



**Colorado  
Legislative  
Council  
Staff**

**HB16-1003**

**REVISED  
FISCAL NOTE**

(replaces fiscal note dated April 12, 2016)

**FISCAL IMPACT:**  State  Local  Statutory Public Entity  Conditional  No Fiscal Impact

**Drafting Number:** LLS 16-0206 **Date:** April 18, 2016  
**Prime Sponsor(s):** Rep. Pettersen; Young **Bill Status:** House Appropriations  
 Sen. Merrifield; Todd **Fiscal Analyst:** Kate Watkins (303-866-3446)

**BILL TOPIC:** MIDDLE CLASS COLLEGE SAVINGS ACT

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018	FY 2018-2019
<b>State Revenue</b>	<b>(\$56,279)</b>	<b>(\$115,013)</b>	<b>(\$120,030)</b>
General Fund	(56,279)	(115,013)	(120,030)
<b>State Expenditures</b>		<b>\$17,200</b>	
General Fund		17,200	
<b>TABOR Impact</b>	(\$56,279)	(\$115,013)	Not estimated.
<b>Appropriation Required:</b> None.			
<b>Future Year Impacts:</b> Ongoing state revenue decrease.			

**Summary of Legislation**

*As amended in the House Finance Committee*, this bill alters the income tax deduction for contributions to qualifying college savings accounts, and the deduction for interest earnings on or withdrawals from these savings accounts to the extent that they are used for qualifying higher education expenses and are not already excluded from federal taxable income. Beginning in tax year 2017, qualifying taxpayers may deduct a percentage of these qualifying contributions, interest earnings, and withdrawals from taxable income based on their adjusted gross income, as shown in Table 1.

Adjusted Gross Income	Current Law	HB16-1003
Under \$150,000	100%	200%
\$150,000 to \$250,000	100%	150%
\$250,000 to \$500,000	100%	40%
Over \$500,000	100%	0%

**Background**

**Tax benefits for CollegenInvest savings plans.** Under Section 529 of the federal Internal Revenue Code (IRC), taxpayers may establish a "529" college savings plan for which investment earnings and withdrawals for qualified higher education expenses are excluded from federal taxable income. These 529 plans are administered at the state level. CollegenInvest, which is a statutory public entity of the state, manages Colorado's program.

In addition to the federal exclusion, which carries through to state taxable income, Colorado taxpayers may deduct interest earnings and qualifying withdrawals to the extent that they are still included in federal taxable income. Additionally, contributions to CollegenInvest savings plans may be deducted from taxable income on state income tax returns.

**Qualifying withdrawals.** CollegenInvest account withdrawals may be used to fund education-related expenses while attending a program eligible for Title IV funding at a community college, four-year college or university, graduate or post-graduate program, or vocational or trade school. The earnings portion of a non-qualified withdrawal is subject to federal income taxes and any applicable state income tax, as well as an additional 10 percent federal penalty tax. State deductions claimed for non-qualified withdrawals are subject to recapture in subsequent years.

**Average taxpayer savings.** For tax year 2012, table 2 shows the average deduction and taxpayer savings by taxpayer adjusted gross income under current law and what would have been claimed under HB16-1003.

<b>Table 2. Taxpayer Impact of HB16-1003, Tax Year 2012</b>				
	<b>Federal Adjusted Gross Income</b>			
	<b>Under \$150,000</b>	<b>\$150,000 to \$250,000</b>	<b>\$250,000 to \$500,000</b>	<b>Over \$500,000</b>
<b>Number of Taxpayers</b>	19,153	10,040	5,381	2,253
<b>Average Deduction</b>				
Current Law	\$4,016	\$7,464	\$13,410	\$30,681
HB16-1003	8,031	11,195	5,364	\$0
Difference	4,016	3,732	(8,046)	(30,681)
<b>Average Taxpayer Savings from the Deduction*</b>				
Current Law	\$186	\$346	\$621	\$1,421
HB16-1003	372	518	248	0
Difference	186	173	(373)	(1,421)

Source: Colorado Department of Revenue with Legislative Council Staff calculations.

Note: Estimates assume no change in contribution behavior under House Bill 16-1003.

\*Calculated as the average deduction multiplied by the state income tax rate of 4.63 percent.

**State Revenue**

This bill will **reduce General Fund revenue by \$56,279 in FY 2016-17 (half-year impact), \$115,013 in FY 2017-18, and \$120,030 in FY 2018-19.** Revenue estimates do not reflect the impact of this bill on the deduction for interest on or withdrawals from qualifying savings accounts, as data are not available. The revenue impact from changes to these deductions under the bill are expected to be minimal as most interest earnings on and withdrawals are assumed to be excluded from federal taxable income.

**Data and assumptions.** Table 3 compares the deduction claimed under current law and the estimated deduction under HB 16-1003 using the actual deduction amounts claimed on 2012 individual tax returns. To arrive at a revenue impact estimate the 2012 revenue impact shown in Table 3 was grown each year by 4.4 percent, the compound average annual growth rate for Colorado personal income earnings for the most recent five years of data available.

<b>Table 3. ColleeInvest Deduction Under Current Law and HB16-1003, Tax Year 2012</b>				
<b>Federal Adjusted Gross Income</b>	<b>Actual Deductions Claimed</b>	<b>Deductions Allowed Under HB 16-1003</b>	<b>Difference</b>	<b>General Fund Revenue Impact*</b>
Under \$150,000	\$76.9 million	\$153.8 million	\$76.9 million	(\$3.6 million)
\$150,000 to \$250,000	74.9 million	112.4 million	37.5 million	(1.7 million)
\$250,000 to \$500,000	72.1 million	28.9 million	(43.3 million)	2.0 million
Over \$500,000	69.1 million	\$0	(69.1 million)	3.2 million
<b>Total</b>	<b>\$293.1 million</b>	<b>\$295.1 million</b>	<b>\$2.0 million</b>	<b>(\$0.09 million)</b>

\* Calculated as the net increase in state taxable income as a result in the net reduction in the total deduction amount, multiplied by the state tax rate of 4.63 percent.

### TABOR Impact

This bill reduces state revenue to the General Fund, which will reduce the amount required to be refunded under TABOR. TABOR refunds are paid from the General Fund. Since the bill reduces both revenue to the General Fund and the refund obligation by equal amounts, there is no net impact on the amount of money available in the General Fund. However, the bill will reduce money available for the General Fund budget in the future during years the state does not collect money above the TABOR limit.

### State Expenditures

This bill will **increase state General Fund expenditures by \$17,200 in FY 2017-18**. Costs include programming and form change costs, as summarized in Table 4.

<b>Table 4. Expenditures Under HB16-1003</b>			
<b>Cost Components</b>	<b>FY 2016-17</b>	<b>FY 2017-18</b>	<b>FY 2018-19</b>
Gentax Programming		\$16,000	
Form Change Costs		1,200	
<b>TOTAL</b>		<b>\$17,200</b>	

\* Centrally appropriated costs are not included in the bill's appropriation.

**Department of Revenue (DOR).** About 48,000 taxpayers are expected to claim the deduction in tax years 2016, 2017, and 2018. Reviewing and auditing returns from this population can be addressed within existing appropriations, as the deduction can be verified using federal tax data. The current deduction on the Colorado income tax form is the same for all taxpayers. This bill requires changes to the DOR's GenTax software system. Changes are programmed by a

contractor at a rate of \$200 per hour. The changes in this bill are expected to increase General Fund expenditures by \$16,000, representing 80 hours of programming. All GenTax programming changes are tested by department staff. Testing for this bill can be accomplished within existing resources.

**Department of Personnel and Administration (DPA).** DPA receives, opens, prepares, scans, enters and shreds tax correspondence on behalf of DOR. DPA's scanning and imaging software need to be programmed to accept the altered CollegenInvest tax deduction form, which will require \$1,200 in FY 2017-18 reappropriated from the DOR to the document management line for DPA.

### **Statutory Public Entity Impact**

Costs for **CollegenInvest will increase by \$322,269** in FY 2017-18. According to the Municipal Securities Rulemaking Board, a material change to plan benefits requires immediate communication with all account holders. This bill changes the tax benefits of the CollegenInvest accounts, which need to be communicated to account holders. This will require CollegenInvest to revise and resend Plan Disclosure Statements to 350,000 account holders. Account holders pay CollegenInvest fees to manage their investments, which will be used to pay for the additional expenses from this bill.

### **Effective Date**

The bill takes effect August 10, 2016, if the General Assembly adjourns on May 11, 2016, as scheduled, and no referendum petition is filed.

### **State and Local Government Contacts**

Revenue

Personnel and Administration

Higher Education