

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 20-0802.01 Esther van Mourik x4215

SENATE BILL 20-073

SENATE SPONSORSHIP

Pettersen and Story, Bridges, Danielson, Fenberg, Garcia, Ginal, Gonzales, Hansen, Moreno, Rodriguez, Todd, Winter

HOUSE SPONSORSHIP

Buentello and Cutter,

Senate Committees

Education
Appropriations

House Committees

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, AND, IN CONNECTION**
107 **THEREWITH, MAKING AN APPROPRIATION.**

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>.)

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.

SENATE
3rd Reading Unamended
February 28, 2020

SENATE
Amended 2nd Reading
February 27, 2020

The federal "Tax Cuts and Jobs Act", which became law in 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 EXPENSES FOR TUITION IN CONNECTION WITH ENROLLMENT
19 OR ATTENDANCE AT AN ELEMENTARY OR SECONDARY PUBLIC, PRIVATE, OR

1 RELIGIOUS SCHOOL;

2 (III) No exclusion ~~shall be~~ IS allowed pursuant to this ~~paragraph~~
3 ~~(i)~~ SUBSECTION (4)(i) to the extent that such payments or contributions are
4 excluded from the taxpayer's federal taxable income for the taxable year.
5 Any exclusion taken under this ~~paragraph (i)~~ ~~shall be subject to recapture~~
6 SUBSECTION (4)(i) IS ADDED TO THE ACCOUNT HOLDER'S TAXABLE INCOME
7 in the taxable year or years in which any distribution, refund, or any other
8 withdrawal is made pursuant to an advance payment contract, from a
9 savings trust account, or otherwise in connection with a qualified state
10 tuition program for any reason other than:

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

23

24 (V) BEGINNING JANUARY 1, 2021, AND ANNUALLY THEREAFTER,
25 COLLEGEINVEST SHALL PROVIDE THE DEPARTMENT WITH A SECURE
26 ELECTRONIC REPORT CONTAINING INFORMATION FOR THE 529 QUALIFIED
27 STATE TUITION PROGRAM'S ACCOUNT OWNERS AND THIRD-PARTY

1 CONTRIBUTORS NECESSARY FOR THE ADMINISTRATION OF THE DEDUCTION
2 ALLOWED IN THIS SECTION. THE REPORT MUST INCLUDE:

3 (A) THE NAME AND SOCIAL SECURITY NUMBER, AND THE
4 CONTRIBUTION AMOUNT, OF ALL COLORADO TAXPAYERS MAKING A
5 CONTRIBUTION TO THEIR COLLEGEINVEST ACCOUNT IN THE REPORTING
6 TAX YEAR COMMENCING ON OR AFTER JANUARY 1, 2020;

7 (B) THE NAME AND SOCIAL SECURITY NUMBER, AND THE
8 CONTRIBUTION AMOUNT, OF ANY OTHER COLORADO TAXPAYER MAKING
9 A CONTRIBUTION TO A COLLEGEINVEST ACCOUNT IN THE REPORTING TAX
10 YEAR COMMENCING ON OR AFTER JANUARY 1, 2020, WHO INTENDS TO
11 PARTICIPATE IN THE DEDUCTION ALLOWED IN THIS SECTION; AND

12 (C) THE NAME AND SOCIAL SECURITY NUMBER, AND THE
13 UNQUALIFIED DISTRIBUTION AMOUNT, OF EACH ACCOUNT HOLDER OF A
14 COLLEGEINVEST ACCOUNT WHO IS ALSO A COLORADO TAXPAYER MAKING
15 AN UNQUALIFIED DISTRIBUTION IN THE REPORTING TAX YEAR
16 COMMENCING ON OR AFTER JANUARY 1, 2020, AND THE REASON FOR THE
17 UNQUALIFIED DISTRIBUTION.

18 **SECTION 2. Appropriation.** For the 2020-21 state fiscal year,
19 \$11,040 is appropriated to the department of revenue. This appropriation
20 is from the general fund. To implement this act, the department may use
21 this appropriation for tax administration IT system (GenTax) support.

22 **SECTION 3. Safety clause.** The general assembly hereby finds,
23 determines, and declares that this act is necessary for the immediate
24 preservation of the public peace, health, or safety.