

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

REVISED

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

LLS NO. 18-0681.01 Brita Darling x2241

HOUSE BILL 18-1228

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A BILL FOR AN ACT

101 **CONCERNING INCREASING TRANSPARENCY IN HIGHER EDUCATION**
102 **STATUTES RELATING TO MILITARY SERVICE.**

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://leg.colorado.gov>.)

The bill creates a new article 7.4 in title 23, Colorado Revised Statutes, with the article heading "Military Members, Veterans, and Dependents", in order to locate physically within the same article, whenever practicable, higher education provisions relating to the military.

Part 1 of article 7.4 includes general provisions, including cross references to provisions relating to the military in other articles of title 23.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
2nd Reading Unamended
March 21, 2018

HOUSE
3rd Reading Unamended
February 27, 2018

HOUSE
2nd Reading Unamended
February 26, 2018

Part 2 of article 7.4 includes relocated provisions from article 7 of title 23 relating to in-state tuition classification relating to the military.

Part 3 of article 7.4 includes a relocated provision relating to financial assistance for Colorado National Guardsmen and a cross reference to financial assistance programs in another article of title 23.

The bill repeals the provisions that have been relocated to article 7.4 of title 23.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add with amended**
3 **and relocated provisions** article 7.4 to title 23 as follows:

4 **ARTICLE 7.4**

5 **Military Members, Veterans, and Dependents**

6 PART 1

7 GENERAL PROVISIONS

8 **23-7.4-101. Short title.** THE SHORT TITLE OF THIS ARTICLE 7.4 IS
9 THE "HIGHER EDUCATION FOR MILITARY SERVICE ACT".

10 **23-7.4-102. Legislative declaration.** (1) THE GENERAL
11 ASSEMBLY FINDS THAT:

12 (a) ACTIVE DUTY MEMBERS AND VETERANS OF THE UNITED
13 STATES ARMED FORCES AND COLORADO NATIONAL GUARD PROVIDE AN
14 ESSENTIAL SERVICE TO THE NATION AND TO THE STATE OF COLORADO;

15 (b) THE FAMILIES OF SERVICE MEMBERS OFTEN SACRIFICE
16 PERSONAL GOALS DUE TO FREQUENT MOVES AND DEPLOYMENTS THAT
17 DISRUPT OR DELAY WORK AND EDUCATION, INCLUDING HIGHER
18 EDUCATION;

19 (c) VETERANS WHO RETURN TO CIVILIAN LIFE AND THEIR
20 DEPENDENTS HAVE OPPORTUNITIES TO FURTHER THEIR EDUCATION IN
21 COLORADO THROUGH THE STATE SYSTEM OF COMMUNITY AND TECHNICAL
22 COLLEGES, LOCAL DISTRICT COLLEGES, AND FOUR-YEAR INSTITUTIONS OF

1 HIGHER EDUCATION; AND

2 (d) MANY ACTIVE DUTY AND VETERAN MILITARY MEMBERS AND
3 THEIR DEPENDENTS HAVE DIFFICULTY NAVIGATING THE VARIOUS STATE
4 AND FEDERAL LAWS RELATING TO MILITARY BENEFITS, INCLUDING
5 IN-STATE TUITION CLASSIFICATION AND STATE FINANCIAL ASSISTANCE
6 PROGRAMS.

7 (2) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT
8 LOCATING PROVISIONS OF THE STATE'S HIGHER EDUCATION STATUTES,
9 WHERE POSSIBLE, INTO A SINGLE ARTICLE OF THIS TITLE 23 RELATING TO
10 MILITARY MEMBERS, VETERANS, AND MILITARY DEPENDENTS MINIMIZES
11 CONFUSION AND PROVIDES GREATER TRANSPARENCY CONCERNING
12 MILITARY BENEFITS AVAILABLE IN HIGHER EDUCATION.

13 **23-7.4-103. Higher education provisions relating to military**
14 **members, veterans, and dependents - located in other articles.**

15 (1) THE FOLLOWING PROVISIONS RELATING TO HIGHER EDUCATION FOR
16 MILITARY MEMBERS, VETERANS, AND DEPENDENTS ARE CONTAINED IN
17 OTHER ARTICLES OF THIS TITLE 23:

18 (a) PRESUMPTIONS AND RULES FOR DETERMINATION OF STATUS,
19 SECTION 23-7-103 (1)(c), (2)(g), (2)(h), AND (5);

20 (b) TUITION AND OTHER FINANCIAL ASSISTANCE FOR DEPENDENTS
21 OF PRISONERS OF WAR AND MILITARY PERSONNEL MISSING IN ACTION,
22 SECTION 23-3.3-204;

23 (c) TUITION AND OTHER FINANCIAL ASSISTANCE FOR DEPENDENTS
24 OF DECEASED OR PERMANENTLY DISABLED NATIONAL GUARDSMAN,
25 SECTION 23-3.3-205;

26 (d) ELIGIBILITY FOR PAYMENT OF A COLORADO OPPORTUNITY
27 FUND STIPEND FOR OFF-CAMPUS, EXTENDED CAMPUS, OR CONTINUING

1 EDUCATION CLASSES, SECTION 23-18-202 (5)(d)(I)(F);
2 (e) CREDIT FOR MILITARY EDUCATION AND TRAINING, SECTION
3 23-5-145;
4 (f) TEACH COLORADO GRANT INITIATIVE, SECTION 23-3.3-901
5 (4)(d); AND
6 (g) TUITION CLASSIFICATION OF CANADIAN MILITARY PERSONNEL,
7 SECTION 23-7-106.

8 PART 2

9 TUITION CLASSIFICATION

10 **23-7.4-201. Definitions.** AS USED IN THIS PART 2, UNLESS THE
11 CONTEXT OTHERWISE REQUIRES:

12 (1) "DOMICILE" HAS THE SAME MEANING AS SET FORTH IN SECTION
13 23-7-102 (2).

14 (2) "INSTITUTION" HAS THE SAME MEANING AS SET FORTH IN
15 SECTION 23-7-102 (6).

16 **23-7.4-202. [Formerly 23-7-108] Tuition classification of**
17 **Colorado National Guard personnel.** (1) Notwithstanding any
18 provision of this ~~article~~ ARTICLE 7.4 OR ARTICLE 7 OF THIS TITLE 23 to the
19 contrary, a member of the Colorado National Guard who maintains his or
20 her sole residence in Colorado, or the dependent of ~~said~~ THAT member of
21 the Colorado National Guard, ~~shall receive~~ HAS in-state tuition status at
22 any institution of higher education in this state. ~~Said~~ SUCH member of the
23 Colorado National Guard ~~shall receive~~ HAS in-state tuition status
24 regardless of whether he or she is eligible for or is receiving tuition
25 assistance pursuant to section ~~23-5-111.4~~ 23-7.4-302.

26 (2) A student who is classified as an in-state student solely
27 pursuant to this section ~~shall~~ IS not ~~be~~ counted as a resident for any

1 purpose other than tuition classification.

2 ~~(3) Repealed.~~

3 **23-7.4-203. [Formerly 23-7-108.5] Tuition classification of**
4 **armed forces veterans.** (1) (a) Notwithstanding any provision of this
5 ~~article~~ ARTICLE 7.4 OR ARTICLE 7 OF THIS TITLE 23 to the contrary,
6 beginning with the fall semester of the 2009-2010 academic year, the
7 governing board of each state institution of higher education in Colorado
8 shall adopt a policy that grants in-state tuition status to an honorably
9 discharged member of the armed forces of the United States who enrolls
10 in ~~said~~ THE state institution of higher education and who meets, for any
11 length of time, the presumptions and rules for maintaining a domicile in
12 Colorado described in section 23-7-103.

13 (b) Notwithstanding any provision of this ~~article~~ ARTICLE 7.4 OR
14 ARTICLE 7 OF TITLE 23 to the contrary, beginning with the fall semester of
15 the 2009-2010 academic year, the governing board of each state
16 institution of higher education in Colorado may adopt a policy that grants
17 in-state tuition status to a dependent of an honorably discharged member
18 of the armed forces of the United States who enrolls in ~~said~~ THE state
19 institution of higher education if the ~~said~~ honorably discharged member
20 of the armed forces meets, for any length of time, the presumptions and
21 rules for maintaining a domicile in Colorado described in section
22 23-7-103.

23 (2) A student who is classified as an in-state student solely
24 pursuant to this section ~~shall~~ IS not ~~be~~ counted as a resident for any
25 purpose other than tuition classification; except that, beginning with the
26 fall semester of the 2011-2012 academic year, upon ~~such~~ classification as
27 an in-state student pursuant to this section, the student ~~shall~~ IS also ~~be~~

1 eligible to receive a stipend from the college opportunity fund pursuant
2 to part 2 of article 18 of this ~~title~~ TITLE 23.

3 **23-7.4-204. [Formerly 23-7-108.6] Tuition classification for**
4 **veterans pursuant to federal law.** (1) Notwithstanding any provision
5 of this ~~article~~ ARTICLE 7.4 OR ARTICLE 7 OF THIS TITLE 23 to the contrary,
6 beginning with any courses enrolled as of July 1, 2015, the governing
7 board of each state institution of higher education shall adopt a policy
8 granting in-state tuition status to "covered individuals", as defined in
9 section 702 of the FEDERAL "Veterans Access, Choice, and Accountability
10 Act of 2014", 38 U.S.C. sec. 3679, as may be amended, and as
11 determined by the United States department of veterans affairs.

12 (2) A covered individual must be classified as an in-state student
13 for tuition purposes if:

14 (a) The covered individual resides in Colorado while enrolled in
15 the institution, regardless of the length of time the covered individual
16 resided in Colorado prior to enrolling in the institution; and

17 (b) The covered individual enrolls in courses with educational
18 assistance benefits pursuant to chapter 30 or 33 of U.S.C. title 38.

19 (3) Notwithstanding the provisions of subsection (2) of this
20 section to the contrary, a student who qualified as a covered individual
21 and who has exhausted his or her educational assistance benefits pursuant
22 to chapter 30 or 33 of U.S.C. title 38 must continue to be classified as an
23 in-state student for tuition purposes so long as the student continues to
24 reside in Colorado and remains continuously enrolled in the same
25 institution.

26 (4) Beginning July 1, 2015, upon classification pursuant to this
27 section, the covered individual is also eligible to receive a stipend from

1 the college opportunity fund pursuant to part 2 of article 18 of this title
2 TITLE 23.

3 (5) A covered individual that is classified as an in-state student
4 solely pursuant to this section shall IS not be counted as a resident student
5 for any other purpose other than tuition classification.

6 PART 3

7 FINANCIAL ASSISTANCE

8 **23-7.4-301. Financial assistance - dependents of prisoners of**
9 **war or missing in action - deceased or permanently disabled National**
10 **Guardsmen.** PROVISIONS RELATING TO TUITION AND OTHER FINANCIAL
11 ASSISTANCE FOR DEPENDENTS OF PRISONERS OF WAR AND MILITARY
12 PERSONNEL MISSING IN ACTION ARE SET FORTH IN SECTION 23-3.3-204.
13 PROVISIONS RELATING TO TUITION AND OTHER FINANCIAL ASSISTANCE FOR
14 DEPENDENTS OF A DECEASED OR PERMANENTLY DISABLED NATIONAL
15 GUARDSMAN ARE SET FORTH IN SECTION 23-3.3-205.

16 **23-7.4-302. [Formerly 23-5-111.4] Tuition for members of the**
17 **National Guard - definitions.** (1) The general assembly recognizes its
18 responsibility for the establishment and maintenance of a strong
19 well-trained and high-spirited National Guard. The encouragement of
20 membership in the guard through the granting of reduced or free tuition
21 at certain institutions of postsecondary education simultaneously
22 expresses a commitment to a part of this responsibility and supports
23 existing institutions, carrying out a policy of maintaining reasonable
24 access to quality education as broadly in this state as possible. The
25 general assembly hereby finds and declares that the establishment of a
26 tuition assistance program will encourage enlistments, enhance the
27 knowledge and skills of the National Guard, and retain membership in the

1 National Guard.

2 (2) (a) Any person who is a member of the Colorado National
3 Guard, upon being accepted for enrollment at any designated institution
4 of higher education, ~~shall be~~ IS permitted to pursue studies leading toward
5 a bachelor's degree, a postgraduate degree, an associate degree, or a
6 certificate of completion with at least fifty percent but not more than one
7 hundred percent of the cost of tuition paid by the department of military
8 and veterans affairs, subject to available appropriations, for so long as
9 ~~such~~ THE person remains a member of the Colorado National Guard, but
10 ~~such~~ THE tuition payments shall not be made for more than one hundred
11 thirty-two semester hours or one hundred ninety-eight quarter hours or for
12 more than eight years.

13 (a.5) A member ~~shall be~~ IS eligible for tuition assistance pursuant
14 to this section to the extent that the sum of the member's tuition assistance
15 from all sources, including the federal government, does not exceed one
16 hundred percent of the cost of tuition.

17 (b) In order to qualify for the tuition assistance authorized by this
18 section, ~~such~~ A member:

19 (I) Must meet the criteria for eligibility, as established by rules
20 and regulations PROMULGATED pursuant to subsection (7) of this section;

21 (II) ~~May~~ MUST not be drawing tuition from any other tuition
22 assistance program funded by a private employer that, when combined
23 with the assistance in this section, would exceed one hundred percent of
24 the tuition costs;

25 (III) ~~May~~ MUST not be a recipient of a full scholarship for tuition
26 and fees to any designated institution of higher education; and

27 (IV) Must serve in the Colorado National Guard during the period

1 of time that the member is receiving tuition and fee assistance.

2 (c) In providing the tuition assistance to members pursuant to
3 ~~paragraph (a) of this subsection (2)~~ SUBSECTION (2)(a) OF THIS SECTION,
4 the department of military and veterans affairs is encouraged to consider
5 providing assistance on a priority basis to newly-enlisted members in their
6 first term of service and who enlist in those military specialties that are
7 experiencing shortages as determined by the department.

8 (d) For ~~the~~ purposes of this section, "member" means an enlisted
9 member or officer of the National Guard.

10 (3) (a) For ~~the~~ purposes of this section, "designated institution of
11 higher education" means the Colorado state university - Pueblo, Adams
12 state university, Colorado Mesa university, Metropolitan state university
13 of Denver, Fort Lewis college, Western state Colorado university, all
14 independent area technical colleges, all local district colleges, the
15 university of northern Colorado, the university of Colorado at Boulder,
16 the university of Colorado at Denver, the university of Colorado at
17 Colorado Springs, Colorado state university, the Colorado school of
18 mines, the university of Colorado health sciences center, all community
19 colleges governed by the state board for community colleges and
20 occupational education, and any private institution of higher education in
21 Colorado that qualifies for the college opportunity fund pursuant to article
22 18 of this title 23 and that offers an accredited certificate or degree
23 program in homeland security. For a member of the Colorado National
24 Guard enrolled in a private institution of higher education, tuition
25 assistance is limited to the completion of the accredited certificate or
26 degree program in homeland security and is provided at the discretion of
27 the adjutant general of the department of military and veterans affairs.

1 (b) The department of military and veterans affairs shall establish
2 the basis for the tuition assistance at the university of Colorado health
3 sciences center.

4 (4) Repealed.

5 (5) For each individual member of the Colorado National Guard
6 who is a continuing student and who is receiving tuition assistance as
7 provided in this section, the department of military and veterans affairs
8 shall obtain certification from the designated institution of higher
9 education prior to the payment to the institution attesting to the member's
10 current satisfactory academic standing at ~~such~~ THE designated institution
11 of higher education, as determined by military regulations ~~established~~
12 PROMULGATED pursuant to subsection (7) of this section, for each
13 semester or quarter for which tuition assistance is requested. ~~No~~ Tuition
14 assistance shall NOT be granted without such certification.

15 (6) Any member who leaves the Colorado National Guard in
16 violation of the member's agreement under subsection (2) of this section
17 during an academic term for which the member is receiving tuition
18 assistance ~~shall be~~ IS required to repay to the department of military and
19 veterans affairs the amount of tuition assistance granted for that academic
20 term and any and all collection fees incurred by the department of military
21 and veterans affairs. ~~Any such~~ THE repayment of tuition assistance shall
22 be credited to the Colorado National Guard tuition fund created in
23 subsection (9) of this section.

24 (7) The department of military and veterans affairs shall
25 promulgate military regulations for the administration of tuition
26 assistance as provided in this section, including, but not limited to, the
27 following:

1 (a) Criteria for the eligibility of a member of the National Guard
2 for such tuition assistance. In establishing this criteria, the department of
3 military and veterans affairs shall include, but not be limited to,
4 consideration of the following:

5 (I) The member's past service and record, if any, in the National
6 Guard;

7 (II) An evaluation of the member's commitment to future service
8 in the National Guard;

9 (III) The member's military record, if any, including the member's
10 achievements and whether the member has been honorably discharged;

11 (IV) The benefit to the National Guard by having such an
12 individual as a member;

13 (V) Financial need, merit, or talent;

14 (b) Procedures to be followed by designated institutions of higher
15 education in reporting the member's academic standing and in providing
16 timely billing to the department of military and veterans affairs;

17 (c) A definition of satisfactory academic standing, including, but
18 not limited to, consideration of the member's cumulative grade point
19 average, credit hours completed, and progress toward a degree.

20 (8) Repealed.

21 (9) (a) There is created in the state treasury the Colorado National
22 Guard tuition fund which is administered by the department of military
23 and veterans affairs and which consists of all money that may be
24 appropriated thereto by the general assembly or that is otherwise made
25 available to it by the general assembly. Money "otherwise made
26 available" includes any repayment of tuition assistance made pursuant to
27 subsection (6) of this section. The money in the fund is continuously

1 appropriated for the payment of tuition assistance as provided in this
2 section. Any money not expended at the end of the fiscal year remains in
3 the fund and shall not be transferred to or revert to the general fund of the
4 state.

5 (b) An audit of the Colorado National Guard tuition fund ~~shall~~
6 MUST be made during the department of military and veterans affairs
7 postaudit pursuant to section 2-3-103. ~~C.R.S.~~

8 **SECTION 2.** In Colorado Revised Statutes, 28-3-106, **amend**
9 (1)(u) as follows:

10 **28-3-106. Powers and duties of adjutant general.** (1) The
11 adjutant general has the following powers and duties:

12 (u) He or she shall prescribe the rules and regulations described
13 in section ~~23-5-111.4 (7)~~, ~~C.R.S.~~ 23-7.4-302 (7).

14 **SECTION 3. Repeal of relocated provisions in this act.** In
15 Colorado Revised Statutes, **repeal** 23-5-111.4, 23-7-108, 23-7-108.5, and
16 23-7-108.6.

17 **SECTION 4. Act subject to petition - effective date.** This act
18 takes effect at 12:01 a.m. on the day following the expiration of the
19 ninety-day period after final adjournment of the general assembly (August
20 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
21 referendum petition is filed pursuant to section 1 (3) of article V of the
22 state constitution against this act or an item, section, or part of this act
23 within such period, then the act, item, section, or part will not take effect
24 unless approved by the people at the general election to be held in
25 November 2018 and, in such case, will take effect on the date of the
26 official declaration of the vote thereon by the governor.