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An Act

HOUSE BILL 15-1359

BY REPRESENTATIVE(S) Danielson and Landgraf, Arndt, Becker K., Brown, Conti, Duran, Esgar, Fields, Ginal, Hamner, Kagan, Kraft-Tharp, Lebsack, Lee, Lontine, Melton, Mitsch Bush, Moreno, Pettersen, Primavera, Priola, Rosenthal, Ryden, Salazar, Sias, Tate, Tyler, Vigil, Williams, Windholz, Winter, Young, Hullinghorst;
also SENATOR(S) Kefalas and Martinez Humenik, Aguilar, Guzman, Hodge, Kerr, Merrifield, Newell, Todd.

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

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

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

23-3.1-311. Achieving a better life experience (ABLE) savings program - establishment - authority - powers - duties. (1) THE AUTHORITY SHALL ESTABLISH AND IMPLEMENT THE ACHIEVING A BETTER LIFE EXPERIENCE (ABLE) SAVINGS PROGRAM IN COLORADO THAT COMPLIES WITH THE FEDERAL ABLE ACT AND SECTION 529A OF THE INTERNAL REVENUE CODE, OR ANY SUCCESSOR SECTION, AND REGULATIONS IMPLEMENTING THAT SECTION TO ALLOW FOR AN ACCOUNT OWNER TO SAVE

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

FOR QUALIFIED DISABILITY EXPENSES WITHOUT DISQUALIFYING THE ACCOUNT OWNER FROM CERTAIN FEDERAL BENEFITS. THE ABLE SAVINGS PROGRAM SHALL BE ADMINISTERED PURSUANT TO THE PROVISIONS OF THIS PART 3 THAT ARE CONSISTENT WITH SECTION 529A OF THE INTERNAL REVENUE CODE. IN ADDITION TO ANY OTHER POWERS AND DUTIES SPECIFICALLY GRANTED TO THE AUTHORITY IN THIS PART 3 AND IN PART 2 OF THIS ARTICLE, AS APPLICABLE TO THE ABLE SAVINGS PROGRAM, THE AUTHORITY SHALL:

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

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

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

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

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

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

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

(b) CONTRACT WITH A STATE THAT HAS A QUALIFIED ABLE

SAVINGS PROGRAM TO PROVIDE RESIDENTS OF COLORADO ACCESS TO THAT STATE'S PROGRAM.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) "Financial institution" means any state bank, state trust company, savings and loan association, credit union chartered by the state of Colorado, national bank, broker-dealer, mutual fund, insurance company, or other similar financial entity qualified to do business in the state of Colorado.

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

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

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

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

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

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

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

(13) "Qualified withdrawal" means a withdrawal from an account, to pay ~~the~~ ANY qualified ~~higher education~~ expenses of the designated

beneficiary of the account, a withdrawal made on account of the death or disability of the designated beneficiary, or a withdrawal made on account of a scholarship, but only if the withdrawal is made in accordance with ~~this part 3~~ SECTION 529 OR 529A OF THE INTERNAL REVENUE CODE, WHICHEVER IS APPLICABLE.

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

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

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

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, AS APPLICABLE TO THE RESPECTIVE PROGRAM:

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

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

(i) Approve the application and review, for purposes of compliance with applicable laws and regulations, any informational materials utilized by the manager to be furnished to persons who desire to participate in ~~the~~ A program established in this part 3;

(j) ~~Develop policies relating to penalties associated with~~

~~nonqualified withdrawals from accounts pursuant to section 23-3.1-306 (8);~~

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

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

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

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

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

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

(5) The authority may select more than one financial institution for the program if UNLESS the United States internal revenue service ~~has provided~~ PROVIDES guidance that giving a contributor a choice of two or more financial institutions will ~~not~~ cause the program to fail to qualify for favorable tax treatment under section 529 OR 529A of the internal revenue code, WHICHEVER IS APPLICABLE, and the authority concludes that the choice of two or more financial institutions is in the best interest of account owners and beneficiaries and will not interfere with the promotion of the program.

(6) A manager shall:

(a) Take all actions required to keep the program in compliance with the requirements of this part 3 and to ~~assure~~ ENSURE that the program

is treated as a qualified state tuition plan under section 529 of the internal revenue code OR A QUALIFIED ABLE SAVINGS PROGRAM UNDER SECTION 529A OF THE INTERNAL REVENUE CODE, WHICHEVER IS APPLICABLE, and to ~~assure~~ ENSURE that the program is exempt from registration under the federal securities law;

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

(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 OR A QUALIFIED ABLE SAVINGS PROGRAM UNDER SECTION 529A OF THE INTERNAL REVENUE CODE, WHICHEVER IS APPLICABLE:

(10) WITH RESPECT TO THE COLLEGE SAVINGS PROGRAM, the authority shall work with the managers of the program in place on June 9, 2010, and any future managers to determine the most effective savings options offered by the managers for account owners who are adult learners. Each manager of the program that promotes the program pursuant to paragraph (f) of subsection (6) of this section shall develop and implement a plan to expand the promotion of the program to encourage adult learners to participate in the program in pursuit of their own postsecondary educational opportunities and job retraining goals.

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

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

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

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

~~(IV) A certification from the contributor that states that to the best of the contributor's knowledge, the account balance for the designated beneficiary in all qualified state tuition programs, as defined in section 529 of the internal revenue code, does not exceed the greater of either a maximum college savings amount established by the authority or the cost in current dollars of qualified higher education expenses that the contributor reasonably anticipates the designated beneficiary will incur; and~~

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

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

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

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

~~(8) In the case of any nonqualified withdrawal from an account, an amount that would constitute more than a de minimis penalty, as determined by the authority in accordance with section 529 of the internal revenue code, shall be withheld as a penalty from the amount withdrawn or from funds remaining in the account and paid to the authority for use in operating the program and for state student financial aid.~~

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

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

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

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

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

(d) Guarantee that amounts saved pursuant to the program will be sufficient to cover the qualified higher education expenses OR QUALIFIED DISABILITY EXPENSES of a designated beneficiary, AS APPLICABLE.

(2) Nothing in this part 3 shall establish any obligation of the state of Colorado or any agency or instrumentality of the state of Colorado to

guarantee for the benefit of any ACCOUNT owner, contributor to an account, or designated beneficiary any of the following:

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

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

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

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

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

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

23-3.1-307.5. Confidentiality of records. (1) Except as otherwise provided in this section OR PURSUANT TO FEDERAL LAW, all data, information, and records relating to the college savings program AND THE ABLE SAVINGS PROGRAM are public records and are subject to inspection pursuant to the provisions of part 2 of article 72 of title 24, C.R.S.

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

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

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

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

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

23-3.1-308. Residency. Both COLORADO resident and nonresident ACCOUNT owners and designated beneficiaries ~~shall be~~ ARE eligible to participate in and benefit from the COLLEGE SAVINGS program. ONLY COLORADO RESIDENT ACCOUNT OWNERS AND BENEFICIARIES, AND ACCOUNT OWNERS AND BENEFICIARIES RESIDENTS IN ANY STATE WHICH CONTRACTS WITH THE AUTHORITY UNDER SECTION 23-3.1-311 ARE ELIGIBLE TO PARTICIPATE IN AND BENEFIT FROM THE ABLE SAVINGS PROGRAM, UNLESS OTHERWISE PROVIDED UNDER SECTION 529A OF THE INTERNAL REVENUE CODE.

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

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

(2) TO THE EXTENT THAT DISTRIBUTIONS FROM AN ABLE SAVINGS

PROGRAM ACCOUNT ESTABLISHED PURSUANT TO THIS PART 3 TO A DESIGNATED BENEFICIARY FOR QUALIFIED DISABILITY EXPENSES ARE EXCLUDED FROM TAXABLE INCOME PURSUANT TO SECTION 529A OF THE INTERNAL REVENUE CODE, OR ANY SUCCESSOR PROVISION, SUCH DISTRIBUTIONS ARE ALSO EXCLUDED FROM STATE TAXABLE INCOME.

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

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

(1) (a) There is hereby created in the state treasury the Colorado student obligation bond authority fund, to be known and referred to on and after July 1, 2004, as the collegeinvest fund, which shall be under the control of the authority in accordance with the provisions of this part 2 and part 3 of this article. The moneys in the collegeinvest fund shall be invested by the state treasurer. Except as otherwise allowed by section 24-36-103 (2), C.R.S., and except for amounts received in connection with the prepaid expense program and the ~~program~~ SAVINGS PROGRAMS in part 3 of this article, all moneys received or acquired by the authority, whether by appropriation, grant, contract, gift, sale or lease of surplus real or personal property, or any other means, whose disposition is not otherwise provided for by law or by a trust indenture, and all interest derived from the deposit and investment of moneys in the fund shall be credited to said fund, including moneys received pursuant to sections 23-3.1-206 (1) (k) and 23-3.1-304 (1) (h). Except as provided in paragraph (b) of this subsection (1), the moneys in the fund are hereby continuously appropriated to the authority and shall remain in the fund and shall not be transferred or revert to the general fund of the state at the end of any fiscal year.

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

SECTION 15. In Colorado Revised Statutes, 24-72-202, **amend** (6) (b) (III) (B) as follows:

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

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

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

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

SECTION 16. 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.

Dickey Lee Hullinghorst
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Bill L. Cadman
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO