

CHAPTER 156

EDUCATION - POSTSECONDARY

SENATE BILL 13-033

BY SENATOR(S) Giron and Johnston, Aguilar, Guzman, Ulibarri, Steadman, Carroll, Heath, Hodge, Hudak, Morse, Nicholson, Schwartz, Todd, Crowder, Jahn, Jones, Kefalas, Newell;
 also REPRESENTATIVE(S) Duran and Williams, Salazar, Moreno, Garcia, Vigil, Pabon, Buckner, Exum, Fields, Foote, Kraft-Tharp, Lebsack, McCann, Melton, Peniston, Rosenthal, Ryden, Singer, Court, Fischer, Gerou, Ginal, Hamner, Hullinghorst, Kagan, Labuda, Lee, Levy, May, McLachlan, Mitsch Bush, Pettersen, Primavera, Schafer, Tyler, Young, Ferrandino.

AN ACT

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

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

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

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

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

(b) EXCEPT AS PROVIDED IN SUBSECTION (3) OF THIS SECTION, WITHIN TWELVE MONTHS AFTER GRADUATING OR COMPLETING A GENERAL EQUIVALENCY DIPLOMA IN COLORADO, THE STUDENT IS ADMITTED TO A COLORADO INSTITUTION OR ATTENDS AN INSTITUTION OF HIGHER EDUCATION UNDER A RECIPROCITY AGREEMENT PURSUANT TO SECTION 23-1-112.

(2)(a) IN ADDITION TO SATISFYING THE REQUIREMENTS SET FORTH IN SUBSECTION (1) OF THIS SECTION, A STUDENT SEEKING TUITION CLASSIFICATION AS AN IN-STATE

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

STUDENT PURSUANT TO THIS SECTION WHO DOES NOT HAVE LAWFUL IMMIGRATION STATUS MUST SUBMIT AN AFFIDAVIT TO THE INSTITUTION TO WHICH THE STUDENT IS ADMITTED, STATING THAT THE STUDENT HAS APPLIED FOR LAWFUL PRESENCE OR WILL APPLY AS SOON AS HE OR SHE IS ELIGIBLE TO DO SO.

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

(3) A STUDENT WHO SATISFIES THE REQUIREMENTS OF PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION, WHO IS SUBJECT TO THE PROVISIONS OF PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION, AND WHO GRADUATED OR COMPLETED HIS OR HER GENERAL EQUIVALENCY DIPLOMA PRIOR TO SEPTEMBER 1, 2013, BUT WAS NOT ADMITTED TO AN INSTITUTION WITHIN TWELVE MONTHS AFTER GRADUATING OR COMPLETING THE GENERAL EQUIVALENCY DIPLOMA, SHALL BE CLASSIFIED AS AN IN-STATE STUDENT FOR TUITION PURPOSES SO LONG AS THE STUDENT HAS BEEN PHYSICALLY PRESENT IN COLORADO ON A CONTINUOUS BASIS FOR AT LEAST EIGHTEEN MONTHS PRIOR TO ENROLLING IN THE INSTITUTION.

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

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

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

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

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

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

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

SECTION 3. No appropriation - legislative declaration. (1) The general assembly finds, determines, and declares that:

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

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

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

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

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

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

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

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

SECTION 4. 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.

Approved: April 29, 2013