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Fiscal Note

Drafting Number: LLS 22-0410
Prime Sponsors: Rep. Larson
Sen. Rankin

Date: January 18, 2022
Bill Status: House Education
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Bill Topic: **MODIFICATIONS TO QUALIFIED STATE TUITION PROGRAMS**

Summary of Fiscal Impact:

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

The bill creates the Foundational Learning Experience Savings Program, which allows individuals to create a tax-preferred savings account for elementary and secondary education expenses. It decreases state revenue on an ongoing basis beginning in FY 2022-23, and increases state expenditures in FY 2022-23.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under HB 22-1019

		Budget Year FY 2022-23	Out Year FY 2023-24
Revenue	General Fund	(\$24,575)	(\$88,471)
Expenditures	CollegelInvest Administration	\$650,000	-
Transfers		-	-
Other Budget Impacts	TABOR Refunds	(\$24,575)	(\$88,471)

Summary of Legislation

The bill creates the Foundational Learning Experience (FLEX) Savings Program within the Department of Higher Education. Under the FLEX program, individuals can create a tax-preferred savings account with CollegeInvest. Funds from the account can be used to pay for qualified elementary and secondary tuition expenses. Distributions from a FLEX savings account are exempt from state taxable income. Anyone can contribute to a FLEX account, regardless of relationship to the account's beneficiary.

The bill also changes the definition of qualified higher education expenses under a section 529 account to include certain expenses related to apprenticeship programs. Further, the bill clarifies that qualified higher education expenses do not include student loan repayments.

Background

Under current state law, a taxpayer may deduct contributions to a 529 account for qualified higher education expenses 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. However, under Colorado law, expenditures for K-12 education from 529 accounts are considered non-qualified withdrawals and therefore subject to recapture of tax, penalty, and interest.

State Revenue

The bill will decrease General Fund revenue by an estimated \$24,575 in FY 2022-23, \$88,471 in FY 2023-24, and by similar amounts in subsequent years. The bill decreases income tax revenue, which is subject to TABOR.

While contributions to a FLEX account are not deductible from state taxable income, any investment income generated within these accounts would be exempt from state taxable income. As such, assuming that without this bill, families would save the same amount annually in a non-tax-preferred account and earn a similar return, this bill results in decreased tax revenue due to the new exemption for investment income from a FLEX account.

State Expenditures

The bill is expected to increase workload for the Department of Higher Education and increase expenditures for CollegeInvest in FY 2022-23.

Department of Higher Education. In FY 2022-23, the bill increases workload for the Department of Higher Education to update their website to include the new FLEX program and potentially answer inquiries from the public. This increase in workload can be accomplished within existing appropriations.

CollegeInvest. In FY 2022-23, the bill increases expenditures for CollegeInvest by \$650,000 to implement the new FLEX savings accounts. No appropriation is necessary as CollegeInvest will use their own administrative funds for any costs associated with the bill. CollegeInvest operates as an enterprise within the Department of Higher Education and receives revenue from fees earned from managing educational savings accounts.

Other Budget Impacts

TABOR refunds. The bill is expected to decrease the amount of state revenue required to be refunded to taxpayers by the amounts shown in the State Revenue section above. Because TABOR refunds are paid from the General Fund, decreased General Fund revenue will lower the TABOR refund obligation, but result in no net change to the amount of General Fund otherwise available to spend or save.

Effective Date

The bill takes effect January 1, 2023, assuming no referendum petition is filed.

State and Local Government Contacts

Higher Education
Personnel

Information Technology
Revenue

Law