

Second 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. 20-0802.01 Esther van Mourik x4215

SENATE BILL 20-073

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SENATE SPONSORSHIP

Pettersen and Story,

HOUSE SPONSORSHIP

Buentello and Cutter,

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Senate Committees

Education  
Appropriations

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

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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>.)*

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  
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.

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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), (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.