

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 11-0398.02 Brita Darling

SENATE BILL 11-126

SENATE SPONSORSHIP

Giron and Johnston, Bacon, Foster, Guzman, Heath, Hodge, Morse, Nicholson, Shaffer B., Steadman, Williams S.

HOUSE SPONSORSHIP

Miklosi and Williams A., Duran, Fields, Hullinghorst, Levy, Pabon, Solano

Senate Committees

Education
Finance
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING CLASSIFICATION AS AN UNSUBSIDIZED IN-STATE STUDENT**
102 **FOR TUITION PURPOSES AT STATE INSTITUTIONS OF HIGHER**
103 **EDUCATION.**

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 allows a student, other than certain foreign students or trainees defined in federal law, to be classified as an unsubsidized in-state student for tuition purposes so long as the student:

! Attended a public or private high school in Colorado for 3

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.

or more years immediately preceding the date the student graduated from a Colorado high school or earned a general educational development certificate (certificate) in Colorado; and

- ! Is admitted to an institution of higher education in Colorado within 12 months after graduating from high school or earning a certificate.

The bill provides a one-year exception to the eligibility requirements for a student who meets all of the eligibility requirements but was not admitted into an institution of higher education within 12 months after graduating from high school or earning a certificate. The exception is repealed on July 1, 2012.

A student applying for the tuition classification who does not have documentation of lawful immigration or nationality status shall submit an affidavit to the institution of higher education, stating that he or she is requesting documentation of, has applied for, or will be applying for lawful status as soon as he or she is eligible. The information contained in the affidavit is confidential and is a protected education record of the student.

A student classified as an unsubsidized in-state student is not eligible for a college opportunity fund stipend or for any state-funded, need-based financial aid.

Eligibility for the tuition classification is not based upon residency. A student who qualifies for unsubsidized in-state student tuition classification shall not be counted as a resident, and the tuition classification shall not be deemed to establish residency or domicile for any purpose.

Verification of lawful presence in the United States is not required for persons applying for unsubsidized tuition classification.

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

2 **SECTION 1.** Part 1 of article 7 of title 23, Colorado Revised
3 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
4 read:

5 **23-7-112. Classification for unsubsidized in-state tuition -**
6 **repeal.** (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE
7 TO THE CONTRARY, A STUDENT, OTHER THAN A FOREIGN STUDENT OR
8 TRAINEE WITHIN THE MEANING OF 8 U.S.C. SEC. 1101 (a) (15) (F), (a) (15)

1 (H) (iii), (a) (15) (J) (INCLUDING ONLY STUDENTS AND TRAINEES), OR (a)
2 (15) (M), WHO MEETS ALL OF THE FOLLOWING REQUIREMENTS SHALL BE
3 ELIGIBLE FOR CLASSIFICATION AS AN UNSUBSIDIZED IN-STATE STUDENT
4 FOR TUITION PURPOSES:

5 (a) THE STUDENT ATTENDED A PUBLIC OR PRIVATE HIGH SCHOOL
6 IN COLORADO FOR THREE OR MORE YEARS IMMEDIATELY PRECEDING THE
7 DATE THAT THE STUDENT EITHER GRADUATED FROM A COLORADO HIGH
8 SCHOOL OR EARNED A GENERAL EDUCATIONAL DEVELOPMENT
9 CERTIFICATE IN COLORADO; AND

10 (b) THE STUDENT IS ADMITTED TO AN ACCREDITED INSTITUTION OF
11 HIGHER EDUCATION IN COLORADO WITHIN TWELVE MONTHS AFTER
12 GRADUATING FROM A COLORADO HIGH SCHOOL OR EARNING A GENERAL
13 EDUCATIONAL DEVELOPMENT CERTIFICATE IN COLORADO.

14 (2) (a) NOTWITHSTANDING ANY PROVISIONS OF SUBSECTION (1) OF
15 THIS SECTION TO THE CONTRARY, A STUDENT SHALL BE ELIGIBLE FOR
16 CLASSIFICATION AS AN UNSUBSIDIZED IN-STATE STUDENT FOR TUITION
17 PURPOSES IF:

18 (I) THE STUDENT IS A MINOR AT THE TIME HE OR SHE IS APPLYING
19 FOR CLASSIFICATION AS AN UNSUBSIDIZED IN-STATE STUDENT FOR TUITION
20 PURPOSES; AND

21 (II) THE STUDENT MEETS ALL OF THE REQUIREMENTS SPECIFIED IN
22 SUBSECTION (1) OF THIS SECTION; EXCEPT THAT THE STUDENT WAS NOT
23 ADMITTED TO AN INSTITUTION OF HIGHER EDUCATION WITHIN TWELVE
24 MONTHS AFTER GRADUATING FROM A COLORADO HIGH SCHOOL OR
25 EARNING A GENERAL EDUCATIONAL DEVELOPMENT CERTIFICATE IN
26 COLORADO.

27 (b) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE JULY 1, 2012.

1 (3) (a) A STUDENT APPLYING FOR CLASSIFICATION AS AN
2 UNSUBSIDIZED IN-STATE STUDENT WHO DOES NOT HAVE DOCUMENTATION
3 OF LAWFUL IMMIGRATION OR NATIONALITY STATUS SHALL FILE AN
4 AFFIDAVIT WITH THE INSTITUTION OF HIGHER EDUCATION TO WHICH THE
5 STUDENT IS ADMITTED STATING THAT THE STUDENT HAS REQUESTED
6 DOCUMENTATION OF, HAS APPLIED FOR, OR WILL FILE AN APPLICATION FOR
7 LAWFUL STATUS AS SOON AS HE OR SHE IS ELIGIBLE TO DO SO.

8 (b) INFORMATION OBTAINED FROM A STUDENT FOR THE PURPOSES
9 OF IMPLEMENTING THIS SECTION IS CONFIDENTIAL. AN INSTITUTION OF
10 HIGHER EDUCATION THAT RECEIVES AN AFFIDAVIT DESCRIBED IN
11 PARAGRAPH (a) OF THIS SUBSECTION (3) SHALL TREAT THE AFFIDAVIT AS
12 AN EDUCATION RECORD OF THE STUDENT UNDER THE PROVISIONS OF THE
13 FEDERAL "FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT OF 1974", 20
14 U.S.C. SEC. 1232g.

15 (4) A STUDENT WHO IS CLASSIFIED AS AN UNSUBSIDIZED IN-STATE
16 STUDENT FOR TUITION PURPOSES PURSUANT TO THIS SECTION IS NOT
17 ELIGIBLE FOR A STIPEND PURSUANT TO THE COLLEGE OPPORTUNITY FUND
18 PROGRAM CREATED IN SECTION 23-18-201 AND IS NOT ELIGIBLE TO
19 RECEIVE STATE-FUNDED, NEED-BASED FINANCIAL AID.

20 (5) (a) ELIGIBILITY FOR CLASSIFICATION AS AN UNSUBSIDIZED
21 IN-STATE STUDENT FOR TUITION PURPOSES PURSUANT TO THIS SECTION IS
22 NOT BASED UPON RESIDENCY.

23 (b) A STUDENT CLASSIFIED AS AN UNSUBSIDIZED IN-STATE
24 STUDENT FOR TUITION PURPOSES PURSUANT TO THIS SECTION SHALL NOT
25 BE COUNTED AS A RESIDENT AND SHALL NOT BE DEEMED A RESIDENT OR
26 DOMICILIARY AS A RESULT OF HIS OR HER TUITION CLASSIFICATION
27 PURSUANT TO THIS SECTION.

1 (c) THE PROVISIONS OF THIS SECTION ARE INTENDED TO SATISFY
2 THE PROVISIONS OF 8 U.S.C. SEC. 1621 (d) TO THE EXTENT THAT IT MAY
3 BE APPLICABLE.

4 **SECTION 2.** 23-1-104, Colorado Revised Statutes, is amended
5 **BY THE ADDITION OF A NEW SUBSECTION** to read:

6 **23-1-104. Financing the system of postsecondary education -**
7 **report - repeal.** (1.5) FOR FISCAL YEARS 2011-12 THROUGH 2015-16,
8 CASH FUNDS RECEIVED BY AN INSTITUTION AS UNSUBSIDIZED IN-STATE
9 TUITION PURSUANT TO SECTION 23-7-112 SHALL NOT BE SUBJECT TO
10 ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY OR INCLUDED IN THE
11 SINGLE LINE ITEM APPROPRIATION TO EACH GOVERNING BOARD PURSUANT
12 TO PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION. THE INSTITUTION
13 SHALL REPORT UNSUBSIDIZED IN-STATE TUITION, CLASSIFIED AS SUCH
14 PURSUANT TO SECTION 23-7-112, IN THE SAME MANNER THAT THE
15 INSTITUTION REPORTS ALL OTHER TUITION RECEIPTS.

16 **SECTION 3.** 24-76.5-103 (3) (g), Colorado Revised Statutes, is
17 amended, and the said 24-76.5-103 (3) is further amended BY THE
18 ADDITION OF A NEW PARAGRAPH, to read:

19 **24-76.5-103. Verification of lawful presence - exceptions -**
20 **reporting - rules.** (3) Verification of lawful presence in the United
21 States shall not be required:

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

25 (h) FOR CLASSIFICATION AS AN UNSUBSIDIZED IN-STATE STUDENT
26 FOR TUITION PURPOSES PURSUANT TO SECTION 23-7-112, C.R.S.

27 **SECTION 4.** **Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.