



Legislative
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HB 19-1151

**FINAL
FISCAL NOTE**

Drafting Number: LLS 19-0637
Prime Sponsors: Rep. Geitner

Date: May 20, 2019
Bill Status: Postponed Indefinitely
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Bill Topic: SPECIAL EDUCATION OPPORTUNITY SCHOLARSHIPS

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue (<i>minimal</i>)	<input checked="" type="checkbox"/> TABOR Refund (<i>minimal</i>)
<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> School District
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill would have created the special education opportunity scholarship program and increases state expenditures on an ongoing basis. Beginning in FY 2021-22, the bill would have required \$107.4 million for scholarships, a portion of which would be transferred from state aid for school finance, a portion of which would come from state funding for categorical programs, and a portion of which would require new General Fund expenditures. See State Expenditures Section.

Appropriation Summary: In FY 2019-20, the bill would have required an appropriation of \$88,850 to the Colorado Department of Education.

Fiscal Note Status: This bill reflects the introduced bill. The bill was not enacted into law; therefore, the impacts identified in the analysis do not take effect.

**Table 1
State Fiscal Impacts Under HB 19-1151**

		FY 2019-20	FY 2020-21	FY 2021-22
Revenue		-	-	-
Expenditures	General Fund	\$88,850	\$117,862	\$3,631,793
	School Finance Funding*	-	-	(\$104,104,148)
	Special Education Scholarships**	-	-	\$104,104,148
	Centrally Appropriated	-	\$3,103	\$62,052
	Total	\$38,850	\$120,965	\$3,693,845
	Total FTE	-	0.2 FTE	4.0 FTE
Transfers		-	-	-
TABOR Refund		-	-	-

* This amount includes a portion of the state share of school finance that may instead be appropriated for the scholarship program, and a portion of categorical funding that may be allocated to the program. State funding for school finance and categorical programs is primarily from the General Fund and State Education Fund.

** In addition to this amount, \$3,274,547 from the General Fund appropriation will be spent on scholarships.

Summary of Legislation

The bill creates the Colorado Special Education Opportunity Scholarship Program in the Colorado Department of Education (CDE). The program provides scholarship money to enable the parent of an eligible student to select the education provider and services that meet the student's needs.

Eligible students. To be eligible, students must be between 5 and 22 years old, receive services through an individualized education plan (IEP) or 504 plan, and have been diagnosed with at least one of the specified conditions. Students must be eligible to enroll in kindergarten through 12th grade, and either have been enrolled in a public school or not enrolled in any public, private, or home-based schooling during the previous school year.

In addition, up to 750 students may participate who meet the age, plan, diagnosis, and grade level requirements, but were enrolled in a private, or home-based school in the previous year. Participating students may not be enrolled in a public school for any year that the student receives a scholarship.

Contracted entities. By September 1, 2019, CDE must issue a request for proposals for up to three entities to administer the program. The State Board of Education (SBE) must contract with the selected entities by January 1, 2020. Contracted entities may retain up to 10 percent of each scholarship to administer the program; the contract with CDE may not include any additional money.

The bill specifies the duties of the contracted entity, which include publicizing and implementing, the program, distributing scholarship amounts through individual accounts, monitoring use of the scholarships, and suspending accounts for violations. The contracted entity must submit an annual, independent audit of participant accounts to CDE.

The entity must post and maintain a surety bond or letter of credit in the amount of scholarships expected to be awarded and may invest money in the accounts that will not immediately be used, with permission of the parent.

Scholarship amount. For each participating student, CDE must transmit to the contracted entities an amount equal to the statewide average per pupil revenue, plus \$1,250. Students with multiple disabilities also receive an additional amount based on a specified calculation. The scholarship amount does not constitute taxable income for the parents.

Uses of scholarship. The bill specifies how parents may use the scholarship money, including but not limited to enrollment costs for a private school or online program, contracted services provided by a public school, and specialized instructional services. Parents may request that the scholarship money be used for additional purposes or providers that are not approved by the contracted entity; such requests must be approved by the SBE. Parents must maintain a log of educational instruction and services purchased with the scholarship money.

Program logistics. Beginning in FY 2020-21, parents may apply to the contracted entity for participation in the program by February 1, for the subsequent school year. By March 15, 2021 and each year thereafter, the contracted entities must submit to the CDE a list of each eligible participant for the following school year. By April 15, 2021 and each year thereafter, CDE will identify the first 750 applicants who are currently in private or home school, on a first come first serve basis across the three contracted entities, for participation in the program. CDE must also identify the amount provided to each student.

The contracted entity must report to CDE the participants for the subsequent school year by March 1 of each year. The bill sets procedures for the contracted entity to suspend accounts for misuse of funds, or other violations. Violations must be referred to the CDE for investigation.

Providers. By July 1, 2020, the contracted entities must maintain a list of approved providers for which a parent may use scholarship to purchase educational services. The bill establishes requirements for a provider to be included on the list, including that each employee who has contact with a student must obtain a fingerprint-based background check through the Colorado Bureau of Investigation (CBI) and may not received a disposition for a crime that would be grounds for denial of a teaching license. If the contracted entities determine that a provider does not meet the requirements, the provider may appeal the decision to the SBE.

State Revenue

Beginning in FY 2019-20, the bill increases state cash fund revenue to the CBI in the Department of Public Safety to complete fingerprint-based background checks for employees of approved providers. Fee revenue is deposited in the CBI Identification Unit Cash Fund. The current fee for background checks is \$39.50, which includes \$11.25 for a Federal Bureau of Investigation (FBI) fingerprint based check, which is passed on to that federal agency. Revenue from background check fees, excluding the portion that is passed on to the FBI, is subject to TABOR; however under the March 2019 Legislative Council Staff forecast, a TABOR surplus is not expected in FY 2019-20 or FY 2020-21.

Data and Assumptions

Timing. This fiscal note is based on the following assumptions:

- In FY 2019-20, CDE will conduct the RFP process and hire the contracting entities, and entities selected will identify program providers and begin developing program procedures.
- In FY 2020-21, the contracting entities will continue developing program procedures, conduct outreach, and process applications and identify participants.
- The first year that scholarships will be available is FY 2021-22.

Participants. In FY 2017-18, the most recent data available, there were 87,488 children with disabilities between the ages of 5 and 21, of whom 70,923 have qualifying disabilities. The fiscal note makes the following estimates and assumptions regarding program participation.

- Of the students with qualifying disabilities, 70,601 are currently enrolled in a public school. Based on a similar program in Florida, the fiscal note assumes that 14.5 percent, or 10,237, of the eligible students in public school will participate in the program in FY 2021-22.
- The bill allows up to 750 eligible students who are currently in private or home school to participate in the program. In FY 2017-18, there are approximately 322 students who meet these criteria; the fiscal note assumes that all those students will participate in the program for the 2021-22 school year.

Based on the above assumptions, it is expected that a total of 10,559 students will participate in the 2021-22 school year. The fiscal note assumes that the population of students with disabilities will remain relatively constant in future years, and that approximately 5 percent of participants, or 528 students, have multiple disabilities.

Scholarship amounts. The fiscal note estimates that the annual scholarship amount is \$10,075 for participating students with one disability. This is based on an assumed FY 2021-22 statewide average per pupil amount of \$8,825 (the current year \$8,123 adjusted for a 2.8% annual inflation rate), plus the \$1,250 that is currently distributed for each special education student. The fiscal note estimates that students with multiple disabilities receive an additional \$1,888, for a total scholarship of \$11,963.

State Expenditures

The bill increases state General Fund expenditures by \$88,850 in FY 2019-20, and \$120,965 in FY 2020-21. In FY 2021-22, the bill requires a General Fund appropriation of \$3.7 million, and that a total of \$107.4 million be spent on scholarships from a combination of sources. New state expenditures are listed in Table 2 and discussed below.

**Table 2
 New Expenditures Under HB 19-1151**

	FY 2019-20	FY 2020-21	FY 2021-22
Department of Education			
Personal Services	-	\$17,672	\$353,446
Operating Expenses and Capital Outlay Costs	-	\$190	\$3,800
RFP Costs	\$38,850	-	-
Contracting Costs**	\$50,000	\$100,000	-
New Funding for Scholarships (see Table 3)	-	-	\$3,274,547
Centrally Appropriated Costs*	-	\$3,103	\$62,052
FTE – Personal Services	-	0.2 FTE	4.0 FTE
Total Cost	\$88,850	\$120,965	\$3,693,845
Total FTE	-	0.2 FTE	4.0 FTE

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

** In FY 2021-22, contracting entities will retain a portion of the scholarship amounts for administrative costs.

RFP Costs. In FY 2019-20 only, CDE requires \$17,850 to conduct the RFP process to select the contracting entities, based on a standard 350 hours at a rate of \$51 per hour. In addition, approximately \$21,000 is required to assist with issues related to data privacy and state and federal privacy laws throughout the RFP and contracting processes. This estimate is based 150 hours for the first contracted entity and 180 hours for the subsequent two entities, at a rate of \$100 per hour.

Personal services. In FY 2020-21, CDE requires 0.2 FTE to manage the vendor, collect the required data, and identify private school participants. Beginning in FY 2021-22, CDE requires 4.0 FTE to conduct investigations into violations of the parental participant agreement, including

misuse of funds, and handle any appeals of decisions made by the contracting entity. These costs are based on the assumption that 1,056 participants (10 percent) will commit a violation or file an appeal, and that an average of 8 hours will be required for each case.

Contracting. The bill specifies that the contracting entities may retain up to 10 percent of each scholarship for administrative costs; however, the bill requires upfront funds to contract with the entities during the year and a half prior to the scholarships being awarded. The fiscal note estimates this amount at \$50,000 in FY 2019-20 and \$100,000 in FY 2020-21.

Scholarships. Beginning in FY 2021-22, the bill requires a total of \$107.4 million for scholarships to participating students. This estimate is based on 10,031 participating students receiving scholarships of \$10,075 and 528 students with multiple disabilities receiving scholarships of \$11,963. Of each scholarship, the contracting entities may retain up to 10 percent for administrative expenses, which will be up to \$10.7 million in FY 2021-22. Table 3 lists the funding sources for the scholarships.

Table 3
Scholarship Sources HB19-1151

	FY 2021-22
New General Fund	\$3,274,547
School Finance	\$90,341,525
Reallocated from categorical funding	\$13,762,623
Total Required for Scholarships	\$107,378,695

New General Fund. It is estimated that \$3.3 million of new General Fund money is required for scholarships in FY 2021-22. This amount represents the funding required for the 322 eligible students who attended private or home school in the year prior to receiving a scholarship, of whom 16 are assumed to have multiple disabilities.

School finance. In FY 2021-22, the estimated 10,237 students who transfer from a public school to a private school will not be counted in the school finance formula and instead will receive the statewide average per pupil funding through the scholarship program. As a result, the state share of school finance will decrease by approximately \$90.3 million, assuming that the statewide average per pupil funding will be \$8,825 in FY 2021-22, and those funds will instead be appropriated for the scholarship program.

Reallocated from categorical funding. In addition, approximately \$13.8 million from state categorical funding for students with disabilities will be distributed through the scholarship program in FY 2021-22.

Background checks. The bill increases cash fund expenditures by a minimal amount for the CBI to complete fingerprint-based background checks for employees of approved providers. Expenditures are from the CBI Identification Unit Cash Fund and include the cost of conducting the background check and the pass through costs for the FBI component of the background check. The fiscal note assumes that most employees with direct contact with children have already completed background check, and that any additional background checks can be accomplished within existing appropriations.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be \$3,103 in FY 2020-21 and \$62,052 in FY 2021-22.

School District Impact

The bill will decrease state aid to school districts that lose students who transfer to a nonpublic school or a home school. The fiscal note assumes that 10,237 students currently in public schools will transfer to a private or home school in FY 2021-22. Assuming a statewide average per pupil amount of \$8,825, state aid will decrease about \$90.3 million in FY 2021-22.

Technical Note

Section 1 of the bill indicates that the scholarships may be available for the 2020-21 school year; however, other dates in the bill indicate that 2021-22 will be first year of the program. The fiscal note assumes that the 2021-22 school year is the first year that scholarships will be available, with application deadlines in February 2021 (FY 2020-21).

The bill specifies that the contracting entities may retain up to 10 percent of each scholarship amount for administrative purposes and may not receive additional money from the state. Based on the assumption that FY 2021-22 will be the first year school year in which scholarships will be available, the fiscal note assumes that additional state funding will be required to complete the initial work in FY 2019-20 and FY 2020-21 prior to scholarships being awarded.

Effective Date

The bill was postponed indefinitely by the House State, Veterans, and Military Affairs Committee on February 14, 2019.

State Appropriations

For FY 2019-20, the bill would have required a General Fund appropriation of \$88,850 to the Colorado Department of Education.

State and Local Government Contacts

Education Information Technology Law