



Legislative  
Council Staff

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**FISCAL NOTE**

**Drafting Number:** LLS 20-0022  
**Prime Sponsors:** Rep. Larson

**Date:** January 22, 2020  
**Bill Status:** House Education  
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**Bill Topic:** **INCOME TAX DEDUCTION FOR 529 ACCOUNT K-12 EXPENSES**

**Summary of  
Fiscal Impact:**

- State Revenue
- TABOR Refund
- State Expenditure
- Local Government
- State Transfer
- Statutory Public Entity

This bill expands the state income tax deduction for 529 account contributions so that the deduction is allowed for contributions that are spent for K-12 education purposes. It decreases state revenue and minimally decreases workload on an ongoing basis.

**Appropriation  
Summary:** No appropriation is required.

**Fiscal Note  
Status:** This fiscal note reflects the introduced bill.

**Table 1  
State Fiscal Impacts Under HB 20-1034**

		FY 2020-21	FY 2021-22
<b>Revenue</b>	General Fund	(\$2.9 million)	(\$3.2 million)
<b>Expenditures</b>		-	-
<b>Transfers</b>		-	-
<b>TABOR Refund</b>	General Fund	(\$2.9 million)	(\$3.2 million)

## **Summary of Legislation**

The bill expands the state income tax deduction for contributions to a CollegenInvest qualified state tuition program account (529 account) to allow the deduction for 529 account contributions that are used for K-12 public, private, or religious education purposes.

## **Background**

Under current state law, a taxpayer may deduct contributions to a 529 account when computing his or her Colorado taxable income. Effective in 2018, federal law was amended to allow 529 accounts to be used to pay up to \$10,000 annually for K-12 education at public, private, or religious schools. Colorado 529 accounts with CollegenInvest may be used for K-12 education; however, any income tax benefit from the state deduction is subject to recapture of tax, penalty, and interest when a withdrawal for K-12 purposes is made.

## **State Revenue**

The bill is expected to decrease General Fund revenue by \$2.9 million in FY 2020-21 and by \$3.2 million in FY 2021-22 and subsequent fiscal years. The estimate for FY 2020-21 reflects the bill's August 5, 2020, effective date. The bill reduces individual income tax revenue, which is subject to TABOR.

The bill reduces state revenue to the extent that it encourages new 529 account contributions that qualify for the expanded deduction in the bill. This fiscal note assumes that accounts will be utilized by approximately 10,500 K-12 students per year, or about 31.5 percent of Colorado's private school students. Additional 529 account contributions expected to qualify for the deduction are expected to average \$6,650 per student annually. The estimated amount deducted is consistent with account disbursements for higher education.

## **State Expenditures**

The bill is expected to decrease DOR workload beginning in FY 2020-21 because the department will not be required to administer income tax recapture against taxpayers who deducted 529 account contributions and then made withdrawals to pay for K-12 expenses. Since federal law was changed to allow 529 accounts to be used for K-12 purposes, the DOR has not received an appropriation to administer additional recaptures of deducted 529 account contributions. For this reason, any workload decrease is assessed as minimal and does not require a decrease in appropriations.

**TABOR refunds.** The bill is expected to decrease state General Fund obligations for TABOR refunds by \$2.9 million in FY 2020-21 and \$3.2 million in FY 2021-22. Under current law and the December 2019 Legislative Council Staff forecast, the measure will correspondingly increase the amount refunded to taxpayers via sales tax refunds made available on income tax returns for tax years 2021 and 2022, respectively. A forecast of state revenue subject to TABOR is not available beyond FY 2021-22.

## Effective Date

The bill takes effect August 5, 2020, if the General Assembly adjourns on May 6, 2020, as scheduled, and no referendum petition is filed.

## State and Local Government Contacts

Education

Higher Education

Law

Revenue