

Colorado Legislative Council Staff Fiscal Note

**FINAL
FISCAL NOTE**

Drafting Number: LLS 15-0694
Prime Sponsor(s): Rep. Lundeen
 Sen. Hill

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Bill Status: Postponed Indefinitely
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BILL TOPIC: CO FLEX ACCOUNTS FOR EDUCATION SERVICES

Fiscal Impact Summary*	FY 2015-16	FY 2016-17	FY 2017-18	FY 2028-29[^]
State Revenue	(\$1,582,275)	(\$3,592,760)	(\$4,367,078)	(\$8,137,400)
Revenue Change				
General Fund	(\$1,582,275)	(\$3,592,760)	(\$4,367,078)	(\$8,137,400)
State Education Fund				
State Expenditures	\$179,852	\$36,004,227	\$40,016,776	\$90,146,016
General Fund	174,682	\$35,992,714	\$40,005,263	\$90,146,016
State Education Fund**				
Centrally Appropriated Costs ^{^^}	5,170	11,513	11,513	not estimated
FTE Position Change	0.6 FTE	0.9 FTE	1.2 FTE	not estimated
Appropriation Required: \$174,682 General Fund - Colorado Department of Education (FY 2015-16)				

* This summary shows the maximum change in state revenue and expenditures compared with current law for each fiscal year. Parentheses indicate a decrease in funds.

[^] The bill is fully implemented beginning in FY 2028-29.

** All revenue and expenditure changes are shown from the General Fund. Appropriations may also be made from the State Education Fund.

^{^^} These costs are not included in the bill's appropriation. See the Other State Expenditures section for more information.

Summary of Legislation

The bill creates the Colorado Flexible Lifetime Learning Expenditures Account Program (C-FLEX). The program establishes personal education savings accounts maintained by a third-party administrator that provide funding for parents or legal guardians to purchase educational materials and services for their eligible children. The bill transfers state funding to the accounts and allows up to \$10,000 each year of tax-free private donations to the accounts by participating families.

Education savings accounts. An individual may apply to participate in the C-FLEX program and receive an account if the person's child:

- resides in the state and is eligible to enroll in kindergarten through twelfth grade (K-12);
- was either enrolled in a K-12 Colorado public school in the previous school year or is enrolling in school for the first time; and
- is identified as a child with a disability; or
- is identified as a gifted child.

In addition to students identified with disabilities or as gifted, any other parent may establish a C-FLEX account if their child is a state resident and the student will either transfer from a public school or be enrolling in a public school for the first time in the upcoming academic year. The C-FLEX administrator must create accounts for the first 5,000 additional parents who apply and meet basic eligibility criteria (capped population). As these accounts close in subsequent years, the administrator must open new accounts in order to maintain approximately 5,000 accounts, in addition to all accounts established for special education students or for gifted students (uncapped population).

State funding for savings accounts. The bill diverts funding to the C-FLEX accounts that would otherwise be allocated to school districts under the School Finance Act (SFA). For each year that a parent participates in the program, the bill requires that an amount equal to the fiscal year average per-pupil revenue under the SFA be transferred to the parent's account. The bill also requires the following additional amounts be transferred:

- \$1,250 if the child has a disability;
- the per-pupil amount received by the school district of residence for children with multiple disabilities, if the child has multiple disabilities;
- the per-pupil amount received for gifted students in the district of residence, if the child is gifted; and
- a portion of state funding supporting English Language Learners if the child is an ELL student in addition to any other qualifying criteria.

Parents with ELL students may only receive additional ELL funding for five years.

Individual funding for savings accounts. In addition to state money, a parent may deposit up to \$10,000 annually into their C-FLEX account. Any money the parent deposits is deductible from the parent's state income tax. Parents remain eligible to participate until their children graduate or otherwise become ineligible. If the account has money remaining following the child's eighteenth birthday, the parent or child may use the account until the amount is exhausted. If a parent exits the program or otherwise closes the account, the portion of state money in the account at the time reverts to the state General Fund, and all private deposits plus interest are returned to the parent.

C-FLEX program administration. No later than September 1, 2015, the Colorado Department of Education (CDE) must issue a request for proposals for an organization that the SBE must contract with to act as the C-FLEX program administrator. A contract must be awarded no later than January 1, 2016, and is subject to annual review and renewal. The C-FLEX administrator may retain three percent of the state money deposited in the accounts for the cost to administer the program. No other amount of state compensation may be used to offset the administrator's costs. The C-FLEX administrator must prepare an annual report to the CDE.

In addition to other duties, the C-FLEX administrator must create a process to approve learner advocates, and maintain a list of approved learner advocates for use by program participants. The bill specifies the minimum requirements for approval and inclusion on the list. Parents may apply to the administrator to get permission to purchase services from providers not on the list, subject to appeal to the SBE.

Colorado Department of Education. The CDE is required to receive data from the C-FLEX administrator and calculate the state funding to be distributed to the administrator for each eligible student's account, including calculating per-pupil amounts for participating children who have one or more disabilities, are gifted, and are English language learners. Once calculated, the

CDE must forward money to the C-FLEX administrator from the amount the state appropriated to the CDE for assistance to public schools. CDE must annually compare the list of eligible students participating in C-FLEX with the lists of students enrolled in school districts to avoid duplicate payments.

Participating parents. The bill permits a parent to spend money from the accounts for tuition or enrollment costs to attend a private school, to hire an approved learner advocate, or to purchase instructional materials, curriculum products, or other specialized instructional services. In the 2016-17 and 2017-18 school years, parents must spend at least five percent of the state money in their accounts to purchase services from an approved learner advocate, and may use up to five percent in subsequent years. Advocate services must be purchased in any year a participating child is not making sufficient academic progress. Parents must spend at least 75 percent of the state money deposited in their account each year. Parents are required to ensure that children are evaluated annually for sufficient academic progress.

Local education providers. School districts are not required to provide educational services to the children of parents participating in the C-FLEX program; however, personnel of the student's district of residence must develop the student's Individual Education Plan (IEP) if requested to do so by the parent.

State Revenue

The bill reduces state tax revenue from income taxes to the General Fund by up to \$1,582,275 for FY 2015-16, up to \$3,592,760 for FY 2016-17, and up to \$4,367,078 for FY 2017-18. Effective tax year 2016, the bill allows parents to subtract from federal taxable income up to \$10,000 per year for money deposited into a C-FLEX account. The revenue estimate, which uses the population assumptions in the State Expenditures section, represents the upper bound of revenue reduction because it assumes that 100 percent of participants deposit and deduct the full amount allowed annually. Because the DOR shows income reductions in the same year the income was earned, there is a one-half year impact for FY 2015-16.

State Expenditures for School Finance

The bill increases state expenditures for school finance by \$47.8 million in FY 2016-17, by \$54.4 million in FY 2017-18, and by \$65.1 million in FY 2018-19. Based on the assumptions listed below, Table 1 displays the increased appropriations necessary for C-FLEX, the reduction in SFA funding, and the net appropriations for three fiscal years beginning with FY 2016-17. All appropriations are assumed to be from the General Fund; however, the General Assembly may also use State Education Fund appropriations to implement the bill.

Table 1. Net Appropriations Under HB 14-1196				
	FY 2015-16	FY 2016-17	FY 2017-18	FY 2028-29[^]
Appropriations for C-FLEX Accounts	\$0	\$47,698,922	\$56,261,175	\$120,134,719
Savings to School Finance	0	(11,815,094)	(16,346,510)	(44,968,292)
Administration*	174,682	108,886	90,598	not estimated
NET APPROPRIATIONS	\$174,682	\$35,992,714	\$40,005,263	\$90,146,016

* See Other State Expenditures section.

[^] The bill is fully implemented beginning with FY 2028-29.

Assumptions. Estimating the bill's fiscal impact requires multiple assumptions concerning the size of the eligible student populations and the choices made by parents to participate. Changing assumptions will affect the final estimates made in the fiscal note. The full model used to estimate the fiscal impact, including all data and population estimates, is available for review in the fiscal note office of Legislative Council Staff.

General assumptions.

- The population of students meeting eligibility either because of special education or gifted designations is uncapped. The remaining population of participants is capped at 5,000 accounts. All 5,000 slots in the uncapped population will be filled immediately and remain filled. All C-FLEX accounts will receive state funding and the full amount of private contributions each year.
- All per pupil amounts and calculations for categorical funding to C-FLEX use amounts from the allocation for public schools in the FY 2014-15 SFA.
- Changing the enrollment numbers in the SFA to account for students induced to participate in the C-FLEX program may change the per-pupil funding amount in some districts, and will change the distribution of categorical funding under the act.

Assumptions about the capped population.

- One half of the children in the capped population (2,500) would have been enrolled in a private or home-based school under current law. C-FLEX appropriations for these children do not reduce the cost of school finance.
- The remaining half of children in the capped population (2,500) are students in home-based schools who are enrolled half time in a public school. C-FLEX appropriations for these children do reduce the cost of school finance by one-half of per-pupil funding.

Assumptions about the uncapped population.

- Some of the uncapped population includes special education and gifted students who would be in private or home schools under current law. C-FLEX appropriations for these children do not reduce the cost of school finance.
- The bill's financial incentive is insufficient to induce parents currently receiving special education services for their children in public schools to transfer those children into a private or home school.
- The bill's financial incentive is sufficient to induce some parents currently receiving services for their gifted and talented children in public schools to transfer those children into a private or home school. C-FLEX appropriations for these children do reduce the cost of school finance.

- All of the uncapped population will receive the annual statewide average per-pupil revenue amount each year except for kindergarten students, who will receive one-half the statewide average per pupil revenue. In addition, each C-FLEX account may also receive a fixed amount for students with a single disability; a fixed amount plus a per-pupil amount for students with multiple disabilities; or a per pupil amount for students who are gifted and talented. These extra portions of funding for the C-FLEX accounts are assumed to be from categorical spending under the SFA for special education and for gifted and talented.

Other State Expenditures

The bill also increases expenses and workload for state agencies as displayed in Table 2 and discussed below.

Table 2. Administrative Expenditures Under HB 14-1196			
Cost Components	FY 2015-16	FY 2016-17	FY 2017-18
Personal Services - CDE	\$46,166	\$41,850	\$41,850
Personal Services - DOR		17,226	24,804
FTE	0.6 FTE	0.9 FTE	1.2 FTE
Operating Expenses and Capital Outlay Costs	3,261	8,485	
Information Management Systems - CDE	78,000		
Information Management Systems - DOR		22,423	5,042
Legal Services - CDE	47,255	18,902	18,902
Centrally Appropriated Costs*	5,170	11,513	11,513
TOTAL	\$179,852	\$120,399	\$102,111

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

Colorado Department of Education. Increased costs are for personal services to manage the RFP process to select a C-FLEX administrator, annual review of the program, IT modifications to the CDE's information management systems, and accounting services to properly allocate appropriations and prevent duplicate payments.

Department of Revenue. Increased costs are for personal services, computer programming costs, and document management expenses related to processing the new state income tax deduction. All costs for the DOR begin in FY 2016-17.

Department of Law. The DOL will provide legal services to the CDE on the RFP process for a C-FLEX administrator, provide oversight of contract language and negotiations, and advise the department on the implementation of the program. The DOL will provide 500 hours of legal services in FY 2015-16 at a blended rate of \$94.51 per hour. Legal services for FY 2016-17 and thereafter are estimated at 200 hours annually.

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. The centrally appropriated costs subject to this policy are estimated in the fiscal note for informational purposes and summarized in Table 3.

Table 3. Centrally Appropriated Costs Under HB 14-1196*			
Cost Components	FY 2015-16	FY 2016-17	FY 2017-18
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$4,588	\$6,458	\$6,458
Supplemental Employee Retirement Payments	582	5,055	5,055
TOTAL	\$5,170	\$11,513	\$11,513

*More information is available at: <http://colorado.gov/fiscalnotes>

School District Impact

School districts, charter schools, and BOCES may have both reduced expenses and reduced revenue as a result of the bill. Local education providers' expenses and revenue are reduced for each student for which the LEP no longer provides services; however, the LEP may still be required to create the student's individualized special education plan.

In addition, by reducing enrollment in public schools, the bill potentially changes allocations of funding under the SFA calculation. For example, in small or declining enrollment districts, changing the enrollment number can impact the size factor used to calculate per pupil revenue, and could therefore change the per pupil revenue received by that district as a result.

Pursuant to Section 22-32-143, C.R.S., school districts and Boards of Cooperative Educational Services (BOCES) may submit estimates of fiscal impacts within seven days of a bill's introduction. As of the date of this fiscal note, no summaries of fiscal impacts were submitted by districts or BOCES for this bill. If summaries of fiscal impacts are submitted by districts or BOCES in the future, they will be noted in subsequent revisions to the fiscal note and posted at this address: <http://www.colorado.gov/lcs>

Effective Date

The bill was postponed indefinitely by the House Education Committee on March 23, 2015.

State Appropriations

For FY 2015-16, the bill would have required an appropriation of \$174,682 General Fund and 0.6 FTE to the Colorado Department of Education. Of this amount, the Department of Law would have required \$47,255 in reappropriated funds, and an allocation of 0.3 FTE.

State and Local Government Contacts

Education Higher Education Law Revenue