

Second Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

**REENGROSSED**

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

LLS NO. 18-0989.01 Esther van Mourik x4215

**HOUSE BILL 18-1209**

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**HOUSE SPONSORSHIP**

**Pettersen and Garnett,**

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**Donovan,**

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**House Committees**  
Education

**Senate Committees**

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**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.**

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**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.*

HOUSE  
3rd Reading Unamended  
April 17, 2018

HOUSE  
2nd Reading Unamended  
April 16, 2018

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.

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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) and (4)(i)(IV) as follows:

4 **39-22-104. Income tax imposed on individuals, estates, and**  
5 **trusts - single rate - legislative declaration - definitions - repeal.**

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

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

18 (IV) As used in this ~~paragraph (i)~~ SUBSECTION (4)(i), "designated  
19 beneficiary", ~~means a designated beneficiary as defined in section 529~~  
20 ~~(e)(1) of the internal revenue code~~, "qualified state tuition program",

1 ~~means a qualified state tuition program as defined in section 529 (b) of~~  
2 ~~the internal revenue code, and "qualified higher education expenses"~~  
3 ~~means qualified higher education expenses as~~ HAVE THE SAME MEANINGS  
4 AS THOSE TERMS WERE defined in section 529 ~~(e)(3)~~ of the internal  
5 revenue code, AS SUCH SECTION 529 EXISTED PRIOR TO THE ENACTMENT  
6 OF THE "TAX CUTS AND JOBS ACT", PUB.L. 115-97. "QUALIFIED HIGHER  
7 EDUCATION EXPENSES" DO NOT INCLUDE ELEMENTARY OR SECONDARY  
8 SCHOOL EXPENSES.

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