

Second Regular Session  
Seventy-third General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 22-0940.01 Pierce Lively x2059

HOUSE BILL 22-1320

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HOUSE SPONSORSHIP

**Kipp and Larson,**

SENATE SPONSORSHIP

**Zenzinger and Woodward,**

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**House Committees**

Public & Behavioral Health & Human Services

**Senate Committees**

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**A BILL FOR AN ACT**

101      **CONCERNING THE ACHIEVING A BETTER LIFE EXPERIENCE (ABLE)**  
102            **SAVINGS PROGRAM FOR INDIVIDUALS WITH DISABILITIES, AND,**  
103            **IN CONNECTION THEREWITH, MODIFYING WHO MAY CREATE AND**  
104            **CONTROL AN ABLE PROGRAM ACCOUNT, PREVENTING THE**  
105            **STATE FROM FILING CERTAIN CLAIMS AGAINST AN ABLE**  
106            **PROGRAM ACCOUNT UPON THE DEATH OF THE DESIGNATED**  
107            **BENEFICIARY, AND ALLOWING CONTRIBUTIONS TO AN ABLE**  
108            **PROGRAM ACCOUNT THAT ARE WITHDRAWN FOR QUALIFIED**  
109            **DISABILITY EXPENSES TO BE DEDUCTED FROM A TAXPAYER'S**  
110            **FEDERAL TAXABLE INCOME FOR PURPOSES OF DETERMINING**  
111            **THE TAXPAYER'S STATE TAXABLE INCOME.**

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**Bill Summary**

*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.*

*(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 collegeinvest authority administers the achieving a better life experience (ABLE) savings program. Individuals who were declared disabled, as defined under federal law, before reaching 26 years of age are eligible to open an ABLE savings account. ABLE savings accounts under section 529A of the internal revenue code are modeled after section 529 college savings accounts, but, unlike those accounts, ABLE savings accounts may be used to save for many expenses related to an individual's disability without disqualifying the individual for certain federal benefits.

The bill modifies the administration and operation of these accounts in 2 ways. First, the bill allows a person other than the individual with a disability to open an ABLE savings account for the individual and to have signature authority over that account. Second, the bill prohibits the state from filing a claim against the ABLE savings account upon the account owner's death for outstanding payments due for qualified disability expenses.

The bill also modifies the tax benefits associated with an ABLE savings account. Under the bill, a taxpayer may deduct from their federal taxable income for purposes of calculating their state taxable income certain contributions made to an ABLE savings account. Further, the bill ensures that a taxpayer does not encounter tax recapture of any deductions claimed for these contributions when distributions are made from an ABLE savings account for qualified disability expenses.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 23-3.1-306, **add** (18)  
3 as follows:

4 **23-3.1-306. Accounts - contributions - withdrawals - penalties**  
5 **- statements.** (18) (a) IN THE CASE OF AN ABLE SAVINGS PROGRAM  
6 ACCOUNT, A PERSON OTHER THAN THE ACCOUNT OWNER MAY ESTABLISH  
7 AN ACCOUNT AND HAVE SIGNATURE AUTHORITY OVER AN ACCOUNT ON  
8 BEHALF OF THE ACCOUNT OWNER IN ACCORDANCE WITH SECTION 529A OF  
9 THE INTERNAL REVENUE CODE AND THE REGULATIONS PROMULGATED

1 UNDER THAT SECTION.

2 (b) THE AUTHORITY SHALL ADOPT ANY GUIDELINES AND  
3 PROCEDURES THAT ARE NECESSARY TO ALLOW A PERSON OTHER THAN THE  
4 ACCOUNT OWNER TO ESTABLISH AN ABLE SAVINGS PROGRAM ACCOUNT  
5 AND HAVE SIGNATURE AUTHORITY OVER SUCH AN ACCOUNT IN  
6 ACCORDANCE WITH THIS SUBSECTION (18).

7 **SECTION 2.** In Colorado Revised Statutes, 23-3.1-311, **add** (5)  
8 as follows:

9 **23-3.1-311. Achieving a better life experience (ABLE) savings**  
10 **program - establishment - authority - powers - duties.** (5) UPON THE  
11 DEATH OF AN ABLE SAVINGS PROGRAM DESIGNATED BENEFICIARY, THE  
12 STATE SHALL NOT FILE A CLAIM AGAINST THE DECEASED DESIGNATED  
13 BENEFICIARY'S ABLE SAVINGS PROGRAM ACCOUNT AS AUTHORIZED IN  
14 SECTION 529A (f) OF THE INTERNAL REVENUE CODE, UNLESS THE FILING  
15 OF SUCH A CLAIM IS REQUIRED TO MAINTAIN QUALIFIED ABLE SAVINGS  
16 PROGRAM STATUS UNDER SECTION 529A OF THE INTERNAL REVENUE  
17 CODE.

18 **SECTION 3.** In Colorado Revised Statutes, 39-22-104, **amend**  
19 (4)(i)(I), (4)(i)(II)(B), and (4)(i)(IV); and **add** (4)(i)(III.5) as follows:

20 **39-22-104. Income tax imposed on individuals, estates, and**  
21 **trusts - single rate - report - legislative declaration - definitions -**  
22 **repeal.** (4) There shall be subtracted from federal taxable income:

23 (i) (I) (A) For income tax years commencing on or after January  
24 1, 1998, an amount equal to the portion attributable to interest and other  
25 income of a distribution under a qualified state tuition program that is  
26 distributed for the purpose of meeting qualified higher education  
27 expenses of a designated beneficiary, to the extent such amount is

1 included in federal taxable income;

2 (B) AN AMOUNT EQUAL TO THE PORTION ATTRIBUTABLE TO  
3 INTEREST AND OTHER INCOME OF A DISTRIBUTION UNDER A QUALIFIED  
4 ABLE PROGRAM THAT IS DISTRIBUTED FOR THE PURPOSE OF MEETING  
5 QUALIFIED DISABILITY EXPENSES OF A DESIGNATED BENEFICIARY, TO THE  
6 EXTENT SUCH AMOUNT IS INCLUDED IN FEDERAL TAXABLE INCOME;

7 (II) (B) Except as provided in subsection (4)(i)(II)(C) of this  
8 section, for income tax years commencing on or after January 1, 2022, an  
9 amount equal to all payments or contributions, not to exceed twenty  
10 thousand dollars per taxpayer per beneficiary for a taxpayer who files a  
11 single return, or thirty thousand dollars per taxpayer per beneficiary for  
12 taxpayers who file a joint return, made during the taxable year under an  
13 advance payment contract, to a savings trust account, or otherwise in  
14 connection with a qualified state tuition program established by  
15 collegeinvest created in section 23-3.1-203, or to a qualified state tuition  
16 program that is affiliated with an educational institution in the state and  
17 that is established and maintained pursuant to section 529 of the internal  
18 revenue code or any successor section, OR IN CONNECTION WITH A  
19 QUALIFIED ABLE PROGRAM. Notwithstanding subsection (4)(i)(III)(D) of  
20 this section, collegeinvest may treat a change in beneficiary as a  
21 nonqualifying distribution if the change was made for the purpose of  
22 evading the limit in this subsection (4)(i)(II)(B).

23 (III.5) NO SUBTRACTION IS ALLOWED PURSUANT TO THIS  
24 SUBSECTION (4)(i) TO THE EXTENT THAT SUCH PAYMENTS OR  
25 CONTRIBUTIONS ARE EXCLUDED FROM THE TAXPAYER'S FEDERAL TAXABLE  
26 INCOME FOR THE TAXABLE YEAR. ANY SUBTRACTION TAKEN UNDER THIS  
27 SUBSECTION (4)(i) IS ADDED TO THE ACCOUNT HOLDER'S TAXABLE INCOME

1 IN THE TAXABLE YEAR OR YEARS IN WHICH ANY DISTRIBUTION, REFUND,  
2 OR ANY OTHER WITHDRAWAL IS MADE PURSUANT TO AN ADVANCE  
3 PAYMENT CONTRACT, FROM A SAVINGS TRUST ACCOUNT, OR OTHERWISE  
4 IN CONNECTION WITH A QUALIFIED ABLE PROGRAM FOR ANY REASON  
5 OTHER THAN:

- 6 (A) TO PAY QUALIFIED DISABILITY EXPENSES;
- 7 (B) AS A RESULT OF THE BENEFICIARY'S DEATH OR DISABILITY; OR
- 8 (C) AS A RESULT OF A CHANGE IN DESIGNATED BENEFICIARY, IF  
9 THE CHANGE COMPLIES WITH SECTION 529A (c)(1)(C)(ii) OF THE INTERNAL  
10 REVENUE CODE.

11 (IV) As used in this paragraph (i), ~~"designated beneficiary" means~~  
12 ~~a designated beneficiary as defined in section 529 (e)(1) of the internal~~  
13 ~~revenue code, "qualified state tuition program" means a qualified state~~  
14 ~~tuition program as defined in section 529 (b) of the internal revenue code,~~  
15 ~~and "qualified higher education expenses" means qualified higher~~  
16 ~~education expenses as defined in section 529 (e)(3) of the internal~~  
17 ~~revenue code~~ SUBSECTION (4)(i), UNLESS THE CONTEXT OTHERWISE  
18 REQUIRES:

19 (A) "DESIGNATED BENEFICIARY" HAS THE SAME MEANING AS  
20 DEFINED IN SECTION 529 (e)(1) OF THE INTERNAL REVENUE CODE.

21 (B) "QUALIFIED ABLE PROGRAM" MEANS A QUALIFIED ABLE  
22 PROGRAM AS DEFINED IN SECTION 529A (b) OF THE INTERNAL REVENUE  
23 CODE.

24 (C) "QUALIFIED DISABILITY EXPENSE" HAS THE SAME MEANING AS  
25 DEFINED IN SECTION 529A (e)(5) OF THE INTERNAL REVENUE CODE.

26 (D) "QUALIFIED HIGHER EDUCATION EXPENSE" HAS THE SAME  
27 MEANING AS DEFINED IN SECTION 529 OF THE INTERNAL REVENUE CODE.

1           (E) "QUALIFIED STATE TUITION PROGRAM" MEANS A QUALIFIED  
2 TUITION PROGRAM AS DEFINED IN SECTION 529 (b) OF THE INTERNAL  
3 REVENUE CODE.

4           **SECTION 4. Act subject to petition - effective date.** This act  
5 takes effect at 12:01 a.m. on the day following the expiration of the  
6 ninety-day period after final adjournment of the general assembly; except  
7 that, if a referendum petition is filed pursuant to section 1 (3) of article V  
8 of the state constitution against this act or an item, section, or part of this  
9 act within such period, then the act, item, section, or part will not take  
10 effect unless approved by the people at the general election to be held in  
11 November 2022 and, in such case, will take effect on the date of the  
12 official declaration of the vote thereon by the governor.