



Legislative
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HB 20-1034

FINAL FISCAL NOTE

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

Date: August 12, 2020
Bill Status: Postponed Indefinitely
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Bill Topic: **INCOME TAX DEDUCTION FOR 529 ACCOUNT K-12 EXPENSES**

**Summary of
Fiscal Impact:**

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

This bill would have expanded 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 would have decreased state revenue and minimally decreased workload on an ongoing basis.

**Appropriation
Summary:**

No appropriation is required.

**Fiscal Note
Status:**

This final fiscal note reflects the introduced bill. The bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

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

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

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 their 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 state is not expected to collect revenue above the TABOR limit in either FY 2020-21 or FY 2021-22, and refund obligations are not anticipated for these years. This bill does not change these expectations concerning refunds to taxpayers. A forecast of state revenue subject to TABOR is not available beyond FY 2021-22.

Effective Date

The bill was postponed indefinitely by the House Education Committee on May 26, 2020.

State and Local Government Contacts

Education

Higher Education

Law

Revenue