Initiative # 75

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

INITIAL FISCAL IMPACT STATEMENT

Date: April 16, 2019 **Fiscal Analyst:** Josh Abram (303-866-3561)

LCS TITLE: ESTABLISHMENT OF EXPANDED LEARNING OPPORTUNITIES PROGRAM

Fiscal Impact Summary		**FY 2019-20**	**FY 2020-21**	**FY 2021-22**
Revenue	General Fund Decrease	($25.0 million)	($75.0 million)	($125.0 million)
	Total	**($25.0 million)**	**($75.0 million)**	**($125.0 million)**
Expenditures	General Fund	$385,491	-	-
	Cash Funds	-	$748,963	$1,073,295
	Total	**$385,491**	**$748,963**	**$1,073,295**

Disclaimer. *This initial fiscal impact statement has been prepared for the Title Board. If the initiative is placed on the ballot, Legislative Council Staff may revise this estimate for the ballot information booklet (Blue Book) if new information becomes available.*

Summary of Measure

The measure creates the Colorado Expanded Learning Opportunities Agency (state agency) and the Colorado Expanded Learning Opportunities Program (program) in the Colorado Department of Education (CDE). The program establishes individual learning savings accounts maintained by a third-party nonprofit administrator that provide funding for parents or legal guardians to purchase out-of-school educational materials, services, or experiences for their eligible children. The measure also creates an income tax credit. The state agency and program are repealed January 1, 2031, unless the legislature acts to reauthorize.

Expanded learning opportunities agency. The state agency is created as an independent entity within the CDE to establish the program and arrange for its administration. The agency must be governed by a 7 member board of directors (agency board). The measure specifies requirements for the agency board's selection, composition, and terms of service. Board members serve without compensation, but may be reimbursed for expenses.

No later than August 1, 2020, the state agency must establish a process to select a nonprofit organization to administer the program, or create a new nonprofit corporation to take this responsibility if no existing Colorado nonprofit entity satisfies the selection criteria. The state agency is required to create and develop criteria for use by the administering nonprofit related to:

- allowable uses for funding distributed to parents or guardians from individual learning accounts;
- publication, solicitation, receipt, and evaluation of applications from potential providers of out-of-school learning experiences;
- the certification, approval, and compensation of providers of out-of-school services;
- ensuring student safety;

- establishing and managing parent-directed individual learning accounts funded through eligible contributions and other donations; and
- protocols for the rollover of unused funds.

Administering nonprofit. Subject to criteria determined by the state agency, the administering nonprofit must develop and manage the program, including individual learning accounts funded through eligible contributions. Contributions to the agency received prior to January 1, 2021, may be retained for administrative and organizational start-up purposes; the nonprofit may also seek and accept gifts, grants, or private donations for these costs. Thereafter, the nonprofit may retain up to 10 percent of eligible contributions for administrative expenses. This rate may be adjusted by the legislature in future years if necessary. The administering nonprofit must be governed by a volunteer board of directors (nonprofit board). Members of the nonprofit board receive no compensation, but may be reimbursed for expenses.

Individual learning accounts. Funding from individual learning accounts must be provided and administered by the nonprofit on a sliding scale, with the amount of funding being inversely related to the family income and financial means of an eligible student. Subject to rules adopted by the state agency, the administering nonprofit will have control over when and how funding is distributed to approved providers that parents choose.

Appropriation. For FY 2020-21, the measure requires that the General Assembly appropriate to the agency either $2.0 million or the actual expenses incurred in establishing and operating the agency during FY 2019-20 and FY 2020-21, whichever is less. No amount of this appropriation may be used for individual learning accounts, or to fund the administering non-profit.

Income tax credit. The measure creates a state income tax credit for taxpayer monetary or in-kind contributions to the administering nonprofit. Beginning tax year 2020, a state income tax credit is allowed for 100 percent of contributions up to a fiscal year credit cap. The tax credit is nonrefundable and may be carried forward for up to three tax years. The credit is repealed effective January 1, 2031, subject to reauthorization.

The amount of the cap is initially set at $50 million. The measure requires the Department of Revenue to track credits claimed against the cap and to disallow credits claimed after the applicable cap has been reached. If for a given fiscal year the amount of credits claimed equals or exceeds 90 percent of the cap, the cap is increased by $50 million for the following fiscal year. The measure allows the cap to increase to up to 1 percent of combined General Fund and cash fund appropriations for the prior completed fiscal year.

State Revenue

The measure will reduce state revenue from income taxes to the General Fund by $25.0 million in FY 2019-20, $75.0 million in FY 2020-21, and $125.0 million in FY 2021-22. Reduced state revenue is described below.

Income tax credit. The income tax credit in the measure is expected to reduce General Fund revenue by up to $25 million in FY 2019-20 (half-year impact) and up to $75 million in FY 2020-21. The revenue impact will increase by up to $50 million annually until the fiscal year credit cap is increased to the maximum amount in the measure, which is 1 percent of prior year combined appropriations from the General Fund and cash funds. The measure reduces revenue from income tax, which is subject to TABOR.

The maximum amount of the cap will not be known until future budgets and supplemental appropriations are enacted. The introduced version of Senate Bill 19-207, the 2019 Long Bill, includes $21.58 billion in General Fund and cash fund appropriations. At this level of appropriations, the maximum fiscal year credit cap would be $215.8 million.

Because the measure offers a 100 percent tax credit, there is no financial cost or benefit to a taxpayer who makes a financial contribution to the administering nonprofit up to the amount of the taxpayer's income tax liability, and who is allowed to claim the tax credit. The fiscal year credit cap in the measure increases when tax credits allowed for the prior year equal at least 90 percent of that year's cap. Because future taxpayer contributions to the administering nonprofit are uncertain, timing for when the cap will increase is also uncertain. Table 2 presents the revenue reduction attributable to the measure if the maximum amount of the credit is allowed each year and the maximum fiscal year credit cap is $215.8 million in all years. Under these assumptions, the credit would cease growing in FY 2025-26. Because the revenue impact for a single tax year is accrued across two fiscal years, the revenue impact of the tax credit is not equal to the fiscal year credit cap.

Table 2
Maximum Revenue Reduction Under Initiative #75
assuming a $215.8 million maximum fiscal year credit cap

	Revenue Reduction
FY 2019-20	($25.0 million)
FY 2020-21	($75.0 million)
FY 2021-22	($125.0 million)
FY 2022-23	($175.0 million)
FY 2023-24	($207.9 million)
FY 2024-25	($215.8 million)
FY 2025-26	($215.8 million)

Technical Note

Fiscal year credit cap. The income tax credit in the measure is subject to a fiscal year credit cap, which limits the aggregate amount of income tax credits that may reduce state income tax revenue for a given year. While the measure caps the credit on a fiscal year basis, the Department of Revenue administers income taxes on a tax year basis. This fiscal impact statement treats the fiscal year credit cap as limiting the amount of credit that can be claimed for the tax year that ends during the fiscal year for which the cap applies. If the cap is administered differently, the revenue impact of the measure may shift across fiscal years.

State Expenditures

The bill increases state expenditures by $385,491 in FY 2019-20 (a half year impact), $748,963 in FY 2021-22 and $1,073,295 in FY 2021-22 and subsequent years. Expenditures are expected to continue through FY 2031-32. The measure requires the legislature to appropriate up to $2.0 million in FY 2020-21 to pay costs in both FY 2019-20 and FY 2020-21. This analysis assumes appropriations are required from the General Fund in FY 2019-20, until the following year's appropriation is made. New state expenditures are summarized in Table 3 and described below.

Table 3
Expenditures Under Initiative #75

	FY 2019-20*	FY 2020-21	FY 2021-22
Colorado Department of Education Expanded Learning Opportunities Agency			
Personal Services	$67,894	$131,052	$131,052
Operating, Capital Outlay, Leased Space, Etc.	$13,153	$13,628	$13,628
Employee Insurance, Disability, Pension	$12,155	$23,135	$23,135
Agency Board Travel & Reimbursement	$11,200	$14,000	$14,000
Nonprofit Administrator Contract	$250,000	-	-
Department of Law			
Legal Services	$31,089	$62,178	$31,089
Department of Revenue			
Personal Services	-	$301,647	$668,263
Operating & Capital Outlay	-	$70,977	$12,825
Employee Insurance, Disability, Pension	-	$79,236	$179,303
Computer Programming	-	$53,110	-
Total	**$385,491**	**$748,963**	**$1,073,295**
FTE	**0.8 FTE**	**7.4 FTE**	**15.0 FTE**

** Half-year impact*.

Expanded learning opportunities agency. Creating a new agency in the CDE increases expenditures to hire agency staff and make the physical arrangements necessary to launch the new enterprise, including leased space, office furniture, computers and software, telephones, and other operating expenses.

Once operational, the state agency has ongoing expenses for staff, board travel and reimbursement, and costs to contract or create a third-party nonprofit corporation, and a separate nonprofit board of directors to administer the program. This analysis assumes at least one full time state agency director and one half time support staff is required during the first year.

The agency will have costs to contract or create a nonprofit third party administrator. A preliminary estimate of this expense is $250,000.

Department of Law. Creating a new state agency increases cost for legal services related to contracting or creating the nonprofit corporation and adopting rules for the expanded learning opportunities program. Legal services are purchased from the CDE and new agency from the Attorney General's Department of Law.

Department of Revenue. Staff are required in the DOR's Taxpayer Service Division to verify and process tax returns claiming the credit and interact with taxpayers who file incorrectly or have questions. The DOR must also program and update database fields in the GenTax software system and related reporting features to permit document access and tax statistics for the new tax policy.

Economic Impact

The measure is expected to provide expanded learning opportunities to Colorado students. Expanded learning opportunities may improve students' educational outcomes, thereby enhancing their readiness for the workplace. To the extent that the measure improves educational outcomes, it may increase employment opportunities and wage earnings for the beneficiary students. The measure is also expected to increase employment in the selected non-profit and to reduce child care expenses for parents of participating children.

The measure will reduce state revenue, reducing revenue available to fund public education, health care, human services, courts and prisons, and other government functions. This will reduce income to government employees or contractors and benefits to recipients of state services. Specific funding allocations will be made as a result of future legislative and executive decisions.

Effective Date

If approved by voters at the 2019 general election, this measure takes effect upon proclamation of the Governor, no later than 30 days after the official canvass of the vote is completed.

State and Local Government Contacts

Education	Law
Personnel	Revenue

Abstract of Initiative 75: ESTABLISHMENT OF EXPANDED LEARNING OPPORTUNITIES PROGRAM

The abstract includes estimates of the fiscal impact of the proposed initiative. If this initiative is to be placed on the ballot, Legislative Council Staff will prepare new estimates as part of a fiscal impact statement, which includes an abstract of that information. All fiscal impact statements are available at www.ColoradoBlueBook.com and the abstract will be included in the ballot information booklet that is prepared for the initiative.

This initial fiscal estimate, prepared by the nonpartisan Director of Research of the Legislative Council as of April 16, 2019, identifies the following impacts:

State revenue. The measure will reduce state revenue from income taxes to the General Fund by $25.0 million in FY 2019-20, $75.0 million in FY 2020-21, and $125.0 million in FY 2021-22.

State expenditures. The bill increases state expenditures by $385,491 in FY 2019-20, $748,963 in FY 2021-22 and $1,073,295 in FY 2021-22 and subsequent years. Expenditures are expected to continue through FY 2031-32.

Economic impact. The measure is expected to provide expanded learning opportunities to Colorado students. Expanded learning opportunities may improve students' educational outcomes, thereby enhancing their readiness for the workplace. To the extent that the measure improves educational outcomes, it may increase employment opportunities and wage earnings for the beneficiary students. The measure is also expected to increase employment in the selected non-profit and to reduce child care expenses for parents of participating children.

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