

**Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 20-0962.02 Nicole Myers x4326

HOUSE BILL 20-1204

HOUSE SPONSORSHIP

Ransom, Buck, Sandridge, Baisley, Saine, Soper, Van Winkle, Will, Williams D.

SENATE SPONSORSHIP

Smallwood and Tate,

House Committees

Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF AN INCOME TAX DEDUCTION FOR**
102 **TAXPAYERS THAT MAKE A CONTRIBUTION TO AN ELIGIBLE**
103 **SCHOLARSHIP GRANTING ORGANIZATION.**

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>.)

For income tax years commencing on or after January 1, 2021, the bill allows an individual or corporate taxpayer to subtract from the taxpayer's federal taxable income any amount contributed to an eligible scholarship granting organization, to the extent such amount is not claimed as a deduction on the taxpayer's federal tax return.

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.

An eligible scholarship granting organization is defined as a charitable nonprofit organization that provides scholarships to dependent children for tuition expenses for the child's enrollment in a private school so long as the child qualifies for free or reduced-cost lunch.

An eligible scholarship organization is required to undergo an annual financial and compliance audit of its accounts and records conducted by an independent certified public accountant and is required to submit the audit to the department of education. The department of education is required to review each audit it receives and submit an annual list to the department of revenue of eligible nonprofit scholarship granting organizations that are in compliance with the requirements specified for the deduction.

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

SECTION 1. In Colorado Revised Statutes, 39-22-104, **add**
(4)(z) as follows:

39-22-104. Income tax imposed on individuals, estates, and trusts - single rate - legislative declaration - definitions - repeal.

(4) There shall be subtracted from federal taxable income:

(z) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2021, BUT PRIOR TO JANUARY 1, 2026, ANY AMOUNT CONTRIBUTED TO AN ELIGIBLE SCHOLARSHIP GRANTING ORGANIZATION, TO THE EXTENT SUCH AMOUNT IS NOT CLAIMED AS A DEDUCTION ON THE TAXPAYER'S FEDERAL TAX RETURN.

(II) AS USED IN THIS SUBSECTION (4)(z):

(A) "ELIGIBLE SCHOLARSHIP GRANTING ORGANIZATION" MEANS A CHARITABLE ORGANIZATION THAT IS EXEMPT FROM FEDERAL INCOME TAX PURSUANT TO SECTION 501 (c)(3) OF THE INTERNAL REVENUE CODE THAT PROVIDES SCHOLARSHIPS TO QUALIFIED STUDENTS FOR TUITION EXPENSES FOR THE QUALIFIED STUDENT'S ENROLLMENT IN A PRIVATE SCHOOL, AND THAT USES ALL CONTRIBUTIONS FOR WHICH A TAXPAYER CLAIMS A DEDUCTION PURSUANT TO THIS SUBSECTION (4)(z) TO PROVIDE

1 SCHOLARSHIPS TO QUALIFIED STUDENTS.

2 (B) "PRIVATE SCHOOL" HAS THE SAME MEANING AS SET FORTH IN
3 SECTION 22-30.5-103 (6.5).

4 (C) "QUALIFIED STUDENT" MEANS A DEPENDENT CHILD WHO IS
5 ELIGIBLE FOR FREE OR REDUCED-COST LUNCH PURSUANT TO THE
6 PROVISIONS OF THE FEDERAL "RICHARD B. RUSSELL NATIONAL SCHOOL
7 LUNCH ACT", 42 U.S.C. SEC. 1751 ET SEQ., AND IS ENROLLED IN A PRIVATE
8 ELEMENTARY OR SECONDARY SCHOOL IN THE STATE.

9 (III) AN ELIGIBLE SCHOLARSHIP ORGANIZATION IS REQUIRED TO
10 UNDERGO AN ANNUAL FINANCIAL AND COMPLIANCE AUDIT OF ITS
11 ACCOUNTS AND RECORDS CONDUCTED BY AN INDEPENDENT CERTIFIED
12 PUBLIC ACCOUNTANT. THE ELIGIBLE SCHOLARSHIP ORGANIZATION SHALL
13 SUBMIT THE ANNUAL AUDIT TO THE DEPARTMENT OF EDUCATION AND THE
14 DEPARTMENT SHALL REVIEW EACH AUDIT TO ENSURE THAT THE ELIGIBLE
15 SCHOLARSHIP ORGANIZATION IS IN COMPLIANCE WITH THE REQUIREMENTS
16 OF THIS SUBSECTION (4)(z).

17 (IV) BY MARCH 1, 2022, AND BY MARCH 1 EACH YEAR
18 THEREAFTER THROUGH MARCH 1, 2027, THE DEPARTMENT OF EDUCATION
19 SHALL SUBMIT TO THE DEPARTMENT A LIST OF ELIGIBLE SCHOLARSHIP
20 GRANTING ORGANIZATIONS THAT ARE IN COMPLIANCE WITH THE
21 REQUIREMENTS OF THIS SUBSECTION (4)(z).

22 (V) THIS SUBSECTION (4)(z) IS REPEALED, EFFECTIVE JULY 1, 2030.

23 **SECTION 2.** In Colorado Revised Statutes, 39-22-304, **add**
24 (3)(p) as follows:

25 **39-22-304. Net income of corporation - legislative declaration**
26 **- definitions - repeal.** (3) There shall be subtracted from federal taxable
27 income:

1 (p) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
2 JANUARY 1, 2021, BUT PRIOR TO JANUARY 1, 2026, ANY AMOUNT
3 CONTRIBUTED TO AN ELIGIBLE SCHOLARSHIP GRANTING ORGANIZATION,
4 TO THE EXTENT SUCH AMOUNT IS NOT CLAIMED AS A DEDUCTION ON THE
5 TAXPAYER'S FEDERAL TAX RETURN.

6 (II) FOR PURPOSES OF THIS SUBSECTION (3)(p):

7 (A) "ELIGIBLE SCHOLARSHIP GRANTING ORGANIZATION" MEANS A
8 CHARITABLE ORGANIZATION THAT IS EXEMPT FROM FEDERAL INCOME TAX
9 PURSUANT TO SECTION 501 (c)(3) OF THE INTERNAL REVENUE CODE THAT
10 PROVIDES SCHOLARSHIPS TO QUALIFIED STUDENTS FOR TUITION EXPENSES
11 FOR THE QUALIFIED STUDENT'S ENROLLMENT IN A PRIVATE SCHOOL, AND
12 THAT USES ALL CONTRIBUTIONS FOR WHICH A TAXPAYER CLAIMS A
13 DEDUCTION PURSUANT TO THIS SUBSECTION (3)(p) TO PROVIDE
14 SCHOLARSHIPS TO QUALIFIED STUDENTS.

15 (B) "PRIVATE SCHOOL" HAS THE SAME MEANING AS SET FORTH IN
16 SECTION 22-30.5-103 (6.5).

17 (C) "QUALIFIED STUDENT" MEANS A DEPENDENT CHILD WHO IS
18 ELIGIBLE FOR FREE OR REDUCED-COST LUNCH PURSUANT TO THE
19 PROVISIONS OF THE FEDERAL "RICHARD B. RUSSELL NATIONAL SCHOOL
20 LUNCH ACT", 42 U.S.C. SEC. 1751 ET SEQ., AND IS ENROLLED IN A PRIVATE
21 ELEMENTARY OR SECONDARY SCHOOL IN THE STATE.

22 (III) AN ELIGIBLE SCHOLARSHIP ORGANIZATION IS REQUIRED TO
23 UNDERGO AN ANNUAL FINANCIAL AND COMPLIANCE AUDIT OF ITS
24 ACCOUNTS AND RECORDS CONDUCTED BY AN INDEPENDENT CERTIFIED
25 PUBLIC ACCOUNTANT. THE ELIGIBLE SCHOLARSHIP ORGANIZATION SHALL
26 SUBMIT THE ANNUAL AUDIT TO THE DEPARTMENT OF EDUCATION AND THE
27 DEPARTMENT SHALL REVIEW EACH AUDIT TO ENSURE THAT THE ELIGIBLE

1 SCHOLARSHIP ORGANIZATION IS IN COMPLIANCE WITH THE REQUIREMENTS
2 OF THIS SUBSECTION (3)(p).

3 (IV) BY MARCH 1, 2022, AND BY MARCH 1 EACH YEAR
4 THEREAFTER THROUGH MARCH 1, 2027, THE DEPARTMENT OF EDUCATION
5 SHALL SUBMIT TO THE DEPARTMENT A LIST OF ELIGIBLE SCHOLARSHIP
6 GRANTING ORGANIZATIONS THAT ARE IN COMPLIANCE WITH THE
7 REQUIREMENTS OF THIS SUBSECTION (3)(p).

8 (V) THIS SUBSECTION (3)(p) IS REPEALED, EFFECTIVE JULY 1, 2030.

9 **SECTION 3. Act subject to petition - effective date.** This act
10 takes effect at 12:01 a.m. on the day following the expiration of the
11 ninety-day period after final adjournment of the general assembly (August
12 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a
13 referendum petition is filed pursuant to section 1 (3) of article V of the
14 state constitution against this act or an item, section, or part of this act
15 within such period, then the act, item, section, or part will not take effect
16 unless approved by the people at the general election to be held in
17 November 2020 and, in such case, will take effect on the date of the
18 official declaration of the vote thereon by the governor.