

First Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 21-0628.01 Esther van Mourik x4215

HOUSE BILL 21-1192

HOUSE SPONSORSHIP

Arndt,

SENATE SPONSORSHIP

(None),

House Committees
Education

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE INCLUSION OF A QUALIFIED EDUCATION LOAN
102 PAYMENT AS AN ELIGIBLE DISTRIBUTION FROM A 529 PLAN FOR
103 PURPOSES OF THE STATE INCOME TAX DEDUCTION FOR
104 CONTRIBUTIONS TO SUCH 529 PLANS.

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>.)

Under federal law, money deposited in a qualified tuition program under section 529 of the internal revenue code (529 plan) grows tax deferred and is withdrawn tax free when used for eligible expenses. 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.

addition to the federal tax benefit, the state provides an incentive for the deposit of money into a 529 plan by offering a state income tax deduction for contributions to such 529 plans.

In 2019, the federal government included paying principle or interest on any qualified education loan, up to \$10,000 per year, as an eligible expense.

Current law requires the state income tax deduction to be recaptured from the taxpayer if a distribution is not used for listed purposes. The bill specifies that using a 529 plan for paying principle or interest on any qualified education loan, not to exceed \$10,000, is also an eligible distribution for purposes of the state income tax deduction for contributions to such 529 plans.

The bill also requires collegeinvest to provide the department of revenue with a secure electronic report containing information for the 529 plan owners and third-party contributors necessary for the administration of the income tax deduction.

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); and **add** (4)(i)(V) 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~~ IS allowed pursuant to this
8 ~~paragraph (i)~~ SUBSECTION (4)(i) to the extent that such payments or
9 contributions are excluded from the taxpayer's federal taxable income for
10 the taxable year. Any exclusion taken under this ~~paragraph (i) shall be~~
11 ~~subject to recapture~~ SUBSECTION (4)(i) IS ADDED TO THE ACCOUNT
12 HOLDER'S TAXABLE INCOME in the taxable year or years in which any
13 distribution, refund, or any other withdrawal is made pursuant to an
14 advance payment contract, from a savings trust account, or otherwise in
15 connection with a qualified state tuition program for any reason other
16 than:

1 (A) To pay qualified higher education expenses;
2 (B) As a result of the beneficiary's death or disability; or
3 (C) As a result of receiving a scholarship and as long as the
4 aggregate amount of distributions, refunds, or withdrawals made pursuant
5 to this ~~sub-subparagraph (C)~~ SUBSECTION (4)(i)(III)(C) do not exceed the
6 amount of the scholarship provided during such tax year; OR

7 (D) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
8 1, 2022, TO PAY FOR PRINCIPAL OR INTEREST ON ANY QUALIFIED
9 EDUCATION LOAN, NOT TO EXCEED TEN THOUSAND DOLLARS, AS ALLOWED
10 UNDER SECTION 529 (c)(9) OF THE INTERNAL REVENUE CODE.

11 (IV) As used in this ~~paragraph (i), "designated beneficiary",~~
12 ~~means a designated beneficiary as defined in section 529 (e)(1) of the~~
13 ~~internal revenue code, "qualified state tuition program", means a qualified~~
14 ~~state tuition program as defined in section 529 (b) of the internal revenue~~
15 ~~code, 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 THE
20 TERM "DESIGNATED BENEFICIARY" DEFINED IN SECTION 529 (e)(1) OF THE
21 INTERNAL REVENUE CODE.

22 (B) "QUALIFIED HIGHER EDUCATION EXPENSE" HAS THE SAME
23 MEANING AS THE TERM "QUALIFIED HIGHER EDUCATION EXPENSE"
24 DEFINED IN SECTION 529 (e)(3) OF THE INTERNAL REVENUE CODE.

25 (C) "QUALIFIED STATE TUITION PROGRAM" MEANS A QUALIFIED
26 TUITION PROGRAM AS DEFINED IN SECTION 529 (b) OF THE INTERNAL
27 REVENUE CODE.

1 (V) BEGINNING JANUARY 1, 2023, AND ANNUALLY THEREAFTER,
2 COLLEGEINVEST SHALL PROVIDE THE DEPARTMENT WITH A SECURE
3 ELECTRONIC REPORT CONTAINING INFORMATION FOR THE 529 QUALIFIED
4 STATE TUITION PROGRAM'S ACCOUNT OWNERS AND THIRD-PARTY
5 CONTRIBUTORS NECESSARY FOR THE ADMINISTRATION OF THE DEDUCTION
6 ALLOWED IN THIS SECTION. THE REPORT MUST INCLUDE:

7 (A) THE NAME AND SOCIAL SECURITY NUMBER, AND THE
8 CONTRIBUTION AMOUNT, OF ALL COLORADO TAXPAYERS MAKING A
9 CONTRIBUTION TO A COLLEGEINVEST ACCOUNT IN THE REPORTING TAX
10 YEAR COMMENCING ON OR AFTER JANUARY 1, 2022;

11 (B) THE NAME AND SOCIAL SECURITY NUMBER, AND THE
12 CONTRIBUTION AMOUNT, OF ANY OTHER COLORADO TAXPAYER MAKING
13 A CONTRIBUTION TO A COLLEGEINVEST ACCOUNT IN THE REPORTING TAX
14 YEAR COMMENCING ON OR AFTER JANUARY 1, 2022, WHO INTENDS TO
15 PARTICIPATE IN THE DEDUCTION ALLOWED IN THIS SECTION; AND

16 (C) THE NAME AND SOCIAL SECURITY NUMBER, AND THE
17 UNQUALIFIED DISTRIBUTION AMOUNT, OF EACH ACCOUNT HOLDER OF A
18 COLLEGEINVEST ACCOUNT WHO IS ALSO A COLORADO TAXPAYER MAKING
19 AN UNQUALIFIED DISTRIBUTION IN THE REPORTING TAX YEAR
20 COMMENCING ON OR AFTER JANUARY 1, 2022, AND THE REASON FOR THE
21 UNQUALIFIED DISTRIBUTION.

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; except
25 that, if a referendum petition is filed pursuant to section 1 (3) of article V
26 of the state constitution against this act or an item, section, or part of this
27 act within such period, then the act, item, section, or part will not take

1 effect unless approved by the people at the general election to be held in
2 November 2022 and, in such case, will take effect on the date of the
3 official declaration of the vote thereon by the governor.