

## CHAPTER 103

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**EDUCATION - POSTSECONDARY**

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**HOUSE BILL 18-1228**

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**AN ACT**

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

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

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

**ARTICLE 7.4****Military Members, Veterans, and Dependents****PART 1  
GENERAL PROVISIONS**

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

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

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

(b) THE FAMILIES OF SERVICE MEMBERS OFTEN SACRIFICE PERSONAL GOALS DUE

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

TO FREQUENT MOVES AND DEPLOYMENTS THAT DISRUPT OR DELAY WORK AND EDUCATION, INCLUDING HIGHER EDUCATION;

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

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

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

**23-7.4-103. Higher education provisions relating to military members, veterans, and dependents - located in other articles.** (1) THE FOLLOWING PROVISIONS RELATING TO HIGHER EDUCATION FOR MILITARY MEMBERS, VETERANS, AND DEPENDENTS ARE CONTAINED IN OTHER ARTICLES OF THIS TITLE 23:

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

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

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

(d) ELIGIBILITY FOR PAYMENT OF A COLORADO OPPORTUNITY FUND STIPEND FOR OFF-CAMPUS, EXTENDED CAMPUS, OR CONTINUING EDUCATION CLASSES, SECTION 23-18-202 (5)(d)(I)(F);

(e) CREDIT FOR MILITARY EDUCATION AND TRAINING, SECTION 23-5-145;

(f) TEACH COLORADO GRANT INITIATIVE, SECTION 23-3.3-901 (4)(d); AND

(g) TUITION CLASSIFICATION OF CANADIAN MILITARY PERSONNEL, SECTION 23-7-106.

## PART 2 TUITION CLASSIFICATION

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

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

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

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

(2) A student who is classified as an in-state student solely pursuant to this section ~~shall~~ IS NOT BE counted as a resident for any purpose other than tuition classification.

~~(3) Repealed.~~

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

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

(2) A student who is classified as an in-state student solely pursuant to this section ~~shall~~ IS NOT BE counted as a resident for any purpose other than tuition classification; except that, beginning with the fall semester of the 2011-2012 academic year, upon ~~such~~ classification as an in-state student pursuant to this section, the student ~~shall~~ IS ALSO BE eligible to receive a stipend from the college opportunity fund pursuant to part 2 of article 18 of this ~~title~~ TITLE 23.

**23-7.4-204. [Formerly 23-7-108.6] Tuition classification for veterans pursuant to federal law.** (1) Notwithstanding any provision of this ~~article~~ ARTICLE 7.4 OR ARTICLE 7 OF THIS TITLE 23 to the contrary, beginning with any courses enrolled as of July 1, 2015, the governing board of each state institution of higher

education shall adopt a policy granting in-state tuition status to "covered individuals", as defined in section 702 of the FEDERAL "Veterans Access, Choice, and Accountability Act of 2014", 38 U.S.C. sec. 3679, as may be amended, and as determined by the United States department of veterans affairs.

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

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

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

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

(4) Beginning July 1, 2015, upon classification pursuant to this section, the covered individual is also eligible to receive a stipend from the college opportunity fund pursuant to part 2 of article 18 of this ~~title~~ TITLE 23.

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

### PART 3 FINANCIAL ASSISTANCE

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

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

retain membership in the National Guard.

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

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

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

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

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

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

(IV) Must serve in the Colorado National Guard during the period of time that the member is receiving tuition and fee assistance.

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

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

(3) (a) For ~~the~~ purposes of this section, "designated institution of higher education" means the Colorado state university - Pueblo, Adams state university, Colorado Mesa university, Metropolitan state university of Denver, Fort Lewis college, Western state Colorado university, all independent area technical colleges, all local district colleges, the university of northern Colorado, the university of Colorado at Boulder, the university of Colorado at Denver, the university of Colorado at Colorado Springs, Colorado state university, the Colorado school of mines, the university of Colorado health sciences center, all community colleges governed by the state board for community colleges and occupational education,

and any private institution of higher education in Colorado that qualifies for the college opportunity fund pursuant to article 18 of this title 23 and that offers an accredited certificate or degree program in homeland security. For a member of the Colorado National Guard enrolled in a private institution of higher education, tuition assistance is limited to the completion of the accredited certificate or degree program in homeland security and is provided at the discretion of the adjutant general of the department of military and veterans affairs.

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

(4) Repealed.

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

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

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

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

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

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

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

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

(V) Financial need, merit, or talent;

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

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

(8) Repealed.

(9) (a) There is created in the state treasury the Colorado National Guard tuition fund which is administered by the department of military and veterans affairs and which consists of all money that may be appropriated thereto by the general assembly or that is otherwise made available to it by the general assembly. Money "otherwise made available" includes any repayment of tuition assistance made pursuant to subsection (6) of this section. The money in the fund is continuously appropriated for the payment of tuition assistance as provided in this section. Any money not expended at the end of the fiscal year remains in the fund and shall not be transferred to or revert to the general fund of the state.

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

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

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

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

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

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

Approved: April 9, 2018