HB 22-1320

Legislative Council Staff

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Fiscal Note

Drafting Number:	LLS 22-0940	**Date:**	April 5, 2022
Prime Sponsors:	Rep. Kipp; Larson Sen. Zenzinger; Woodward	**Bill Status:**	House HHS
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Bill Topic: **ABLE SAVINGS ACCOUNTS**

Summary of Fiscal Impact:

☒ State Revenue
☒ State Expenditure
☒ State Transfer
☒ TABOR Refund
☐ Local Government
☐ Statutory Public Entity

The bill modifies the administration and operation of accounts under the Achieving a Better Life Experience savings program. Beginning in FY 2022-23, the bill decreases state revenue and increases state expenditures.

Appropriation Summary: For FY 2022-23, the bill requires an appropriation of $44,517 to the Department of Revenue.

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

Table 1
State Fiscal Impacts Under HB 22-1320

		Budget Year FY 2022-23	Out Year FY 2023-24
Revenue	General Fund	($228,171)	($485,184)
	Total Revenue	**($228,171)**	**($485,184)**
Expenditures	General Fund	$44,517	$46,969
	Centrally Appropriated	-	$10,006
	Total Expenditures	**$44,517**	**$56,975**
	Total FTE	**-**	**0.7 FTE**
Transfers	General Fund	$16,716	$35,545
	State Education Fund	($16,716)	($35,545)
	Net Transfer	**$0**	**$0**
Other Budget Impacts	TABOR Refund	($228,171)	($485,184)
	General Fund Reserve	$6,678	$7,045

Summary of Legislation

The bill modifies the administration and operation of accounts under the Achieving a Better Life Experience (ABLE) savings program. First, the bill allows a person other than the individual with a disability to open an ABLE savings account for the individual and to have signature authority over that account. Second, the bill prohibits the state from filing a claim against an ABLE savings account upon the account owner's death for outstanding payments due for qualified disability expenses.

Additionally, the bill allows taxpayers to deduct contributions to an ABLE savings account from their state taxable income. Expenditures from the account for non-qualified disability expenses are subject to tax recapture.

Background

The CollegeInvest authority administers the ABLE savings program. Individuals who were declared disabled, as defined under federal law, before reaching 26 years of age are eligible to open an ABLE savings account. ABLE savings accounts under section 529A of the internal revenue code are modeled after section 529 college savings accounts, but, unlike those accounts, ABLE savings accounts may be used to save for many expenses related to an individual's disability without disqualifying the individual for certain federal benefits.

State Revenue

The bill decreases state income tax revenue by $228,171 in FY 2022-23 (a half-year impact), by $485,184 in FY 2023-24, and by increasing amounts in subsequent years. The bill reduces income tax revenue, which is subject to TABOR.

Assumptions. As of 2021, there were a total of 1,761 funded ABLE accounts. The fiscal note assumes that this figure will grow to 2,228 in 2023 and 2,450 in 2024 based on historical account growth. The average annual contribution to an ABLE account in 2021 was $4,054. The fiscal note assumes this figure will increase to $4,502 in 2023 and $4,610 in 2024 based on inflation expectations consistent with the March 2022 Legislative Council Staff economic forecast. The fiscal note assumes that all ABLE account holders will utilize the bill's new income tax deduction for contributions to their account.

State Transfers

Under current law, one third of one percent of taxable income, as adjusted by state law, is transferred from the General Fund to the State Education Fund. Because this bill decreases taxable income, the bill also decreases transfers from the General Fund to the State Education Fund by an estimated $16,716 in FY 2022-23, by $35,545 in FY 2023-24, and by increasing amounts in subsequent years.

State Expenditures

The bill increases state expenditures in the Department of Revenue by $44,517 in FY 2022-23, by $56,975 in FY 2023-24, and by lesser amounts in subsequent years. Expenditures are shown in Table 2 and detailed below.

Table 2
Expenditures Under HB 22-1320

	FY 2022-23	FY 2023-24
Department of Revenue		
Personal Services	-	$33,424
Standard Operating	-	$945
Capital Outlay	-	$6,200
Computer Programming	$37,560	-
Tax Form Changes	$557	-
Data Reporting	$6,400	$6,400
Centrally Appropriated Costs[1]	-	$10,006
Total Cost	**$44,517**	**$56,975**
Total FTE	**0.0 FTE**	**0.7 FTE**

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

Department of Revenue. The Department of Revenue (DOR) will require an additional 0.7 FTE tax examiners in FY 2023-24. The tax examiners are necessary to process and review additional returns claiming the new tax deduction and to resolve errors in returns. The fiscal note assumes that approximately 2,228 taxpayers will utilize the bill's new deduction in 2023 and 2,450 in 2024. In the first year of new tax deductions, DOR reviews all returns claiming the deduction due to high error rates amongst unfamiliar taxpayers. Beginning in FY 2024-25, DOR will review 10 percent of returns claiming this deduction and their personnel needs will decrease significantly.

- **Computer programming and testing.** For FY 2022-23 only, the bill will require changes to DOR's GenTax software system and additional testing. Changes are programmed by a contractor at a cost of $225 per hour. Approximately 40 hours of computer programming will be required to implement this bill, totaling $9,000. Additional computer and user acceptance testing are required to ensure programming changes are tested and functioning properly, resulting in an additional $28,560 in expenditures by the department.

- **Tax form changes.** The bill requires $557 in expenditures in FY 2022-23 to implement tax form changes. These expenditures will take place in the Department of Personnel and Administration using reappropriated funds from the DOR.

Data reporting. Beginning in FY 2022-23, the Office of Research and Analysis within DOR will expend $6,400 each year to collect and report data on the new tax deduction.

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 shown in Table 2.

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.

General Fund reserve. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve beginning in FY 2022-23. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1, which will decrease the amount of General Fund available for other purposes.

Technical Note

The fiscal note assumes that the tax provision included in the bill goes into effect beginning on January 1, 2023. Under TABOR, legislation may not change the definition of taxable income for the current income tax year. As this bill creates a new income tax deduction and therefore changes the definition of taxable income, the earliest that the tax provision can go into effect is for tax year 2023.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State Appropriations

For FY 2022-23, the bill requires a General Fund appropriation of $44,517 to the Department of Revenue. Of this amount, $557 is reappropriated to the Department of Personnel and Administration.

State and Local Government Contacts

Higher Education	Information Technology
Personnel	Revenue