

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0206.01 Jason Gelender x4330

HOUSE BILL 16-1003

HOUSE SPONSORSHIP

Pettersen and Young,

SENATE SPONSORSHIP

Merrifield and Todd,

House Committees
Education

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE STATE INCOME TAX DEDUCTIONS FOR
102 CONTRIBUTIONS TO AND DISTRIBUTIONS OF INVESTMENT
103 EARNINGS FROM THE QUALIFIED STATE TUITION PROGRAM
104 ESTABLISHED BY COLLEGEINVEST.

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://www.leg.state.co.us/billsummaries>.)

For purposes of calculating a taxpayer's Colorado taxable income, current state law begins from a base of the taxpayer's federal taxable income and provides for various modifications to that base, including

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

subtractions from federal taxable income (state income tax deductions) in amounts equal to the full amounts of both contributions made by a taxpayer to the qualified state tuition program established by collegeinvest and distributions of investment earnings taken from the plan. The bill modifies these state income tax deductions by making the percentages of the amounts of contributions or distributions allowed to be subtracted from a taxpayer's taxable income dependent upon the amount of the taxpayer's federal adjusted gross income as follows:

- ! 200% of the amounts of contributions or distributions for a taxpayer whose federal adjusted gross income is \$150,000 or less;
- ! 150% of the amounts of contributions or distributions for a taxpayer whose federal adjusted gross income is more than \$150,000 but not more than \$250,000; and
- ! 15% of the amounts of contributions or distributions for a taxpayer whose federal adjusted gross income is more than \$250,000 but not more than \$500,000.

The bill eliminates deductions for a taxpayer whose federal adjusted gross income is more than \$500,000.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) Current state law allows state income tax deductions to any
5 taxpayer in amounts equal to the full amounts of both contributions made
6 by a taxpayer to the qualified state tuition program established by
7 collegeinvest and distributions of investment earnings taken from the
8 plan;

9 (b) The rationale for allowing these deductions is to encourage
10 students and their families to save money for higher education and to
11 reduce the cost of higher education so that more students can afford it;

12 (c) While the deductions have helped taxpayers at all income
13 levels, they have disproportionately benefited taxpayers whose federal
14 adjusted gross income is over one hundred thousand dollars, with

1 eighty-one percent of the total amount of deductions allowed going to
2 such taxpayers and thirty-five percent of the total deductions allowed
3 going to taxpayers whose federal adjusted gross income is over two
4 hundred fifty thousand dollars; and

5 (d) In order to better serve the purpose of increasing access to
6 higher education by reducing the cost of higher education for students for
7 whom cost is a significant barrier, it is necessary, appropriate, and in the
8 best interest of all Coloradans to increase the amount of the deductions
9 for lower-, middle-, and upper middle-income taxpayers and reduce the
10 amount of the deductions for high-income taxpayers in the manner
11 specified in this act.

12 **SECTION 2.** In Colorado Revised Statutes, 39-22-104, **amend**
13 (4) (i) (I) and (4) (i) (II); and **add** (4) (i) (I.5) and (4) (i) (II.5) as follows:

14 **39-22-104. Income tax imposed on individuals, estates, and**
15 **trusts - single rate - definitions - repeal.** (4) There shall be subtracted
16 from federal taxable income:

17 (i) (I) For income tax years commencing on or after January 1,
18 1998, BUT BEFORE JANUARY 1, 2017, an amount equal to the portion
19 attributable to interest and other income of a distribution under a qualified
20 state tuition program that is distributed for the purpose of meeting
21 qualified higher education expenses of a designated beneficiary, to the
22 extent such amount is included in federal taxable income;

23 (I.5) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
24 JANUARY 1, 2017, AN AMOUNT EQUAL TO:

25 (A) TWO HUNDRED PERCENT OF THE PORTION ATTRIBUTABLE TO
26 INTEREST AND OTHER INCOME OF A DISTRIBUTION UNDER A QUALIFIED
27 STATE TUITION PROGRAM THAT IS DISTRIBUTED FOR THE PURPOSE OF

1 MEETING QUALIFIED HIGHER EDUCATION EXPENSES OF A DESIGNATED
2 BENEFICIARY, TO THE EXTENT SUCH AMOUNT IS INCLUDED IN FEDERAL
3 TAXABLE INCOME, IF THE TAXPAYER'S FEDERAL ADJUSTED GROSS INCOME
4 IS ONE HUNDRED FIFTY THOUSAND DOLLARS OR LESS;

5 (B) ONE HUNDRED FIFTY PERCENT OF THE PORTION ATTRIBUTABLE
6 TO INTEREST AND OTHER INCOME OF A DISTRIBUTION UNDER A QUALIFIED
7 STATE TUITION PROGRAM THAT IS DISTRIBUTED FOR THE PURPOSE OF
8 MEETING QUALIFIED HIGHER EDUCATION EXPENSES OF A DESIGNATED
9 BENEFICIARY, TO THE EXTENT SUCH AMOUNT IS INCLUDED IN FEDERAL
10 TAXABLE INCOME, IF THE TAXPAYER'S FEDERAL ADJUSTED GROSS INCOME
11 IS MORE THAN ONE HUNDRED FIFTY THOUSAND DOLLARS BUT NOT MORE
12 THAN TWO HUNDRED FIFTY THOUSAND DOLLARS; AND

13 (C) FIFTEEN PERCENT OF THE PORTION ATTRIBUTABLE TO INTEREST
14 AND OTHER INCOME OF A DISTRIBUTION UNDER A QUALIFIED STATE
15 TUITION PROGRAM THAT IS DISTRIBUTED FOR THE PURPOSE OF MEETING
16 QUALIFIED HIGHER EDUCATION EXPENSES OF A DESIGNATED BENEFICIARY,
17 TO THE EXTENT SUCH AMOUNT IS INCLUDED IN FEDERAL TAXABLE INCOME,
18 IF THE TAXPAYER'S FEDERAL ADJUSTED GROSS INCOME IS MORE THAN TWO
19 HUNDRED FIFTY THOUSAND DOLLARS BUT NOT MORE THAN FIVE HUNDRED
20 THOUSAND DOLLARS.

21 (II) For income tax years commencing on or after January 1, 2001,
22 BUT BEFORE JANUARY 1, 2017, an amount equal to all payments or
23 contributions made during the taxable year under an advance payment
24 contract, to a savings trust account, or otherwise in connection with a
25 qualified state tuition program established by collegeinvest created in
26 section 23-3.1-203, C.R.S., or to a qualified state tuition program that is
27 affiliated with an educational institution in the state and that is established

1 and maintained pursuant to section 529 of the internal revenue code or
2 any successor section;

3 (II.5) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
4 JANUARY 1, 2017, AN AMOUNT EQUAL TO:

5 (A) TWO HUNDRED PERCENT OF ALL PAYMENTS OR
6 CONTRIBUTIONS MADE DURING THE TAXABLE YEAR UNDER AN ADVANCE
7 PAYMENT CONTRACT, TO A SAVINGS TRUST ACCOUNT, OR OTHERWISE IN
8 CONNECTION WITH A QUALIFIED STATE TUITION PROGRAM ESTABLISHED
9 BY COLLEGEINVEST CREATED IN SECTION 23-3.1-203, C.R.S., OR TO A
10 QUALIFIED STATE TUITION PROGRAM THAT IS AFFILIATED WITH AN
11 EDUCATIONAL INSTITUTION IN THE STATE AND THAT IS ESTABLISHED AND
12 MAINTAINED PURSUANT TO SECTION 529 OF THE INTERNAL REVENUE CODE
13 OR ANY SUCCESSOR SECTION IF THE TAXPAYER'S FEDERAL ADJUSTED
14 GROSS INCOME IS ONE HUNDRED FIFTY THOUSAND DOLLARS OR LESS;

15 (B) ONE HUNDRED FIFTY PERCENT OF ALL PAYMENTS OR
16 CONTRIBUTIONS MADE DURING THE TAXABLE YEAR UNDER AN ADVANCE
17 PAYMENT CONTRACT, TO A SAVINGS TRUST ACCOUNT, OR OTHERWISE IN
18 CONNECTION WITH A QUALIFIED STATE TUITION PROGRAM ESTABLISHED
19 BY COLLEGEINVEST CREATED IN SECTION 23-3.1-203, C.R.S., OR TO A
20 QUALIFIED STATE TUITION PROGRAM THAT IS AFFILIATED WITH AN
21 EDUCATIONAL INSTITUTION IN THE STATE AND THAT IS ESTABLISHED AND
22 MAINTAINED PURSUANT TO SECTION 529 OF THE INTERNAL REVENUE CODE
23 OR ANY SUCCESSOR SECTION IF THE TAXPAYER'S FEDERAL ADJUSTED
24 GROSS INCOME IS MORE THAN ONE HUNDRED FIFTY THOUSAND DOLLARS
25 BUT NOT MORE THAN TWO HUNDRED FIFTY THOUSAND DOLLARS; AND

26 (C) FIFTEEN PERCENT OF ALL PAYMENTS OR CONTRIBUTIONS MADE
27 DURING THE TAXABLE YEAR UNDER AN ADVANCE PAYMENT CONTRACT, TO

1 A SAVINGS TRUST ACCOUNT, OR OTHERWISE IN CONNECTION WITH A
2 QUALIFIED STATE TUITION PROGRAM ESTABLISHED BY COLLEGEINVEST
3 CREATED IN SECTION 23-3.1-203, C.R.S., OR TO A QUALIFIED STATE
4 TUITION PROGRAM THAT IS AFFILIATED WITH AN EDUCATIONAL
5 INSTITUTION IN THE STATE AND THAT IS ESTABLISHED AND MAINTAINED
6 PURSUANT TO SECTION 529 OF THE INTERNAL REVENUE CODE OR ANY
7 SUCCESSOR SECTION IF THE TAXPAYER'S FEDERAL ADJUSTED GROSS
8 INCOME IS MORE THAN TWO HUNDRED FIFTY THOUSAND DOLLARS BUT NOT
9 MORE THAN FIVE HUNDRED THOUSAND DOLLARS.

10 **SECTION 3. Act subject to petition - effective date.** This act
11 takes effect at 12:01 a.m. on the day following the expiration of the
12 ninety-day period after final adjournment of the general assembly (August
13 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a
14 referendum petition is filed pursuant to section 1 (3) of article V of the
15 state constitution against this act or an item, section, or part of this act
16 within such period, then the act, item, section, or part will not take effect
17 unless approved by the people at the general election to be held in
18 November 2016 and, in such case, will take effect on the date of the
19 official declaration of the vote thereon by the governor.