

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

INTRODUCED

LLS NO. 19-0615.01 Esther van Mourik x4215

HOUSE BILL 19-1123

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A BILL FOR AN ACT

101 **CONCERNING THE ALIGNMENT OF THE STATE INCOME TAX DEDUCTION**
102 **FOR CONTRIBUTIONS TO A 529 ACCOUNT WITH THE CHANGES IN**
103 **THE FEDERAL "TAX CUTS AND JOBS ACT" OF 2017 THAT ALLOW**
104 **TAX-FREE DISTRIBUTIONS FOR ELEMENTARY AND SECONDARY**
105 **TUITION 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>.)

Current law allows contributions to a qualified state tuition program, also known as a 529 account, so long as the distributions are

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.

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 changes to Colorado law to allow a deduction for contributions to qualified state tuition programs for tuition expenses in connection with enrollment or attendance at an elementary or secondary public, private, or religious school and designating such expenses 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 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.** In Colorado Revised Statutes, 39-22-104, **amend**
3 (4)(i)(III) 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) (III) No exclusion shall be allowed pursuant to this ~~paragraph~~
8 ~~(i)~~ SUBSECTION (4)(i) to the extent that such payments or contributions are
9 excluded from the taxpayer's federal taxable income for the taxable year.

10 Any exclusion taken under this ~~paragraph~~ ~~(i)~~ SUBSECTION (4)(i) shall be
11 subject to recapture in the taxable year or years in which any distribution,
12 refund, or any other withdrawal is made pursuant to an advance payment
13 contract, from a savings trust account, or otherwise in connection with a
14 qualified state tuition program for any reason other than:

15 (A) To pay qualified higher education expenses;

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

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

6 (D) TO PAY FOR QUALIFIED ELEMENTARY AND SECONDARY
7 TUITION EXPENSES IN AN AMOUNT NOT TO EXCEED THE DOLLAR AMOUNT
8 LIMITATION SET FORTH IN SECTION 529 (e)(3)(A)(iii) OF THE INTERNAL
9 REVENUE CODE, AS AMENDED.

10 (IV) As used in this ~~paragraph (i)~~ SUBSECTION (4)(i), "designated
11 beneficiary", ~~means a designated beneficiary as defined in section 529~~
12 ~~(e)(1) of the internal revenue code~~, "qualified state tuition program",
13 ~~means a qualified state tuition program as defined in section 529 (b) of~~
14 ~~the internal revenue code~~, and "qualified higher education expenses"
15 ~~means qualified higher education expenses as~~ HAVE THE SAME MEANING
16 AS THOSE TERMS ARE defined in section 529 ~~(e)(3)~~ of the internal revenue
17 code, AS AMENDED, AND "QUALIFIED ELEMENTARY AND SECONDARY
18 TUITION EXPENSES" MEANS EXPENSES RELATED TO ENROLLMENT OR
19 ATTENDANCE AT AN ELEMENTARY OR SECONDARY PUBLIC, PRIVATE, OR
20 RELIGIOUS SCHOOL AS DESCRIBED IN SECTION 529 (c)(7) OF THE INTERNAL
21 REVENUE CODE, AS AMENDED.

22 **SECTION 2. Act subject to petition - effective date.** This act
23 takes effect at 12:01 a.m. on the day following the expiration of the
24 ninety-day period after final adjournment of the general assembly (August
25 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
26 referendum petition is filed pursuant to section 1 (3) of article V of the
27 state constitution against this act or an item, section, or part of this act

1 within such period, then the act, item, section, or part will not take effect
2 unless approved by the people at the general election to be held in
3 November 2020 and, in such case, will take effect on the date of the
4 official declaration of the vote thereon by the governor.