

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

PREAMENDED

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

LLS NO. 20-0802.01 Esther van Mourik x4215

SENATE BILL 20-073

SENATE SPONSORSHIP

Pettersen and Story,

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.

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 ELEMENTARY OR SECONDARY SCHOOL EXPENSES;

19 (III) No exclusion ~~shall be~~ IS allowed pursuant to this paragraph

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

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

20 ==
21 (V) BEGINNING JANUARY 1, 2021, AND ANNUALLY THEREAFTER,
22 COLLEGEINVEST SHALL PROVIDE THE DEPARTMENT WITH A SECURE
23 ELECTRONIC REPORT CONTAINING INFORMATION FOR THE 529 QUALIFIED
24 STATE TUITION PROGRAM'S ACCOUNT OWNERS AND THIRD-PARTY
25 CONTRIBUTORS NECESSARY FOR THE ADMINISTRATION OF THE DEDUCTION
26 ALLOWED IN THIS SECTION. THE REPORT MUST INCLUDE:

27 (A) THE NAME AND SOCIAL SECURITY NUMBER, AND THE

1 CONTRIBUTION AMOUNT, OF ALL COLORADO TAXPAYERS MAKING A
2 CONTRIBUTION TO THEIR COLLEGEINVEST ACCOUNT IN THE REPORTING
3 TAX YEAR COMMENCING ON OR AFTER JANUARY 1, 2020:

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

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

15 **SECTION 2. Appropriation.** For the 2020-21 state fiscal year,
16 \$11,040 is appropriated to the department of revenue. This appropriation
17 is from the general fund. To implement this act, the department may use
18 this appropriation for tax administration IT system (GenTax) support.

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