

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

ENGROSSED

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

LLS NO. 15-0916.01 Brita Darling x2241

HOUSE BILL 15-1359

HOUSE SPONSORSHIP

Danielson and Landgraf,

SENATE SPONSORSHIP

Kefalas and Martinez Humenik,

Public Health Care & Human Services
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF THE ACHIEVING A BETTER LIFE**
102 **EXPERIENCE (ABLE) SAVINGS PROGRAM FOR INDIVIDUALS WITH**
103 **DISABILITIES.**

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/bills summaries>.)

The bill authorizes the college invest authority (authority) to establish an achieving a better life experience (ABLE) savings program that conforms to the federal "Stephen Beck, Jr., Achieving a Better Life Experience Act of 2014", as that act creates section 529A of the "Internal Revenue Code of 1986" (section 529A). Individuals who were declared

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.

HOUSE
Amended 2nd Reading
April 23, 2015

disabled, as defined under federal law, before reaching 26 years of age are eligible to open an ABLE savings account. Account earnings grow on a tax-free basis. Account distributions for qualified disability expenses are exempt from state income taxation.

ABLE savings accounts under section 529A are modeled after section 529 college savings accounts, but, unlike those accounts, ABLE savings accounts may be used to save for many expenses related to an individual's disability, without disqualifying the individual for certain federal benefits. Qualifying expenses may include, if permitted under federal law, expenses related to education, housing, transportation, employment training and support, assistive technology and support services, health, prevention and wellness, financial management and administrative services, legal fees, expenses for oversight and monitoring, funeral and burial expenses, and other approved expenses.

The bill requires the authority to establish the ABLE savings program pursuant to the requirements of section 529A, to adopt guidelines and procedures for implementing the program, and to revise those guidelines and procedures, as necessary, to ensure that the program is a qualified ABLE savings program under federal law. The program is operated through the use of individual accounts and managed by a contract with a financial institution or institutions selected by the authority. The authority is permitted to invest amounts on deposit in the ABLE savings program with section 529 college savings accounts. The authority may also contract with a state that does not have a qualified ABLE savings program to manage accounts for that state's residents, and also contract with another state that has a qualified ABLE program to accept accounts from Colorado residents.

The bill specifies specific powers and duties related to the implementation of the ABLE savings program in addition to the authority's existing powers and duties. The bill includes provisions relating to contributions, withdrawals, and management of the accounts, as permitted under section 529A, and the deposit and withdrawal of fees established for the savings program through the collegeinvest fund.

The bill amends provisions of part 3 of article 3.1 of title 23, Colorado Revised Statutes, relating to limitations on personal liability, claims of creditors, confidentiality of records, policies for promoting programs, residency, and tax exemptions to ensure that those provisions include the ABLE savings program and conform with federal law.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 23-3.1-311 as
3 follows:

1 **23-3.1-311. Achieving a better life experience (ABLE) savings**

2 **program - establishment - authority - powers - duties.** (1) THE

3 AUTHORITY SHALL ESTABLISH AND IMPLEMENT THE ACHIEVING A BETTER
4 LIFE EXPERIENCE (ABLE) SAVINGS PROGRAM IN COLORADO THAT
5 COMPLIES WITH THE FEDERAL ABLE ACT AND SECTION 529A OF THE
6 INTERNAL REVENUE CODE, OR ANY SUCCESSOR SECTION, AND
7 REGULATIONS IMPLEMENTING THAT SECTION TO ALLOW FOR AN ACCOUNT
8 OWNER TO SAVE FOR QUALIFIED DISABILITY EXPENSES WITHOUT
9 DISQUALIFYING THE ACCOUNT OWNER FROM CERTAIN FEDERAL BENEFITS.

10 THE ABLE SAVINGS PROGRAM SHALL BE ADMINISTERED PURSUANT TO
11 THE PROVISIONS OF THIS PART 3 THAT ARE CONSISTENT WITH SECTION
12 529A OF THE INTERNAL REVENUE CODE. IN ADDITION TO ANY OTHER
13 POWERS AND DUTIES SPECIFICALLY GRANTED TO THE AUTHORITY IN THIS
14 PART 3 AND IN PART 2 OF THIS ARTICLE, AS APPLICABLE TO THE ABLE
15 SAVINGS PROGRAM, THE AUTHORITY SHALL:

16 (a) ADOPT ANY GUIDELINES AND PROCEDURES THAT ARE
17 NECESSARY TO ADMINISTER THE ABLE SAVINGS PROGRAM;

18 (b) MAKE ANY NECESSARY CHANGES TO THE ABLE SAVINGS
19 PROGRAM TO OBTAIN OR MAINTAIN FEDERAL INCOME TAX BENEFITS OR
20 TREATMENT PROVIDED BY SECTION 529A OF THE INTERNAL REVENUE
21 CODE AND EXEMPTIONS UNDER FEDERAL SECURITIES LAWS;

22 (c) OPERATE THE ABLE SAVINGS PROGRAM THROUGH THE USE OF
23 ACCOUNTS PURSUANT TO THE PROVISIONS OF SECTION 23-3.1-306 AS THEY
24 APPLY TO THE ABLE SAVINGS PROGRAM; AND

25 (d) IMPLEMENT THE ABLE SAVINGS PROGRAM THROUGH THE USE
26 OF ONE OR MORE FINANCIAL INSTITUTIONS TO ACT AS MANAGERS
27 PURSUANT TO THE PROVISIONS OF SECTION 23-3.1-305 AS THEY APPLY TO

1 THE ABLE SAVINGS PROGRAM.

2 (2) FOR PURPOSES OF IMPLEMENTING THE ABLE SAVINGS
3 PROGRAM, THE AUTHORITY MAY INVEST AMOUNTS ON DEPOSIT IN
4 ACCOUNTS ESTABLISHED PURSUANT TO THIS SECTION WITH OTHER
5 ACCOUNTS ESTABLISHED IN THIS PART 3 THAT ARE QUALIFIED ACCOUNTS
6 PURSUANT TO SECTION 529 OF THE INTERNAL REVENUE CODE.

7 (3) IF PERMITTED UNDER FEDERAL LAW, THE AUTHORITY MAY:

8 (a) CONTRACT WITH A STATE THAT DOES NOT HAVE A QUALIFIED
9 ABLE SAVINGS PROGRAM PURSUANT TO SECTION 529A OF THE INTERNAL
10 REVENUE CODE TO PROVIDE RESIDENTS OF THAT STATE ACCESS TO
11 COLORADO'S ABLE SAVINGS PROGRAM; AND

12 (b) CONTRACT WITH A STATE THAT HAS A QUALIFIED ABLE
13 SAVINGS PROGRAM TO PROVIDE RESIDENTS OF COLORADO ACCESS TO
14 THAT STATE'S PROGRAM.

15 (4) NOTHING IN THIS ARTICLE PREVENTS THE AUTHORITY FROM
16 COMPLYING WITH ITS DUTY TO CONFORM THE PROGRAM TO FEDERAL
17 REQUIREMENTS FOR A QUALIFIED ABLE SAVINGS PROGRAM UNDER
18 SECTION 529A OF THE INTERNAL REVENUE CODE.

19 **SECTION 2.** In Colorado Revised Statutes, 23-3.1-301, **add** (3)
20 as follows:

21 **23-3.1-301. Legislative declaration.** (3) THE GENERAL
22 ASSEMBLY FURTHER FINDS, DETERMINES, AND DECLARES THAT THE
23 ESTABLISHMENT OF A SAVINGS PROGRAM THAT QUALIFIES UNDER SECTION
24 529A OF THE INTERNAL REVENUE CODE WILL:

25 (a) ASSIST INDIVIDUALS AND FAMILIES IN SAVING MONEY FOR THE
26 PURPOSE OF SUPPORTING INDIVIDUALS WITH DISABILITIES IN MAINTAINING
27 HEALTH, INDEPENDENCE, AND QUALITY OF LIFE; AND

1 (b) PROVIDE SECURE FUNDING FOR DISABILITY-RELATED EXPENSES
2 ON BEHALF OF DESIGNATED BENEFICIARIES WITH DISABILITIES THAT WILL
3 SUPPLEMENT, BUT NOT SUPPLANT, BENEFITS PROVIDED THROUGH PRIVATE
4 INSURANCE, THE MEDICAID PROGRAM UNDER TITLE XIX OF THE "SOCIAL
5 SECURITY ACT", THE SUPPLEMENTAL SECURITY INCOME PROGRAM UNDER
6 TITLE XVI OF THE "SOCIAL SECURITY ACT", THE BENEFICIARY'S
7 EMPLOYMENT AND OTHER SOURCES.

8 **SECTION 3.** In Colorado Revised Statutes, **amend** 23-3.1-302
9 as follows:

10 **23-3.1-302. Definitions.** As used in this part 3, unless the context
11 otherwise requires:

12 (1) "ABLE" MEANS ACHIEVING A BETTER LIFE EXPERIENCE, AS
13 USED IN THE FEDERAL "STEPHEN BECK, JR., ACHIEVING A BETTER LIFE
14 EXPERIENCE ACT OF 2014", DIVISION B, PUB.L. 113-295, AS THAT ACT
15 AMENDS THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS
16 AMENDED, TO ADD SECTION 529A AND OTHER FEDERAL LAWS.

17 (1.5) "ABLE SAVINGS PROGRAM" MEANS THE SAVINGS PROGRAM
18 ESTABLISHED UNDER THIS PART 3 PURSUANT TO SECTION 529A OF THE
19 INTERNAL REVENUE CODE.

20 ~~(1.6)~~ (1.6) "Account" means an individual trust account or savings
21 account established pursuant to this part 3.

22 (2) "Account owner" means the person designated ~~at the time an~~
23 ~~account is opened as having the right to withdraw moneys from the~~
24 ~~account before the account is disbursed to or for the benefit of the~~
25 ~~designated beneficiary~~ AS THE ACCOUNT OWNER PURSUANT TO SECTION
26 529 OR 529A OF THE INTERNAL REVENUE CODE, WHICHEVER IS
27 APPLICABLE.

1 (2.5) "Adult learner" means an account owner UNDER THE
2 COLLEGE SAVINGS PROGRAM who is also the account beneficiary and who
3 opens an account in pursuit of his or her own postsecondary educational
4 opportunities and job retraining goals.

5 (3) "Authority" means collegeinvest, transferred to the department
6 of higher education and existing as a division of that department pursuant
7 to section 23-3.1-203.

8 (3.5) "COLLEGE SAVINGS PROGRAM" MEANS THE COLLEGE
9 SAVINGS PROGRAM ESTABLISHED UNDER THIS PART 3 PURSUANT TO
10 SECTION 529 OF THE INTERNAL REVENUE CODE.

11 (4) "Designated beneficiary" or "beneficiary" means, with respect
12 to an account, the person designated at the time the account is opened, or
13 the person who replaces a designated beneficiary, as the person whose
14 QUALIFIED HIGHER education expenses OR QUALIFIED DISABILITY
15 EXPENSES are expected to be paid from the account. ~~A designated~~
16 ~~beneficiary may be an adult and may be the account owner.~~

17 (5) "~~Eligible education~~ EDUCATIONAL institution" has the same
18 meaning as that term is defined in ~~26 U.S.C. sec. 135(c)(3)~~ SECTION 529
19 OF THE INTERNAL REVENUE CODE.

20 (5.5) "Executive director" means the executive director of the
21 department of higher education.

22 (5.7) "FEDERAL ABLE ACT" MEANS THE "STEPHEN BECK, JR.,
23 ACHIEVING A BETTER LIFE EXPERIENCE ACT OF 2014", DIVISION B, PUB.L.
24 113-295, AND ANY AMENDMENTS TO THE ACT.

25 (6) "Financial institution" means any state bank, state trust
26 company, savings and loan association, credit union chartered by the state
27 of Colorado, national bank, broker-dealer, mutual fund, insurance

1 company, or other similar financial entity qualified to do business in the
2 state of Colorado.

3 (7) "Internal revenue code" means the federal "Internal Revenue
4 Code of 1986", as amended, AND REGULATIONS IMPLEMENTING THE CODE.

5 (8) "Manager" means a financial institution under contract with
6 the authority to serve as AN administrator of the program and recipient of
7 contributions on behalf of the program.

8 (9) "Member of the family" has the same meaning as that term is
9 defined in ~~26 U.S.C. sec. 529 (e) (2)~~ SECTION 529 OR 529A OF THE
10 INTERNAL REVENUE CODE, WHICHEVER IS APPLICABLE.

11 (10) "Nonqualified withdrawal" means a withdrawal from an
12 account other than a qualified withdrawal. ~~a withdrawal made as the~~
13 ~~result of the death or disability of the designated beneficiary of an~~
14 ~~account, a withdrawal made as a result of the beneficiary's receipt of a~~
15 ~~scholarship, or a rollover or change of designated beneficiary.~~

16 (11) "Program" means the college savings program OR THE ABLE
17 SAVINGS PROGRAM established pursuant to this part 3, AS APPLICABLE.

18 (11.5) "QUALIFIED DISABILITY EXPENSES" HAS THE SAME MEANING
19 AS THAT TERM IS DEFINED IN SECTION 529A OF THE INTERNAL REVENUE
20 CODE.

21 (12) "Qualified higher education expenses" has the same meaning
22 as ~~is provided for~~ that term IS DEFINED in ~~26 U.S.C. sec. 529 (e) (3)~~
23 SECTION 529 OF THE INTERNAL REVENUE CODE.

24 (13) "Qualified withdrawal" means a withdrawal from an account,
25 to pay ~~the~~ ANY qualified ~~higher education~~ expenses of the designated
26 beneficiary of the account, a withdrawal made on account of the death or
27 disability of the designated beneficiary, or a withdrawal made on account

1 of a scholarship, but only if the withdrawal is made in accordance with
2 ~~this part 3~~ SECTION 529 OR 529A OF THE INTERNAL REVENUE CODE,
3 WHICHEVER IS APPLICABLE.

4 (14) "SAVINGS CONTRACT" MEANS AN AGREEMENT ENTERED INTO
5 BY THE AUTHORITY AND AN ACCOUNT OWNER TO PARTICIPATE AND
6 ESTABLISH AN ACCOUNT IN THE PROGRAM.

7 (15) "SAVINGS TRUST FUND" MEANS THE TRUST FOR EITHER THE
8 COLLEGE SAVINGS PROGRAM OR THE TRUST FOR THE ABLE SAVINGS
9 PROGRAM, CONSISTING OF THE ACCOUNTS FOR THAT PROGRAM.

10 **SECTION 4.** In Colorado Revised Statutes, 23-3.1-304, **amend**
11 (1) introductory portion, (1) (a), (1) (f), (1) (i), (1) (m), and (1) (n); and
12 **repeal** (1) (j) and (1) (k) as follows:

13 **23-3.1-304. Authority - purpose - powers - duties.** (1) In
14 addition to any other powers or duties specifically granted to the authority
15 in part 2 of this article and in this part 3 the authority shall, AS
16 APPLICABLE TO THE RESPECTIVE PROGRAM:

17 (a) Develop and implement the COLLEGE SAVINGS program AND
18 THE ABLE SAVINGS PROGRAM in a manner consistent with this part 3 AND
19 WITH SECTIONS 529 AND 529A OF THE INTERNAL REVENUE CODE,
20 WHICHEVER IS APPLICABLE, through the adoption of guidelines and
21 procedures;

22 (f) Make changes to the program required in order for account
23 owners and beneficiaries and the program to obtain or maintain federal
24 income tax benefits or treatment provided by section 529 OR 529A of the
25 internal revenue code, WHICHEVER IS APPLICABLE, and exemptions under
26 federal securities laws;

27 (i) Approve the application and review, for purposes of

1 compliance with applicable laws and regulations, any informational
2 materials utilized by the manager to be furnished to persons who desire
3 to participate in the A program established in this part 3;

4 (j) ~~Develop policies relating to penalties associated with~~
5 ~~nonqualified withdrawals from accounts pursuant to section 23-3.1-306~~
6 ~~(8);~~

7 (k) ~~Adopt a policy to prevent contributions on behalf of a~~
8 ~~designated beneficiary in excess of those necessary to pay the qualified~~
9 ~~higher education expenses of the designated beneficiary;~~

10 (m) Make and execute SAVINGS contracts with ~~depositors~~
11 ACCOUNT OWNERS;

12 (n) Develop and implement a plan to promote the use of accounts
13 IN THE COLLEGE SAVINGS PROGRAM by adult learners;

14 **SECTION 5.** In Colorado Revised Statutes, 23-3.1-305, **amend**
15 (5), (6) (a), (6) (b), (8) introductory portion, and (10); and **repeal** (3) (d)
16 as follows:

17 **23-3.1-305. Financial institutions - managers - purpose -**
18 **selection - requirements - contracts.** (3) The authority shall select from
19 among bidding financial institutions one or more financial institutions
20 that demonstrate the most advantageous combination to account owners
21 and beneficiaries, based on the following factors:

22 (d) ~~The historic ability of the investment instruments utilized by~~
23 ~~the financial institution to track the estimated costs of higher education~~
24 ~~as calculated by the United States department of education;~~

25 (5) The authority may select more than one financial institution
26 for the program if UNLESS the United States internal revenue service ~~has~~
27 ~~provided~~ PROVIDES guidance that giving a contributor a choice of two or

1 more financial institutions will ~~not~~ cause the program to fail to qualify for
2 favorable tax treatment under section 529 OR 529A of the internal revenue
3 code, WHICHEVER IS APPLICABLE, and the authority concludes that the
4 choice of two or more financial institutions is in the best interest of
5 account owners and beneficiaries and will not interfere with the
6 promotion of the program.

7 (6) A manager shall:

8 (a) Take all actions required to keep the program in compliance
9 with the requirements of this part 3 and to ~~assure~~ ENSURE that the
10 program is treated as a qualified state tuition plan under section 529 of the
11 internal revenue code OR A QUALIFIED ABLE SAVINGS PROGRAM UNDER
12 SECTION 529A OF THE INTERNAL REVENUE CODE, WHICHEVER IS
13 APPLICABLE, and to ~~assure~~ ENSURE that the program is exempt from
14 registration under the federal securities law;

15 (b) Keep adequate and separate records of each account and
16 provide the authority with the information necessary to prepare the reports
17 required by section 529 OR 529A of the internal revenue code,
18 WHICHEVER IS APPLICABLE, or file these reports on behalf of the authority;

19 (8) If a contract executed between the authority and a financial
20 institution pursuant to this section is not renewed, all of the following
21 conditions shall apply at the end of the term of the nonrenewed contract,
22 so long as applying these conditions does not disqualify the program as
23 a qualified state tuition plan under section 529 of the internal revenue
24 code OR A QUALIFIED ABLE SAVINGS PROGRAM UNDER SECTION 529A OF
25 THE INTERNAL REVENUE CODE, WHICHEVER IS APPLICABLE:

26 (10) WITH RESPECT TO THE COLLEGE SAVINGS PROGRAM, the
27 authority shall work with the managers of the program in place on June

1 9, 2010, and any future managers to determine the most effective savings
2 options offered by the managers for account owners who are adult
3 learners. Each manager of the program that promotes the program
4 pursuant to paragraph (f) of subsection (6) of this section shall develop
5 and implement a plan to expand the promotion of the program to
6 encourage adult learners to participate in the program in pursuit of their
7 own postsecondary educational opportunities and job retraining goals.

8 **SECTION 6.** In Colorado Revised Statutes, 23-3.1-306, **amend**
9 (1) introductory portion, (1) (a) introductory portion, (3), (5), (6), (12),
10 and (16); **repeal** (1) (a) (IV), (7), (8), and (9); and **add** (1) (a) (III.5) as
11 follows:

12 **23-3.1-306. Accounts - contributions - withdrawals - penalties**
13 **- statements.** (1) The program shall be operated through the use of
14 accounts. ~~An account may be opened by any person who desires to save~~
15 ~~for the qualified higher education expenses of a potential beneficiary,~~
16 ~~including himself or herself as an adult learner;~~ A PERSON MAY OPEN AN
17 ACCOUNT by satisfying each of the following requirements:

18 (a) Completing an application in the form prescribed by the
19 financial institution and approved by the authority, AND IN ACCORDANCE
20 WITH THE PROVISIONS OF SECTION 529 OR 529A OF THE INTERNAL
21 REVENUE CODE, WHICHEVER IS APPLICABLE. AT A MINIMUM, said
22 application shall include the following information:

23 (III.5) FOR THE ABLE SAVINGS PROGRAM, A DISABILITY
24 CERTIFICATE AND OTHER DOCUMENTATION AS REQUIRED PURSUANT TO
25 SECTION 529A OF THE INTERNAL REVENUE CODE; AND

26 (IV) ~~A certification from the contributor that states that to the best~~
27 ~~of the contributor's knowledge, the account balance for the designated~~

1 beneficiary in all qualified state tuition programs, as defined in section
2 529 of the internal revenue code, does not exceed the greater of either a
3 maximum college savings amount established by the authority or the cost
4 in current dollars of qualified higher education expenses that the
5 contributor reasonably anticipates the designated beneficiary will incur;
6 and

7 (3) Contributions to accounts shall be made in cash only, UNLESS
8 OTHERWISE PERMITTED PURSUANT TO SECTION 529 OR 529A OF THE
9 INTERNAL REVENUE CODE.

10 (5) An account owner may change the designated beneficiary of
11 an account to an individual who is a member of the family or former
12 designated beneficiary in accordance with THE PROVISIONS OF SECTION
13 529 OR 529A OF THE INTERNAL REVENUE CODE, WHICHEVER IS
14 APPLICABLE, AND THE procedures established by the authority.

15 (6) At the direction of the account owner, all or a portion of an
16 account may be transferred to another account if the designated
17 beneficiary of the transferee account is a member of the family of the
18 designated beneficiary of the transferor account OR ROLLED OVER IN
19 ACCORDANCE WITH THE PROVISIONS OF SECTION 529 OR 529A OF THE
20 INTERNAL REVENUE CODE, WHICHEVER IS APPLICABLE, AND THE
21 PROCEDURES ESTABLISHED BY THE AUTHORITY.

22 (7) ~~Changes in designated beneficiaries and rollovers under this~~
23 ~~section are not permitted if the changes or rollovers would violate rules~~
24 ~~related to excess contributions or rules related to investment choice.~~

25 (8) ~~In the case of any nonqualified withdrawal from an account,~~
26 ~~an amount that would constitute more than a de minimis penalty, as~~
27 ~~determined by the authority in accordance with section 529 of the internal~~

1 revenue code, shall be withheld as a penalty from the amount withdrawn
2 or from funds remaining in the account and paid to the authority for use
3 in operating the program and for state student financial aid.

4 (9) If an account owner makes a nonqualified withdrawal and no
5 penalty amount is withheld pursuant to subsection (8) of this section, or
6 the amount withheld is less than the amount required to be withheld
7 pursuant to subsection (8) of this section for nonqualified withdrawals,
8 the account owner shall pay the unpaid portion of the penalty to the
9 authority on or before April 15 of the following tax year.

10 (12) ~~As long as prohibited~~ TO THE EXTENT PERMITTED by federal
11 law, ~~no~~ A contributor to, AN account owner of, or A designated
12 beneficiary of any account may direct the investment of any contribution
13 to an account or the earnings from the account.

14 (16) The financial institution shall provide statements to each
15 account owner at least once each year. ~~within thirty-one days after the end~~
16 ~~of the calendar year. The statement shall identify the contributions made~~
17 ~~during the preceding reporting period, the total contributions made~~
18 ~~through the end of the reporting period, the value of the account as of the~~
19 ~~end of the reporting period, withdrawals made during the reporting~~
20 ~~period, and any other matters that the authority requires to be reported to~~
21 ~~the account owner.~~

22 **SECTION 7.** In Colorado Revised Statutes, 23-3.1-307, **amend**
23 (1) (d), (2) introductory portion, and (2) (d) as follows:

24 **23-3.1-307. Limitations.** (1) Nothing in this part 3 shall be
25 construed to:

26 (d) Guarantee that amounts saved pursuant to the program will be
27 sufficient to cover the qualified higher education expenses OR QUALIFIED

1 DISABILITY EXPENSES of a designated beneficiary, AS APPLICABLE.

2 (2) Nothing in this part 3 shall establish any obligation of the state
3 of Colorado or any agency or instrumentality of the state of Colorado to
4 guarantee for the benefit of any ACCOUNT owner, contributor to an
5 account, or designated beneficiary any of the following:

6 (d) Tuition rates or the cost of ~~related education~~ ANY QUALIFIED
7 expenditures.

8 **SECTION 8.** In Colorado Revised Statutes, **amend** 23-3.1-307.1
9 as follows:

10 **23-3.1-307.1. Personal liability.** Neither the members of the
11 board, employees or agents of the authority, nor any person executing
12 savings contracts shall be liable personally on savings contracts or be
13 subject to any personal liability or accountability as a result of the savings
14 program.

15 **SECTION 9.** In Colorado Revised Statutes, **amend** 23-3.1-307.4
16 as follows:

17 **23-3.1-307.4. Claims of creditors - exemption.** EXCEPT AS
18 PROVIDED PURSUANT TO SECTION 529A OF THE INTERNAL REVENUE CODE,
19 moneys credited to or expended from the savings trust fund by or on
20 behalf of an account owner, depositor, or designated beneficiary of a
21 savings contract made under this part 3, which contract has not been
22 terminated, are exempt from all claims of creditors of the account owner,
23 depositor, designated beneficiary, or the authority.

24 **SECTION 10.** In Colorado Revised Statutes, 23-3.1-307.5,
25 **amend** (1) and (2) introductory portion as follows:

26 **23-3.1-307.5. Confidentiality of records.** (1) Except as
27 otherwise provided in this section OR PURSUANT TO FEDERAL LAW, all

1 data, information, and records relating to the college savings program
2 AND THE ABLE SAVINGS PROGRAM are public records and are subject to
3 inspection pursuant to the provisions of part 2 of article 72 of title 24,
4 C.R.S.

5 (2) The following data, information, and records relating to the
6 college savings program AND THE ABLE SAVINGS PROGRAM shall be kept
7 confidential by the authority, and the authority shall deny the right of
8 access to or inspection of such data, information, and records except as
9 provided in subsection (3) of this section:

10 **SECTION 11.** In Colorado Revised Statutes, 23-3.1-307.9,
11 **amend** (1) introductory portion and (1) (a) as follows:

12 **23-3.1-307.9. Policies for promotion and disclosure of program**
13 **information.** (1) The authority shall design a policy related to the
14 promotion of the ~~college savings~~ program and a policy related to the
15 disclosure of program-related information to account owners, depositors,
16 and designated beneficiaries in a manner consistent with this part 3 and
17 consistent with the requirements of section 529 OR 529A of the internal
18 revenue code, WHICHEVER IS APPLICABLE, in order to require that:

19 (a) Promotional material and program-related information disclose
20 that no moneys invested in the ~~college savings~~ program are insured by the
21 state of Colorado and that neither the principal deposited nor the
22 investment returned is guaranteed by the state of Colorado; and

23 **SECTION 12.** In Colorado Revised Statutes, **amend** 23-3.1-308
24 as follows:

25 **23-3.1-308. Residency.** Both COLORADO resident and nonresident
26 ACCOUNT owners and designated beneficiaries ~~shall be~~ ARE eligible to
27 participate in and benefit from the COLLEGE SAVINGS program. ONLY

1 COLORADO RESIDENT ACCOUNT OWNERS AND BENEFICIARIES, AND
2 ACCOUNT OWNERS AND BENEFICIARIES RESIDENTS IN ANY STATE WHICH
3 CONTRACTS WITH THE AUTHORITY UNDER SECTION 23-3.1-311 ARE
4 ELIGIBLE TO PARTICIPATE IN AND BENEFIT FROM THE ABLE SAVINGS
5 PROGRAM, UNLESS OTHERWISE PROVIDED UNDER SECTION 529A OF THE
6 INTERNAL REVENUE CODE.

7 **SECTION 13.** In Colorado Revised Statutes, **amend** 23-3.1-309
8 as follows:

9 **23-3.1-309. Tax exemption.** (1) Notwithstanding any other law
10 to the contrary, the amount of any distribution to a designated beneficiary,
11 as defined in section 529 (e) (1) of the internal revenue code, from ~~an~~ A
12 COLLEGE SAVINGS PROGRAM account established under this part 3 shall be
13 exempt from state income taxation to the extent that this income is used
14 to pay qualified higher education expenses of the designated beneficiary.

15 (2) TO THE EXTENT THAT DISTRIBUTIONS FROM AN ABLE SAVINGS
16 PROGRAM ACCOUNT ESTABLISHED PURSUANT TO THIS PART 3 TO A
17 DESIGNATED BENEFICIARY FOR QUALIFIED DISABILITY EXPENSES ARE
18 EXCLUDED FROM TAXABLE INCOME PURSUANT TO SECTION 529A OF THE
19 INTERNAL REVENUE CODE, OR ANY SUCCESSOR PROVISION, SUCH
20 DISTRIBUTIONS ARE ALSO EXCLUDED FROM STATE TAXABLE INCOME.

21 **SECTION 14.** In Colorado Revised Statutes, 23-3.1-205.4,
22 **amend** (1) (a) and (4) as follows:

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

24 (1) (a) There is hereby created in the state treasury the Colorado student
25 obligation bond authority fund, to be known and referred to on and after
26 July 1, 2004, as the collegeinvest fund, which shall be under the control
27 of the authority in accordance with the provisions of this part 2 and part

1 3 of this article. The moneys in the collegeinvest fund shall be invested
2 by the state treasurer. Except as otherwise allowed by section 24-36-103
3 (2), C.R.S., and except for amounts received in connection with the
4 prepaid expense program and the ~~program~~ SAVINGS PROGRAMS in part 3
5 of this article, all moneys received or acquired by the authority, whether
6 by appropriation, grant, contract, gift, sale or lease of surplus real or
7 personal property, or any other means, whose disposition is not otherwise
8 provided for by law or by a trust indenture, and all interest derived from
9 the deposit and investment of moneys in the fund shall be credited to said
10 fund, including moneys received pursuant to sections 23-3.1-206 (1) (k)
11 and 23-3.1-304 (1) (h). Except as provided in paragraph (b) of this
12 subsection (1), the moneys in the fund are hereby continuously
13 appropriated to the authority and shall remain in the fund and shall not be
14 transferred or revert to the general fund of the state at the end of any
15 fiscal year.

16 (4) The authority may request authorization to transfer or loan
17 moneys from the collegeinvest fund to the prepaid expense trust fund,
18 created in section 23-3.1-206.7, or to any fund created for the
19 implementation of the ~~college savings program~~ PROGRAMS, established
20 pursuant to part 3 of this article, as necessary to carry out the authority's
21 powers and duties under this part 2 and part 3 of this article. The authority
22 shall submit any such transfer or loan request to the executive director for
23 approval. The authority shall not transfer or loan moneys from the
24 collegeinvest fund to the prepaid expense trust fund or to any fund created
25 for the implementation of the ~~college savings program~~ PROGRAMS unless
26 such transfer or loan is approved by the executive director.

27 **SECTION 15.** In Colorado Revised Statutes, 24-72-202, **amend**

1 (6) (b) (III) (B) as follows:

2 **24-72-202. Definitions.** As used in this part 2, unless the context
3 otherwise requires:

4 (6) (b) "Public records" does not include:

5 (III) Data, information, and records relating to collegeinvest
6 programs pursuant to sections 23-3.1-225 and 23-3.1-307.5, C.R.S., as
7 follows:

8 (B) Data, information, and records, INCLUDING MEDICAL RECORDS,
9 relating to designated beneficiaries of and individual contributors to an
10 individual trust account or savings account under the ~~college~~ savings
11 ~~program~~ PROGRAMS ESTABLISHED PURSUANT TO PART 3 OF ARTICLE 3.1 OF
12 TITLE 23, C.R.S., including any records that reveal personally identifiable
13 information about such individuals;

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