

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

ENGROSSED

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

LLS NO. 19-1102.01 Nicole Myers x4326

SENATE BILL 19-257

SENATE SPONSORSHIP

Pettersen,

HOUSE SPONSORSHIP

Buentello and Cutter,

Senate Committees
Finance

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.**

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.

SENATE
Amended 2nd Reading
April 30, 2019

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 allowed pursuant to this paragraph (i)
20 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 in the taxable year or years in which THERE SHALL BE ADDED TO THE
4 FEDERAL TAXABLE INCOME OF THE ACCOUNT OWNER AN AMOUNT EQUAL
5 TO THE AMOUNT OF any distribution, refund, or any other withdrawal is
6 made pursuant to an advance payment contract, from a savings trust
7 account, or otherwise in connection with a qualified state tuition program
8 IN THE TAXABLE YEAR OR YEARS IN WHICH THE DISTRIBUTION, REFUND, OR
9 OTHER WITHDRAWAL IS MADE for any reason other than:

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 MEANINGS
16 AS THOSE TERMS WERE defined in section 529 ~~(e)(3)~~ of the internal
17 revenue code, AS SUCH SECTION 529 EXISTED PRIOR TO THE ENACTMENT
18 OF THE "TAX CUTS AND JOBS ACT", PUB.L. 115-97. "QUALIFIED HIGHER
19 EDUCATION EXPENSES" DO NOT INCLUDE ELEMENTARY OR SECONDARY
20 SCHOOL EXPENSES.

21 (V) TO AID IN THE ADMINISTRATION OF THIS SUBSECTION (4)(i),
22 COLLEGEINVEST SHALL PROVIDE THE DEPARTMENT OF REVENUE WITH
23 AVAILABLE INFORMATION RELATED TO DISTRIBUTIONS THAT ARE NOT
24 USED TO PAY QUALIFIED HIGHER EDUCATION EXPENSES AS DEFINED IN THIS
25 SECTION.

26 **SECTION 2. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.