

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 19-0750.01 Esther van Mourik x4215

SENATE BILL 19-087

SENATE SPONSORSHIP

Woodward, Lundeen

HOUSE SPONSORSHIP

(None),

Senate Committees

State, Veterans, & Military Affairs

House Committees

A BILL FOR AN ACT

101 **CONCERNING STUDENTS WHO HAVE BEEN SUBJECTED TO A SCHOOL**
102 **SAFETY INCIDENT.**

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>.)

Current law allows nonresident pupils from other school districts within the state to enroll in a school district without requiring the nonresident pupils to pay tuition but gives the school district the authority to deny enrollment to nonresident pupils after the pupil enrollment count day. The bill requires a school district to allow enrollment of nonresident pupils after the pupil enrollment count day if the student has been

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.

subjected to a school safety incident.

Current law allows contributions to a qualified state tuition program, also known as a 529 account, so long as the distributions are used for qualified higher education expenses, with some exceptions, but not for elementary and secondary tuition expenses. The federal "Tax Cuts and Jobs Act", which became law in December 2017, added distributions for tuition expenses in connection with enrollment or attendance at an elementary or secondary public, private, or religious school as qualified distributions, thereby allowing, on the federal level, income tax-free distributions for certain elementary and secondary education expenses in addition to already authorized income tax-free distributions for higher education expenses.

The bill makes similar, but limited, changes to Colorado law to allow a deduction for contributions to qualified state tuition programs for tuition expenses for a student who has been subjected to a school safety incident in connection with enrollment or attendance at an elementary or secondary public, private, or religious school. The bill designates such expenses for a student who has been subjected to a school safety incident as qualified distributions, which ensures that a taxpayer does not encounter tax recapture of any claimed deductions when such contributions are distributed for tuition expenses for a student who has been subjected to a school safety incident in connection with enrollment or attendance at an elementary or secondary public, private, or religious school.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) Students enrolled in an elementary or secondary public,
5 private, or religious school in Colorado who are subjected to incidents of
6 battery; harassment; hazing; bullying; kidnapping; physical attack;
7 robbery; sexual offense that involves either harassment, assault, or
8 battery; threat or intimidation; or fighting at school should be able to
9 transfer to another elementary or secondary public, private, or religious
10 school for their safety; and

11 (b) Parents, guardians, family members, and friends of any student

1 who has been subjected to such an incident should have every opportunity
2 to help that student transfer to another elementary or secondary public,
3 private, or religious school.

4 (2) Therefore, the general assembly finds that it is imperative to:

5 (a) Allow parents or guardians to enroll their child, who has been
6 subjected to a school safety incident, as a nonresident pupil at any school
7 district in the state after the pupil enrollment count day; and

8 (b) Provide parents, guardians, family members, or friends with
9 the ability to help a student who has been subjected to a school safety
10 incident by updating the Colorado income tax deduction for contributions
11 to qualified state tuition programs to allow for contributions to and
12 distributions from the qualified state tuition program for tuition expenses
13 in connection with the attendance at any elementary or secondary public,
14 private, or religious school.

15 **SECTION 2.** In Colorado Revised Statutes, 22-36-101, **amend**
16 (2)(b) introductory portion, (2)(b)(IV), and (2)(c) as follows:

17 **22-36-101. Choice of programs and schools within school**
18 **districts - definitions.** (2) (b) In implementing ~~the provisions of~~
19 subsection (1) of this section, no school district shall be required to:

20 (IV) Enroll any student pursuant to this section in any program or
21 school after the pupil enrollment count day; EXCEPT THAT A SCHOOL
22 DISTRICT SHALL ENROLL A STUDENT AFTER THE PUPIL ENROLLMENT COUNT
23 DAY IF A STUDENT'S PARENT OR LEGAL GUARDIAN ATTESTS, IN WRITING,
24 THAT THE STUDENT HAS BEEN SUBJECTED TO A SCHOOL SAFETY INCIDENT.

25 (c) As used in this subsection (2), unless the context otherwise
26 requires:

27 (I) "Pupil enrollment count day" has the same meaning as set forth

1 in section 22-54-103 (10.5).

2 (II) "SCHOOL SAFETY INCIDENT" MEANS ANY INCIDENT OF
3 BATTERY; HARASSMENT; HAZING; BULLYING; KIDNAPPING; PHYSICAL
4 ATTACK; ROBBERY; SEXUAL OFFENSE THAT INVOLVES EITHER
5 HARASSMENT, ASSAULT, OR BATTERY; THREAT OR INTIMIDATION; OR
6 FIGHTING THAT A STUDENT HAS BEEN SUBJECTED TO IN SCHOOL WHILE
7 ENROLLED IN AN ELEMENTARY OR SECONDARY PUBLIC, PRIVATE, OR
8 RELIGIOUS SCHOOL IN THE STATE.

9 **SECTION 3.** In Colorado Revised Statutes, 39-22-104, **amend**
10 (4)(i)(III) and (4)(i)(IV) as follows:

11 **39-22-104. Income tax imposed on individuals, estates, and**
12 **trusts - single rate - legislative declaration - definitions - repeal.**

13 (4) There shall be subtracted from federal taxable income:

14 (i) (III) No exclusion shall be allowed pursuant to this ~~paragraph~~
15 ~~(i)~~ SUBSECTION (4)(i) to the extent that such payments or contributions are
16 excluded from the taxpayer's federal taxable income for the taxable year.
17 Any exclusion taken under this ~~paragraph (i)~~ SUBSECTION (4)(i) shall be
18 subject to recapture in the taxable year or years in which any distribution,
19 refund, or any other withdrawal is made pursuant to an advance payment
20 contract, from a savings trust account, or otherwise in connection with a
21 qualified state tuition program for any reason other than:

22 (A) To pay qualified higher education expenses;

23 (B) As a result of the beneficiary's death or disability; ~~or~~

24 (C) As a result of receiving a scholarship and as long as the
25 aggregate amount of distributions, refunds, or withdrawals made pursuant
26 to this ~~sub-paragraph (C)~~ SUBSECTION (4)(i)(III)(C) do not exceed the
27 amount of the scholarship provided during such tax year; OR

1 (D) TO PAY FOR QUALIFIED ELEMENTARY AND SECONDARY
2 TUITION EXPENSES IN AN AMOUNT NOT TO EXCEED THE DOLLAR AMOUNT
3 LIMITATION SET FORTH IN SECTION 529 (e)(3)(A)(iii) OF THE INTERNAL
4 REVENUE CODE, AS AMENDED, FOR ANY STUDENT ENROLLED IN AN
5 ELEMENTARY OR SECONDARY PUBLIC, PRIVATE, OR RELIGIOUS SCHOOL IN
6 THE STATE WHO HAS BEEN SUBJECTED TO A SCHOOL SAFETY INCIDENT AND
7 WHOSE PARENT OR GUARDIAN HAS ATTESTED, IN WRITING, TO THE
8 INCIDENT HAVING OCCURRED.

9 (IV) As used in this ~~paragraph (i)~~ SUBSECTION (4)(i), UNLESS THE
10 CONTEXT OTHERWISE REQUIRES:

11 (A) "Designated beneficiary", ~~means a designated beneficiary as~~
12 ~~defined in section 529 (e)(1) of the internal revenue code~~, "qualified state
13 tuition program", ~~means a qualified state tuition program as defined in~~
14 ~~section 529 (b) of the internal revenue code~~, and "qualified higher
15 education expenses" ~~means qualified higher education expenses as~~ HAVE
16 THE SAME MEANING AS THOSE TERMS ARE defined in section 529 (e)(3) of
17 the internal revenue code, AS AMENDED.

18 (B) "QUALIFIED ELEMENTARY AND SECONDARY TUITION
19 EXPENSES" MEANS EXPENSES RELATED TO ENROLLMENT OR ATTENDANCE
20 AT AN ELEMENTARY OR SECONDARY PUBLIC, PRIVATE, OR RELIGIOUS
21 SCHOOL AS DESCRIBED IN SECTION 529 (c)(7) OF THE INTERNAL REVENUE
22 CODE, AS AMENDED; EXCEPT THAT THE QUALIFIED EXPENSES ARE LIMITED
23 TO A STUDENT WHO HAS BEEN SUBJECTED TO A SCHOOL SAFETY INCIDENT
24 AND WHOSE PARENT OR GUARDIAN HAS ATTESTED, IN WRITING, TO THE
25 INCIDENT HAVING OCCURRED.

26 (C) "SCHOOL SAFETY INCIDENT" HAS THE SAME MEANING AS THAT
27 TERM IS DEFINED IN SECTION 22-36-101 (2)(c)(II).

1 **SECTION 4. Act subject to petition - effective date.** This act
2 takes effect at 12:01 a.m. on the day following the expiration of the
3 ninety-day period after final adjournment of the general assembly (August
4 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
5 referendum petition is filed pursuant to section 1 (3) of article V of the
6 state constitution against this act or an item, section, or part of this act
7 within such period, then the act, item, section, or part will not take effect
8 unless approved by the people at the general election to be held in
9 November 2020 and, in such case, will take effect on the date of the
10 official declaration of the vote thereon by the governor.