

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

ENGROSSED

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

LLS NO. 13-0010.01 Brita Darling x2241

SENATE BILL 13-033

SENATE SPONSORSHIP

Giron and Johnston, Aguilar, Guzman, Ulibarri, Steadman, Carroll, Heath, Hodge, Hudak, Morse, Nicholson, Schwartz, Todd

HOUSE SPONSORSHIP

Duran and Williams, Salazar, Moreno, Garcia, Vigil, Pabon, Buckner, Exum, Fields, Foote, Kraft-Tharp, Lebsock, McCann, Melton, Peniston, Rosenthal, Ryden, Singer

Senate Committees

Education
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING IN-STATE CLASSIFICATION AT INSTITUTIONS OF HIGHER**
102 **EDUCATION FOR STUDENTS WHO COMPLETE HIGH SCHOOL IN**
103 **COLORADO.**

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/billsummaries>.)

The bill requires an institution of higher education (institution) in Colorado to classify a student as an in-state student for tuition purposes if the student:

! Attends a public or private high school in Colorado for at

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.

SENATE
Amended 2nd Reading
February 22, 2013

least 3 years immediately preceding graduation or completion of a general equivalency diploma (GED) in Colorado; and

! Is admitted to a Colorado institution or attends an institution under a reciprocity agreement.

In addition to the above requirements, a student who does not have lawful immigration status must submit an affidavit stating that the student has applied for lawful presence or will apply as soon as he or she is able to do so. These students shall not be counted as resident students for any other purpose, but are eligible for the college opportunity fund stipend pursuant to the provisions of that program, and may be eligible for institutional or other financial aid.

The bill creates an exception to the requirement of admission to an institution within 12 months after graduating or completing a GED for certain students who either graduated or completed a GED prior to a certain date and who have been continuously present in Colorado for a specified period of time prior to enrolling in an institution.

The bill exempts persons receiving educational services or benefits from institutions of higher education from providing any required documentation of lawful presence in the United States.

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

2 **SECTION 1.** In Colorado Revised Statutes, **repeal and reenact,**
3 **with amendments,** 23-7-110 as follows:

4 **23-7-110. Tuition classification of students who complete high**
5 **school in Colorado.** (1) NOTWITHSTANDING ANY OTHER PROVISION OF
6 THIS ARTICLE TO THE CONTRARY, A STUDENT, OTHER THAN A
7 NONIMMIGRANT ALIEN, SHALL BE CLASSIFIED AS AN IN-STATE STUDENT
8 FOR TUITION PURPOSES IF:

9 (a) THE STUDENT ATTENDED A PUBLIC OR PRIVATE HIGH SCHOOL
10 IN COLORADO FOR AT LEAST THREE YEARS IMMEDIATELY PRECEDING THE
11 DATE THE STUDENT EITHER GRADUATED FROM A COLORADO HIGH SCHOOL
12 OR COMPLETED A GENERAL EQUIVALENCY DIPLOMA IN COLORADO; AND

13 (b) EXCEPT AS PROVIDED IN SUBSECTION (3) OF THIS SECTION,
14 WITHIN TWELVE MONTHS AFTER GRADUATING OR COMPLETING A GENERAL

1 EQUIVALENCY DIPLOMA IN COLORADO, THE STUDENT IS ADMITTED TO A
2 COLORADO INSTITUTION OR ATTENDS AN INSTITUTION OF HIGHER
3 EDUCATION UNDER A RECIPROCITY AGREEMENT PURSUANT TO SECTION
4 23-1-112.

5 (2) (a) IN ADDITION TO SATISFYING THE REQUIREMENTS SET FORTH
6 IN SUBSECTION (1) OF THIS SECTION, A STUDENT SEEKING TUITION
7 CLASSIFICATION AS AN IN-STATE STUDENT PURSUANT TO THIS SECTION
8 WHO DOES NOT HAVE LAWFUL IMMIGRATION STATUS MUST SUBMIT AN
9 AFFIDAVIT TO THE INSTITUTION TO WHICH THE STUDENT IS ADMITTED,
10 STATING THAT THE STUDENT HAS APPLIED FOR LAWFUL PRESENCE OR WILL
11 APPLY AS SOON AS HE OR SHE IS ELIGIBLE TO DO SO.

12 (b) THE INSTITUTION SHALL NOT COUNT A STUDENT DESCRIBED IN
13 PARAGRAPH (a) OF THIS SUBSECTION (2) AS A RESIDENT FOR ANY PURPOSE
14 OTHER THAN TUITION CLASSIFICATION; EXCEPT THAT THE STUDENT IS
15 ELIGIBLE FOR THE COLLEGE OPPORTUNITY FUND PROGRAM PURSUANT TO
16 THE PROVISIONS OF PART 2 OF ARTICLE 18 OF THIS TITLE, UPON
17 CONFIRMATION OF THE STUDENT'S UNIQUELY IDENTIFYING STUDENT
18 NUMBER PROVIDED BY THE LOCAL EDUCATION PROVIDER WHERE THE
19 STUDENT GRADUATED FROM HIGH SCHOOL OR COMPLETED HIS OR HER
20 GENERAL EQUIVALENCY DIPLOMA, AND MAY BE ELIGIBLE FOR
21 INSTITUTIONAL OR OTHER PRIVATE FINANCIAL AID PROGRAMS.

22 (3) A STUDENT WHO SATISFIES THE REQUIREMENTS OF PARAGRAPH
23 (a) OF SUBSECTION (1) OF THIS SECTION, WHO IS SUBJECT TO THE
24 PROVISIONS OF PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION, AND
25 WHO GRADUATED OR COMPLETED HIS OR HER GENERAL EQUIVALENCY
26 DIPLOMA PRIOR TO SEPTEMBER 1, 2013, BUT WAS NOT ADMITTED TO AN
27 INSTITUTION WITHIN TWELVE MONTHS AFTER GRADUATING OR

1 COMPLETING THE GENERAL EQUIVALENCY DIPLOMA, SHALL BE CLASSIFIED
2 AS AN IN-STATE STUDENT FOR TUITION PURPOSES SO LONG AS THE
3 STUDENT HAS BEEN PHYSICALLY PRESENT IN COLORADO ON A
4 CONTINUOUS BASIS FOR AT LEAST EIGHTEEN MONTHS PRIOR TO ENROLLING
5 IN THE INSTITUTION.

6 (4) ANY INFORMATION PROVIDED TO SATISFY THE CRITERIA
7 SPECIFIED IN THIS SECTION SHALL BE CONFIDENTIAL UNLESS DISCLOSURE
8 IS EXPLICITLY REQUIRED BY LAW. AN INSTITUTION THAT RECEIVES AN
9 AFFIDAVIT DESCRIBED IN SUBSECTION (2) OF THIS SECTION SHALL TREAT
10 THE AFFIDAVIT AS AN EDUCATION RECORD OF THE STUDENT UNDER THE
11 PROVISIONS OF THE FEDERAL "FAMILY EDUCATIONAL RIGHTS AND
12 PRIVACY ACT OF 1974", 20 U.S.C. SEC. 1232g.

13 (5) THIS SECTION PROVIDES AN ADDITIONAL OPTION FOR A
14 STUDENT SEEKING CLASSIFICATION AS AN IN-STATE STUDENT FOR TUITION
15 PURPOSES. THIS SECTION SHALL NOT BE INTERPRETED TO IMPOSE
16 ADDITIONAL REQUIREMENTS UPON A STUDENT SEEKING CLASSIFICATION
17 AS AN IN-STATE STUDENT UNDER ANY OTHER SECTION OF THIS ARTICLE.

18 **SECTION 2.** In Colorado Revised Statutes, 24-76.5-103, **amend**
19 (3) (g) and (3) (h); and **add** (3) (i) as follows:

20 **24-76.5-103. Verification of lawful presence - exceptions -**
21 **reporting - rules.** (3) Verification of lawful presence in the United
22 States shall not be required:

23 (g) For individuals over the age of eighteen years and under the
24 age of nineteen years who continue to be eligible for medical assistance
25 programs after their eighteenth birthday; ~~or~~

26 (h) For renewing an educator license pursuant to article 60.5 of
27 title 22, C.R.S.; OR

1 (i) FOR RECEIPT OF EDUCATIONAL SERVICES OR BENEFITS FROM
2 INSTITUTIONS OF HIGHER EDUCATION, EXCEPT AS MAY BE LIMITED
3 PURSUANT TO SECTION 23-7-110, C.R.S., INCLUDING PARTICIPATION IN
4 THE COLLEGE OPPORTUNITY FUND PROGRAM PURSUANT TO PART 2 OF
5 ARTICLE 18 OF TITLE 23, C.R.S., COLLEGE SAVINGS PLANS PURSUANT TO
6 SECTION 23-3.1-301, C.R.S., AND ANY OTHER FINANCIAL BENEFIT OF THE
7 INSTITUTION OF HIGHER EDUCATION RELATING TO ATTENDANCE AT THE
8 INSTITUTION OF HIGHER EDUCATION.

9 **SECTION 3. No appropriation - legislative declaration.**

10 (1) The general assembly finds, determines, and declares that:

11 (a) Pursuant to article 18 of title 23, Colorado Revised Statutes,
12 for FY 2012-13, the general assembly appropriated \$502.6 million from
13 the general fund for college opportunity fund student stipends and fee-for
14 service contracts;

15 (b) The fiscal impact of offering in-state tuition rates to additional
16 students is uncertain, because there is limited data on the number of
17 additional students who will be affected by this change and which
18 institutions they will attend;

19 (c) Initial estimates that up to 500 additional students may attend
20 higher education institutions represent an increase of less than 0.4 percent
21 in the estimated 141,905 in-state students receiving college opportunity
22 fund student stipends in FY 2012-13;

23 (d) Historically, when the total number of students receiving
24 college opportunity fund stipends has exceeded the estimates reflected in
25 the long bill, the general assembly has responded by increasing funding
26 for student stipends but decreasing funding for higher education
27 fee-for-service contracts, with a net result of no fiscal impact to the

1 institution or the general fund; _____

2 (e) In light of the uncertain fiscal impact of offering in-state
3 tuition rates to students without lawful immigration status, it is the intent
4 of the general assembly that any resulting increase in college opportunity
5 fund student stipends will be offset through the regular supplemental
6 appropriations process;

7 (f) Furthermore, pursuant to section 23-5-130.5, Colorado Revised
8 Statutes, for the state fiscal years 2011-12 through 2015-16, each higher
9 education governing board, for the institutions it controls, annually sets
10 the amount of tuition to be paid by students; and

11 (g) Therefore, amounts shown in the annual general appropriation
12 act for fiscal year 2013-14 for higher education student tuition and fees
13 will be shown solely for informational purposes, will not represent a
14 limitation on institutional spending, and need not be adjusted to reflect
15 changes in projected revenue pursuant to this act.

16 (2) Therefore, the general assembly has determined that this act
17 can be implemented within existing appropriations, and therefore no
18 separate appropriation of state moneys is necessary to carry out the
19 purposes of this act.

20 **SECTION 4. Safety clause.** The general assembly hereby finds,
21 determines, and declares that this act is necessary for the immediate
22 preservation of the public peace, health, and safety.