SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

BILL NO. Senate Bill 1135

PRINTER'S NO. 2090

AMOUNT

Minimal Fiscal Impact (Gain)

FUND

General Fund

DATE INTRODUCED

June 14, 2011

PRIME SPONSOR

Senator Corman

HISTORY OF BILL

Referred to FINANCE, June 14, 2011
Reported as amended, April 3, 2012
First consideration, April 3, 2012
Re-referred to APPROPRIATIONS, May 2, 2012
Re-reported as committed, May 8, 2012

DESCRIPTION AND PURPOSE OF BILL

Senate Bill 1135 amends the Tax Reform Code of 1971 (Act 2 of 1971) to limit the personal income tax deductibility for contributions made to a federally qualified tuition program only to Pennsylvania's PA 529 College Savings Program.

Act 67 of 2006 provided a personal income tax deduction for contributions made to any state-sponsored Internal Revenue Code section 529 qualified tuition program. In addition, rollovers, undistributed earnings, and distributions used for qualified higher education expenses are not taxable for purposes of the personal income tax.

Senate Bill 1135 limits the personal income tax deductibility for contributions made only to Pennsylvania's PA 529 College Savings Program but not to out-of-state programs. Under existing law, contributions made to any state's 529 program are deductible from Pennsylvania's personal income tax.

The PA 529 College Savings Program is administered by the Pennsylvania Treasury Department (department). According to information provided by the department, all states (plus D.C.) sponsor at least one section 529 program, and Pennsylvania is one of only five states that provide a tax deduction for contributions made to any state program (i.e. tax parity). Furthermore, it is the only large state to have such tax parity rules in place. Arguably, tax parity puts Pennsylvania's PA 529 College Savings Program at a competitive disadvantage because Pennsylvania residents have become a target for the marketing efforts of other states' programs, without reciprocity in most instances.

SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

Senate Bill 1135 amends section 303(a.7) of the Tax Reform Code (TRC) to provide that an amount paid as a contribution into a qualified tuition program "…under Chapter 3 of the act of April 3, 1992 (P.L. 28, No. 11), known as the 'Tuition Account Programs and College Savings Bond Act'…" shall be deductible from taxable income on the annual personal income tax return. By specifically referring to the enabling legislation of the PA 529 College Savings Program in the TRC, the tax deduction will no longer be available for contributions to other states' programs.

The proposed legislation includes a provision which provides that a rollover from the PA 529 College Savings Program to another program is not exempt from the personal income tax. This additional provision guards against a potential loophole whereby tax-deductible contributions can be made to the Pennsylvania program only to be withdrawn and rolled over into another state's program, thereby skirting the intent of the proposed change. A rollover to the PA 529 program will remain tax-exempt.

The act shall take effect January 1, 2013 and shall not apply to contributions or rollovers made prior to this date.

FISCAL IMPACT:

Senate Bill 1135 will have no adverse fiscal impact on Commonwealth funds. To the extent that Pennsylvania taxpayers do not shift their future contributions from other states' programs to the PA 529 College Savings Program, the legislation may result in an undetermined increase to General Fund revenue.

Recent data provided by the Treasury Department indicates that since the tax deduction has been in place (i.e. 2006) a minimum of $843.9 million has been contributed to out-of-state qualified tuition programs. At the personal income tax (PIT) rate of 3.07%, an estimated $25.9 million in PIT revenue attributable to deductions for out-of-state contributions has been foregone since 2006.

On average, from tax year 2006 to 2011, state PIT revenues have been reduced by approximately $4.3 million per year for deductions resulting from contributions to out-of-state programs. Therefore, the maximum potential revenue generated by Senate Bill 1135 is estimated at $4 million to $5 million per year; however, taxpayers who decide to maintain the state tax benefits of contributing to a 529 program will shift to the PA 529 plan and continue to receive the deduction, thereby reducing the amount of this revenue gain.