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FISCAL IMPACT REPORT

SPONSOR <u>Lane/Wirth</u>	LAST UPDATED <u>3/7/23</u> ORIGINAL DATE <u>2/15/23</u>
SHORT TITLE <u>Education Savings Plan Uses</u>	BILL NUMBER <u>House Bill 342/aHF1#1</u>
ANALYST <u>Helms</u>	

ESTIMATED REVENUE IMPACT* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	(Minimal)	(Minimal)	(Minimal)	Minimal	Recurring	General Fund

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Responses Received From
 Education Trust Board (ETB)
 Public Education Department (PED)
 Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of House Floor Amendment to House Bill 342

House Floor amendments to House Bill 324 add a definitions section to the bill (Section 1) and renumbers other sections, adding 26 definitions relevant to personal income tax filings and deductions in keeping with the Income Tax Act. As the Education Trust Act updates language to comply with federal tax code, Section 1.B(4.b) of the amendment to House Bill 342 correspondingly amends the definition for base income deductions to note qualifications for federally allowable qualified higher education expenses and qualified expenses as named in Section 529 of the Internal Revenue Service federal code.

Synopsis of Original Bill

House Bill 342 (HB342) amends the Education Trust Act, Section 7-2-32 NMSA 1978 to expand the definition of eligible education institution from only post-secondary to include any college, university, or vocational school, and to update language to comply with changes in Internal Revenue Service federal code for 529 savings plans.

This bill does not contain an effective date and, as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed into law.

FISCAL IMPLICATIONS

HB342 does not contain an appropriation.

HB342 would have a minimal fiscal impact on personal income tax revenue. Analysis from the Tax and Revenue Department anticipates some increased deductions, noting:

The current deduction as reported in the 2022 Tax Expenditure Report¹ was approximately \$2 million in tax year 2021 with about 4,900 taxpayers taking the deduction. The expanded definition will increase the number of taxpayers who may deduct...It is unknown how many taxpayers fall into those two categories, but TRD assumes an increase in the number of deductions.

SIGNIFICANT ISSUES

House Bill 342 impacts technical options for use of funds within a 529 plan and expands options for education expenses to specifically include any college, university, or vocational school approved by the U.S. Department of Education. The changes proposed to the Education Trust Act comply with changes, beginning in 2017, in federal law and Internal Revenue Code (IRC) Section 529 for educational savings. Other changes include language added for “other expenses allowed” under IRC Section 529, which can include tuition for elementary or secondary public, private, and religious schools up to \$10 thousand per year, apprenticeship costs and student loan repayment, and replacing the word “college” with “education.”

Currently New Mexico offers two varied 529 plans with over 27 thousand accounts with New Mexicans, and an average account balance of \$21 thousand. While there is not income data for New Mexico’s families, an FY21 report from the Federal Reserve notes nationally, 9 percent of 529 plans are for households with incomes below \$50 thousand, 17 percent are for households with incomes from \$50 thousand to \$75 thousand, and 19 percent are for households with incomes from \$75 thousand to \$100 thousand. Families with at least one parent who attended college are more likely to have a 529 savings plan, and a 529 plan with at least \$500 dollars saved, a student is three times more likely to attend college, and four times more likely to graduate from college. Research from International Shareholder Services shows nationally, up to 5 percent of 529 plan users may use 529 savings for elementary or secondary education, and 95 percent of 529 plan holders use their plan savings for post-secondary education uses.

Analysis from the Taxation and Revenue Department notes changes proposed in House Bill 342 align with their 2022 Tax Expenditure Report¹, stating “this deduction could be expanded to incentivize a broader array of post-secondary education options for a broader range of families.”

Currently, vocational programs are not named in New Mexico’s Education Trust Act, and House Bill 342 would allow for apprenticeship expenses to be included within 529 savings plan uses. Data from Apprenticeship.gov notes a 42 percent increase in apprenticeship opportunities

¹ New Mexico Taxation and Revenue Department, 2022 Tax Expenditure Report, <https://www.tax.newmexico.gov/forms-publications/>, 2022.

between FY21 and FY22. Analysis from Education Trust Board based on national trends anticipates language for expanded post-secondary expenses could draw in approximately 270 new accounts in New Mexico.

PED analysis notes potential that some changes in language for eligible expenses could impact 529 savings plan funding for private school elementary and secondary education, therefore impacting enrollment at public schools. LFC analysis finds this change in public school enrollment unlikely given national trends do not demonstrate 529 savings plans are a cause of increased attendance at private schools.

Additionally, three financial benefits to individual New Mexicans investing in the state's 529 educational savings programs include:

- (1) Contributions to the account may be deducted from state taxable income,
- (2) Investment gains are tax-deferred, and
- (3) Distributions from the accounts are tax-free at the state and federal level when used for qualifying expenses.

ADMINISTRATIVE IMPLICATIONS

PED analysis notes:

HB342 would have no administrative implications for school districts, charter schools, or the Public Education Department.

Analysis from TRD notes the agency will need to make information system changes and update forms and publications to incorporate annual tax year implementation.

TECHNICAL ISSUES

TRD suggests clarifying proposed changes in the bill would apply for tax years starting with 2023, as personal income tax filings for 2022 are already being filed and processed.

OTHER SUBSTANTIVE ISSUES

Analysis from PED notes

According to the Education Commission of the States “when state 529 policies provide tax benefits to individuals using 529 accounts to pay for private K-12 education, these policies intersect with issues of school choice and the financing of public K-12 education.” Any impact on enrollment in public schools due to adding allowable expense of elementary and secondary school tuition is not yet determined.