7. Prepaid expense program. (5) (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 ~~such~~ THE amount.

SECTION 4. The introductory portion to 23-3.1-206.9 (1) and 23-3.1-206.9 (1) (c), (2), (3), and (4), Colorado Revised Statutes, are amended to read:

23-3.1-206.9. Colorado collegeinvest scholarship program - administration - fund - policies. (1) There is hereby created the Colorado ~~achievement~~ COLLEGEINVEST scholarship program for the ~~purposes of promoting precollegiate curriculum as established by the board of education of each school district consistent with the guidelines adopted by the department of higher education and~~ PURPOSE OF increasing access to postsecondary education. The Colorado ~~achievement~~ COLLEGEINVEST scholarship program shall be implemented and administered by the authority. A scholarship under the Colorado ~~achievement~~ COLLEGEINVEST scholarship program may be awarded only to an undergraduate student who, each year:

(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) The Colorado ~~achievement~~ 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 ~~achievement~~ COLLEGEINVEST scholarship program. Moneys deposited into the Colorado ~~achievement~~ 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 ~~marketing~~, and administering, INCLUDING MARKETING, the Colorado ~~achievement~~ COLLEGEINVEST scholarship program. 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 ~~achievement~~ 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 ~~achievement~~ COLLEGEINVEST scholarship trust fund shall be subject to annual appropriation.

(3) The board shall adopt any policies necessary for the implementation and administration of the Colorado ~~achievement~~ 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 ~~achievement~~ COLLEGEINVEST scholarship program that ~~shall be signed by the parent or legal guardian and the eligible student and shall be returned as specified by the board.~~ The application shall include the requirements for and the disqualifications from the Colorado ~~achievement~~ COLLEGEINVEST scholarship program. ~~When the board adopts policies requiring a student to complete a precollegiate curriculum, the board shall also include requirements for schools that do not utilize the precollegiate curriculum. The board shall also establish criteria for students to be disqualified from the Colorado achievement scholarship program only for expulsion.~~ The policies adopted by the board for the implementation and administration of the Colorado ~~achievement~~ COLLEGEINVEST

scholarship program shall be approved by the executive director. ~~of the commission.~~

(4) 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 ~~achievement~~ 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 ~~achievement~~ COLLEGEINVEST scholarship program.

SECTION 5. 23-3.1-208 (1) (a), Colorado Revised Statutes, is amended to read:

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. ~~but the authority shall not have outstanding, at any one time, bonds, not including bond anticipation notes that have been refunded and bonds that have been refunded, in an aggregate principal amount exceeding two billion dollars.~~ 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 ~~such~~ THE financing will help alleviate such insufficient access.

SECTION 6. 23-3.1-216 (1) and (2), Colorado Revised Statutes, are amended to read:

23-3.1-216. Investment of funds. (1) ~~Funds of the authority, including the moneys held in the collegeinvest fund created in section 23-3.1-205.4, may be invested in securities meeting the investment requirements established in part 6 of article 75 of title 24, C.R.S., in certificates of deposit or time deposits constituting direct obligations of any bank or savings and loan association in Colorado that may be made only in those certificates of deposit or time deposits in banks or savings and loan associations that are insured by the federal deposit insurance corporation or its successor and may not exceed the maximum of such insurance unless such banks or savings and loan associations are eligible public depositories and such excess is secured by a pledge of eligible collateral as required by either article 10.5 or article 47 of title 11, C.R.S., or in obligations of the student loan marketing association or any successor organization. Any such securities may be purchased at the offering or market price at the time of such purchase. Funds of the authority may be invested with such maturities as determined by the state treasurer, based upon the advice and recommendations of the authority, if such maturities are on a date or dates prior to the time when, in the judgment of the state treasurer, based upon the advice and recommendations of the authority, the funds so invested will be required for expenditure. The express judgment of the authority as to the time when any funds will be required for expenditure or be redeemable is final and conclusive. 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 ~~funds~~ MONEYS of the authority pursuant to a trust indenture OR OTHER AGREEMENT between ~~such~~ THE trustee and the authority to invest or reinvest ~~such funds~~ THE MONEYS in any investments, other than those specified in subsection (1) of this section, if the board determines ~~by resolution, including but not limited to a bond resolution;~~ that, AS OF THE DATE OF THE DETERMINATION, THE INVESTMENT MEETS THE STANDARDS FOR INVESTMENTS ESTABLISHED IN SECTION 15-1-304, C.R.S.

~~(a) Such investment meets the standard for investments established in section 15-1-304, C.R.S.;~~

~~(b) The income on such investment is at least comparable to income then available on the investments permitted in subsection (1) of this section; and~~

~~(c) Such investment will assist the authority in alleviating an insufficient access to student obligations from normal private market sources.~~

SECTION 7. The introductory portion to 23-3.1-304 (1) and 23-3.1-304 (1) (h), Colorado Revised Statutes, are amended to read:

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 AND IN this part 3, the authority shall:

(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 ~~maintaining~~ ADMINISTERING the program, ~~subject to the approval of the executive director~~ INCLUDING THE FUNDING OF SCHOLARSHIPS AND OTHER GRANTS;

SECTION 8. 23-3.1-305 (8) (e), Colorado Revised Statutes, is amended to read:

23-3.1-305. Financial institutions - managers - purpose - selection - requirements - contracts. (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:

(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.

SECTION 9. 23-18-202 (1) (b) (I), Colorado Revised Statutes, is amended to read:

23-18-202. College opportunity fund - appropriations - payment of stipends - reimbursement. (1) (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 ~~state~~ institution of higher education ~~and participating private institution of higher education that does not receive loan origination and disbursement services through the Colorado student loan program shall~~ 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.

SECTION 10. 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, (August 6, 2008, if adjournment sine die is on May 7, 2008); 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: March 26, 2008