

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 20-0802.01 Esther van Mourik x4215

SENATE BILL 20-073

SENATE SPONSORSHIP

Pettersen,

HOUSE SPONSORSHIP

Buentello and Cutter,

Senate Committees

Education
Appropriations

House Committees

Education

A BILL FOR AN ACT

101 CONCERNING AMENDMENTS TO THE STATE INCOME TAX DEDUCTION
102 FOR CONTRIBUTIONS TO A QUALIFIED **529** ACCOUNT TO ENSURE
103 THAT THE STATE INCOME TAX DEDUCTION IS NOT ALIGNED WITH
104 THE CHANGES IN THE FEDERAL "TAX CUTS AND JOBS ACT" OF
105 **2017** THAT ALLOW TAX-FREE DISTRIBUTIONS FOR ELEMENTARY
106 AND SECONDARY SCHOOL EXPENSES.

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>.)

The federal "Tax Cuts and Jobs Act", which became law in

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.

December 2017, added distributions for elementary or secondary school expenses as qualified distributions from a qualified state tuition program, also known as a 529 account, thereby allowing, on the federal level, income tax-free distributions for elementary and secondary school expenses in addition to already authorized income tax-free distributions for higher education expenses.

The bill amends Colorado law to ensure that a taxpayer may not claim a deduction for contributions to qualified state tuition programs for elementary or secondary school expenses and clarifies that such expenses are not qualified distributions.

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-22-104, **amend**
3 (4)(i)(II), (4)(i)(III) introductory portion, and (4)(i)(IV); and **add** (4)(i)(V)
4 as follows:

5 **39-22-104. Income tax imposed on individuals, estates, and**
6 **trusts - single rate - legislative declaration - definitions - repeal.**

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

8 (i) (II) For income tax years commencing on or after January 1,
9 2001, an amount equal to all payments or contributions made during the
10 taxable year under an advance payment contract, to a savings trust
11 account, or otherwise in connection with a qualified state tuition program
12 established by collegeinvest created in section 23-3.1-203, ~~C.R.S.~~, or to
13 a qualified state tuition program that is affiliated with an educational
14 institution in the state and that is established and maintained pursuant to
15 section 529 of the internal revenue code or any successor section; EXCEPT
16 THAT A SUBTRACTION IS NOT ALLOWED UNDER THIS SUBSECTION (4)(i) IF
17 THE PAYMENT OR CONTRIBUTION MADE DURING THE TAXABLE YEAR IS
18 INTENDED FOR ELEMENTARY OR SECONDARY SCHOOL EXPENSES;

19 (III) No exclusion ~~shall be~~ IS allowed pursuant to this ~~paragraph~~
20 ~~(i)~~ SUBSECTION (4)(i) to the extent that such payments or contributions are

1 excluded from the taxpayer's federal taxable income for the taxable year.
2 Any exclusion taken under this ~~paragraph (i)~~ shall be subject to recapture
3 SUBSECTION (4)(i) IS ADDED TO THE ACCOUNT HOLDER'S TAXABLE INCOME
4 in the taxable year or years in which any distribution, refund, or any other
5 withdrawal is made pursuant to an advance payment contract, from a
6 savings trust account, or otherwise in connection with a qualified state
7 tuition program for any reason other than:

8 (IV) As used in this ~~paragraph (i)~~ SUBSECTION (4)(i), "designated
9 beneficiary", ~~means a designated beneficiary as defined in section 529~~
10 ~~(e)(1) of the internal revenue code~~, "qualified state tuition program",
11 ~~means a qualified state tuition program as defined in section 529 (b) of~~
12 ~~the internal revenue code~~, and "qualified higher education expenses"
13 ~~means qualified higher education expenses as~~ HAVE THE SAME MEANINGS
14 AS THOSE TERMS WERE defined in section 529 ~~(e)(3)~~ of the internal
15 revenue code, AS SUCH SECTION 529 EXISTED PRIOR TO THE ENACTMENT
16 OF THE "TAX CUTS AND JOBS ACT", PUB.L. 115-97. "QUALIFIED HIGHER
17 EDUCATION EXPENSES" DOES NOT INCLUDE ELEMENTARY OR SECONDARY
18 SCHOOL EXPENSES.

19 (V) NO LATER THAN JANUARY 1, 2021, AND QUARTERLY
20 THEREAFTER, COLLEGEINVEST SHALL PROVIDE THE DEPARTMENT WITH AN
21 ELECTRONIC REPORT CONTAINING INFORMATION FOR 529 QUALIFIED STATE
22 TUITION PROGRAM ACCOUNT HOLDERS, BENEFICIARIES, AND DONORS THAT
23 THE DEPARTMENT DETERMINES IS NECESSARY FOR THE ADMINISTRATION
24 OF THE CREDIT ALLOWED IN THIS SECTION. THE REPORT MUST INCLUDE,
25 BUT IS NOT LIMITED TO:

26 (A) THE NAME AND SOCIAL SECURITY NUMBER OF THE ACCOUNT
27 HOLDER OF EACH 529 QUALIFIED STATE TUITION PROGRAM ACCOUNT;

1 (B) THE NAME, DATE OF BIRTH, AND SOCIAL SECURITY NUMBER OF
2 THE BENEFICIARY OF EACH 529 QUALIFIED STATE TUITION PROGRAM
3 ACCOUNT;

4 (C) CONTRIBUTION DATA THAT CONTAINS THE AMOUNT OF EACH
5 CONTRIBUTION, THE DATE OF EACH CONTRIBUTION, AND THE SOURCE OF
6 EACH CONTRIBUTION, INCLUDING THE SOCIAL SECURITY NUMBER OR
7 FEDERAL EMPLOYEE IDENTIFICATION NUMBER OF THE CONTRIBUTOR; AND

8 (D) DISTRIBUTION DATA THAT CONTAINS THE AMOUNT OF EACH
9 DISTRIBUTION, THE DATE OF EACH DISTRIBUTION, AND THE REASON FOR
10 THE DISTRIBUTION.

11 **SECTION 2. Safety clause.** The general assembly hereby finds,
12 determines, and declares that this act is necessary for the immediate
13 preservation of the public peace, health, or safety.