



Legislative  
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**FINAL  
FISCAL NOTE**

**Drafting Number:** LLS 18-0600  
**Prime Sponsors:** Rep. Van Winkle; Garnett  
Sen. Gardner

**Date:** September 13, 2018  
**Bill Status:** Signed into Law  
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**Bill Topic:** INCOME TAX CREDIT FOR EMPLOYER 529 CONTRIBUTIONS

**Summary of Fiscal Impact:**

<input checked="" type="checkbox"/> State Revenue	<input checked="" type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

This bill creates a new state income tax credit for employers who contribute to an employee's 529 qualifying savings plan administered by Collegenvest. The credit is available for tax years 2019 through 2021. This bill will reduce state revenue from FY 2018-19 to FY 2021-22, and will require one-time expenditures in FY 2019-20.

**Appropriation Summary:** No appropriation is required.

**Fiscal Note Status:** This fiscal note reflects the enacted bill.

**Table 1  
State Fiscal Impacts Under HB 18-1217**

		<b>FY 2018-19</b>	<b>FY 2019-20</b>
<b>Revenue</b>	General Fund	(\$25,000)	(\$51,250)
<b>Expenditures</b>	General Fund	-	\$50,000
<b>TABOR Refund</b>	General Fund	(\$25,000)	(\$51,250)

## **Summary of Legislation**

This bill creates a new state income tax credit for employers who contribute to an employee's 529 qualified state tuition program administered by CollegenInvest. The amount of the credit is equal to 20 percent of the contribution, up to \$500, for each employee per year. The credit is available for tax years 2019 through 2021. The credit is neither transferable nor refundable, but may be carried forward on the employer's return for up to three years.

The bill defines an employer as any person doing business in the state, and an employee as any person in the employment of an employer, whether full-time, part-time, temporary, or permanent.

The Department of Revenue may seek, accept, and expend gifts, grants, or donations for the purposes of covering the administrative costs of the program.

This income tax credit is repealed on December 31, 2024.

## **Background**

**Tax benefits for CollegenInvest savings plans.** Under Section 529 of the federal Internal Revenue Code, taxpayers may establish a 529 savings plan for which investment earnings and withdrawals for qualified education expenses are excluded from federal taxable income. These 529 plans are administered at the state level. CollegenInvest, an enterprise within the Colorado Department of Higher Education, manages Colorado's program.

Contributions to CollegenInvest savings plans may be deducted from taxable income on state individual income tax returns, regardless of the beneficiary or origin of these contributions. Contributions are typically made by relatives, such as parents or grandparents of the beneficiary of the savings plan.

## **State Revenue**

This bill will reduce General Fund revenue by \$25,000 (half-year impact) in FY 2018-19; \$51,250 in FY 2019-20; \$53,813 in FY 2020-21, and \$27,563 in FY 2021-22 (half-year impact).

**Assumptions.** These assumptions are based on the experiences of two states with similar tax credits: Illinois and Nevada: Employers in both states are allowed to claim a 25 percent tax credit of up to \$500 per employee. Since 2009, seven companies in Illinois have contributed to 77 employer's college saving plans. The amount of annual contributions ranged from \$2,000 to \$6,000 per employee. The Nevada income tax credit became effective beginning in 2015. As of December 31, 2017, no employer has utilized the credit.

The fiscal note assumes that beginning in 2019 there will be 10 employers contributing to 100 employee's qualified college savings plans. Employers will contribute the full amount (\$2,500 per year) in order to receive the maximum credit of \$500 per employee. The number of employers and employees receiving contributions are expected to grow over time as more taxpayers become aware of the income tax credit.

Unlike 401(k) retirement saving plans, employer contributions to an employee's 529 savings plan are counted as taxable income for the employee on federal and state returns. The increase in taxable income may increase taxes by employees, slightly offsetting the revenue impact of the tax credit.

The Department of Revenue may seek, accept, and expend gifts, grants, or donations for the purposes of covering the administrative costs of the program. These voluntary contributions and donations will not affect General Fund revenue and are exempt from TABOR provisions.

### **TABOR Refund**

This bill reduces state revenue from the General Fund, which will reduce the amount of money required to be refunded under TABOR for FY 2018-19 and FY 2019-20. Since the bill reduces the TABOR refund obligation without a corresponding change in General Fund revenue, the amount of money available in the General Fund for the budget will decrease by an identical amount. State revenue subject to TABOR is not estimated for years beyond FY 2019-20.

### **State Expenditures**

This bill will require a one-time expenditure of \$50,000 for the DOR in FY 2019-20.

**Department of Revenue.** The bill will require one-time tax programming costs to make changes to the Colorado Integrated Tax Architecture (CITA) system's and optical recognition software. The cost is estimated at 200 hours, paid at a rate of \$250 per hour for a total of \$50,000.

The DOR can accomplish the additional workload to administer the credit with existing appropriations given the small number of taxpayers that are expected to claim the state income tax credit.

As of the date of this fiscal note, CollegenInvest has agreed to pay for all of the DOR's related expenses to implement this bill. In the event that the moneys are insufficient to cover these costs, this fiscal note assumes that the General Fund will offset any unfunded amounts.

**CollegenInvest.** This bill may result in a workload increase to CollegenInvest that can be accommodated within existing resources within the Employer Plan Program. Costs will increase by \$50,000 in FY 2019-20. Because CollegenInvest is an enterprise, no additional appropriations are required.

### **Effective Date**

The bill was signed into law by the Governor on May 29, 2018, and took effect August 8, 2018.

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

Higher Education      Information Technology      Personnel      Revenue