

## CHAPTER 77

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**EDUCATION - UNIVERSITIES AND COLLEGES**

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SENATE BILL 98-128

BY SENATOR Wells;  
also REPRESENTATIVES Smith, K. Alexander, Dyer, Kreutz, Leyba, Nichol, and S. Williams.

**AN ACT**

CONCERNING THE PREPAID POSTSECONDARY EDUCATION EXPENSE TRUST PROGRAM.

*Be it enacted by the General Assembly of the State of Colorado:***SECTION 1.** 23-3.3-205, Colorado Revised Statutes, is amended to read:

**23-3.3-205. Dependents of deceased or permanently disabled national guardsman, law enforcement officer, or firefighter.** (1) (a) Any dependent of a person who died or was permanently disabled while on state active duty, federalized active duty, or authorized training duty as a Colorado national guardsman or any dependent of any person who has been permanently disabled or killed while acting to preserve the public peace, health, and safety in the capacity of police officer, sheriff, or other law enforcement officer or firefighter, upon being accepted for enrollment into any institution, shall be permitted to pursue studies leading toward a bachelor's degree or a certificate of completion, free of tuition, for so long as said dependent achieves and maintains standards as set by the institution for its students generally, but said benefits shall not be extended beyond twelve academic quarters or eight academic semesters, as the case may be. Such dependents pursuing studies at an institution that is not a state institution shall be eligible for assistance not to exceed the average cost of undergraduate instruction calculated for a full-time equivalent student at a comparable state institution for the previous year. The institutions or the commission shall provide tuition assistance to such qualified students from appropriated student financial assistance funds.

(b) THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (1) SHALL APPLY TO ALL ELIGIBLE DEPENDENTS WHO, AS OF JANUARY 1, 1999, ARE OVER SIXTEEN YEARS OF AGE.

(1.5) (a) ANY DEPENDENT, NOT OVER THE AGE OF SIXTEEN YEARS AS OF JANUARY

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

1, 1999, OF A PERSON WHO DIED OR WAS PERMANENTLY DISABLED WHILE ON STATE ACTIVE DUTY, FEDERALIZED ACTIVE DUTY, OR AUTHORIZED TRAINING DUTY AS A COLORADO NATIONAL GUARDSMAN OR ANY DEPENDENT OF ANY PERSON WHO HAS BEEN PERMANENTLY DISABLED OR KILLED WHILE ACTING TO PRESERVE THE PUBLIC PEACE, HEALTH, AND SAFETY IN THE CAPACITY OF POLICE OFFICER, SHERIFF, OR OTHER LAW ENFORCEMENT OFFICER OR FIREFIGHTER, UPON BEING ACCEPTED FOR ENROLLMENT INTO ANY INSTITUTION, SHALL BE ENTITLED TO FINANCIAL ASSISTANCE FOR THE PURSUIT OF STUDIES LEADING TOWARD A BACHELOR'S DEGREE OR A CERTIFICATE OF COMPLETION. FINANCIAL ASSISTANCE UNDER THIS PARAGRAPH (a) SHALL BE IN THE FORM OF THE PURCHASE OF AN ADVANCE PAYMENT CONTRACT OR CONTRACTS PURSUANT TO PART 2 OF ARTICLE 3.1 OF THIS TITLE.

(b) (I) IF THE SURVIVING PARENT OR LEGAL GUARDIAN OF A DEPENDENT ELIGIBLE FOR BENEFITS UNDER PARAGRAPH (a) OF THIS SUBSECTION (1.5) NOTIFIES THE COMMISSION ON OR BEFORE ONE YEAR OF THE DEPENDENT BECOMING ELIGIBLE, THE COMMISSION SHALL PURCHASE IN ITS NAME ON BEHALF OF THE DEPENDENT FOUR HUNDRED TWENTY TUITION UNITS FOR THE ESTIMATED FIRST PAYOUT DATE.

(II) IF THE ADVANCE PAYMENT CONTRACTS ARE INSUFFICIENT TO PAY ALL OF THE TUITION COSTS FOR ANY ELIGIBLE DEPENDENT UNDER THIS PARAGRAPH (b), THE INSTITUTION OR THE COMMISSION SHALL PROVIDE ADDITIONAL TUITION ASSISTANCE TO SUCH QUALIFIED DEPENDENTS FROM APPROPRIATED FINANCIAL ASSISTANCE FUNDS.

(III) IF AN ELIGIBLE DEPENDENT UNDER THIS PARAGRAPH (b) PURSUES STUDIES AT AN INSTITUTION THAT IS NOT A STATE INSTITUTION, THE DEPENDENT SHALL BE ELIGIBLE FOR ASSISTANCE NOT TO EXCEED THE AVERAGE COST OF UNDERGRADUATE INSTRUCTION CALCULATED FOR A FULL-TIME EQUIVALENT STUDENT AT A COMPARABLE STATE INSTITUTION FOR THE PREVIOUS YEAR.

(c) (I) IF THE COMMISSION IS NOTIFIED OF AN ELIGIBLE DEPENDENT MORE THAN ONE YEAR AFTER THE DEPENDENT BECOMES ELIGIBLE, THE COMMISSION SHALL PURCHASE IN ITS NAME ON BEHALF OF THE DEPENDENT THE NUMBER OF TUITION UNITS THAT MAY BE PURCHASED FOR THE AMOUNT THAT THE COMMISSION WOULD HAVE PAID TO PURCHASE FOUR HUNDRED TWENTY UNITS ON OR BEFORE ONE YEAR AFTER THE DEPENDENT BECAME ELIGIBLE.

(II) IF THE ADVANCE PAYMENT CONTRACTS ARE INSUFFICIENT TO PAY ALL OF THE TUITION COSTS FOR ANY ELIGIBLE DEPENDENT UNDER THIS PARAGRAPH (c), THE INSTITUTION OR THE COMMISSION SHALL PROVIDE ADDITIONAL TUITION ASSISTANCE TO SUCH QUALIFIED DEPENDENTS FROM APPROPRIATED FINANCIAL ASSISTANCE FUNDS, BUT ANY FINANCIAL ASSISTANCE IN ADDITION TO THE ADVANCE PAYMENT CONTRACTS SHALL NOT INCLUDE ANY AMOUNTS THAT WOULD HAVE BEEN INCLUDED WITHIN THE ADVANCE PAYMENT CONTRACT IF IT HAD BEEN PURCHASED WITHIN ONE YEAR OF THE DEPENDENT BECOMING ELIGIBLE.

(III) IF AN ELIGIBLE DEPENDENT UNDER THIS PARAGRAPH (c) PURSUES STUDIES AT AN INSTITUTION THAT IS NOT A STATE INSTITUTION, THE DEPENDENT SHALL BE ELIGIBLE FOR ASSISTANCE NOT TO EXCEED THE AVERAGE COST OF UNDERGRADUATE INSTRUCTION CALCULATED FOR A FULL-TIME EQUIVALENT STUDENT AT A COMPARABLE STATE INSTITUTION FOR THE PREVIOUS YEAR LESS ANY AMOUNTS EXCLUDED PURSUANT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH (c) DUE TO THE ADVANCE

PAYMENT CONTRACT NOT HAVING BEEN PURCHASED WITHIN ONE YEAR OF THE DEPENDENT BECOMING ELIGIBLE.

(d) AN ELIGIBLE DEPENDENT MAY APPLY FOR ASSISTANCE THROUGH THE PREPAID TUITION CONTRACTS UNDER THIS SUBSECTION (1.5) AT ANY TIME UNTIL THE DEPENDENT REACHES THE AGE OF TWENTY-FIVE. IF A DEPENDENT FOR WHOM A PREPAID TUITION CONTRACT WAS PURCHASED REACHES THE AGE OF TWENTY-FIVE WITHOUT HAVING USED ANY OR ALL OF THE TUITION UNITS, THE COMMISSION SHALL REQUEST A REFUND OF THE CONTRACT THAT SHALL BE PAID TO THE GENERAL FUND; EXCEPT THAT, IF AN ELIGIBLE DEPENDENT IS ENROLLED IN AN INSTITUTION OF HIGHER EDUCATION AT THE TIME THE DEPENDENT REACHES THE AGE OF TWENTY-FIVE, THE PREPAID TUITION CONTRACT SHALL NOT BE REFUNDED SO LONG AS THE DEPENDENT IS STILL ENROLLED IN AN INSTITUTION OF HIGHER EDUCATION AND IS ELIGIBLE TO RECEIVE ASSISTANCE UNDER THIS SECTION.

(2) Benefits under this section shall be allowed only to those qualified dependents who are not eligible for educational benefits provided by the federal government. ~~and those qualified dependents whose eligibility for benefits under this section is determined pursuant to paragraph (b) of subsection (3) of this section must also be determined by the commission to be in need of financial assistance.~~

(3) (a) An individual who was permanently disabled while on state active duty, federalized active duty, or authorized training duty as a Colorado national guardsman is permanently disabled for the purpose of determining eligibility of dependents to qualify for educational benefits if such individual is ineligible for retention as a member of the national guard and is unable to engage in any substantial full-time gainful activity by reason of medically determinable physical or mental impairment which can be expected to result in death or which has lasted for a continuous period of not less than twelve months and exists at the time the dependent seeks entry into an institution.

(b) An individual who has been permanently disabled while acting to preserve the public peace, health, and safety in the capacity of police officer, sheriff, or other law enforcement officer or firefighter is permanently disabled for the purpose of determining eligibility of dependents to qualify for educational benefits if such individual is, as a result of the disability, unable to perform in the position to which he or she was regularly assigned at the time he or she became disabled.

**SECTION 2.** Part 2 of article 3.1 of title 23, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**23-3.1-225. Confidentiality of records.** (1) NOTWITHSTANDING THE PROVISIONS OF PART 2 OF ARTICLE 72 OF TITLE 24, C.R.S., THE FOLLOWING DATA, INFORMATION, AND RECORDS RELATING TO THE PREPAID EXPENSE TRUST FUND 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 (2) OF THIS SECTION:

(a) DATA AND INFORMATION COLLECTED BY OR FURNISHED TO OR ON BEHALF OF THE AUTHORITY IN CONNECTION WITH THE PREPAID EXPENSE TRUST FUND MAINTAINED AND ADMINISTERED BY THE AUTHORITY UNDER THIS PART 2, INCLUDING ALL

## INFORMATION SUBMITTED BY PURCHASERS OF ADVANCE PAYMENT CONTRACTS;

(b) RECORDS, DATA, AND INFORMATION COMPILED, HELD, MAINTAINED, OR DISSEMINATED BY OR ON BEHALF OF THE AUTHORITY IN CONNECTION WITH THE PREPAID EXPENSE TRUST FUND, EXCEPT FOR INFORMATION COMPILED IN THE REPORT PURSUANT TO SUBSECTION (2) OF THIS SECTION; AND

(c) TRADE SECRETS, COMMERCIAL DATA, OR FINANCIAL DATA DEVELOPED OR OBTAINED BY OR ON BEHALF OF THE AUTHORITY IN CONNECTION WITH THE PREPAID EXPENSE TRUST FUND.

## (2) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION:

(a) THE AUTHORITY MAY DISCLOSE AND MAY PROVIDE THE RIGHT OF ACCESS TO OR INSPECTION OF ANY DATA, INFORMATION, OR RECORDS AS PROVIDED IN AN ADVANCE PAYMENT CONTRACT OR CONTRACTS, TO AGENTS OR REPRESENTATIVES OF PROFESSIONALS ENGAGED BY THE AUTHORITY, OR IF THE PURCHASER OR PURCHASERS OF THE ADVANCE PAYMENT CONTRACT OR CONTRACTS HAVE CONSENTED IN WRITING TO THE DISCLOSURE TO THIRD PARTIES;

(b) THE AUTHORITY MAY DISCLOSE AND PROVIDE THE RIGHT OF ACCESS TO THE REPORTS CONCERNING THE PREPAID EXPENSE TRUST FUND THE AUTHORITY IS REQUIRED TO PREPARE PURSUANT TO SECTION 23-3.1-221.

(3) NO CAUSE OF ACTION SHALL ARISE AGAINST A PERSON FOR DISCLOSING CONFIDENTIAL INFORMATION IN VIOLATION OF SUBSECTION (1) OF THIS SECTION UNLESS THE ACT OR OMISSION GIVING RISE TO THE CAUSE OF ACTION WAS INTENTIONAL OR GROSSLY NEGLIGENT.

**SECTION 3.** 24-72-202 (6) (b), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

**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 THE COLORADO PREPAID POSTSECONDARY EDUCATION EXPENSE TRUST FUND ESTABLISHED IN SECTION 23-3.1-206.7 (5), C.R.S.

**SECTION 4.** 23-3.1-206.7 (5) (a), Colorado Revised Statutes, is amended to read:

**23-3.1-206.7. Education expense program - feasibility study.** (5) (a) The Colorado prepaid postsecondary education expense trust fund is hereby created. The prepaid expense trust fund shall consist of moneys remitted by purchasers AND RECEIVABLES FOR MONEYS DUE TO BE REMITTED in accordance with advance payment contracts, moneys acquired from governmental and private sources, and general fund appropriations, if any. All interest derived from the deposit and investment of moneys in the prepaid expense trust fund shall be credited to the fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the prepaid expense trust fund shall remain therein and shall not be credited or transferred to the general fund or any other

fund.

**SECTION 5. 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; 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: April 10, 1998