

Colorado Legislative Council Staff Fiscal Note

**FINAL  
FISCAL NOTE**

**Drafting Number:** LLS 10-0765  
**Prime Sponsor(s):** Rep. Lambert  
 Sen. Lundberg

**Date:** May 11, 2010  
**Bill Status:** Postponed Indefinitely  
**Fiscal Analyst:** Natalie Mullis (303-866-4778)

**TITLE:** CONCERNING THE CREATION OF INCOME TAX CREDITS FOR NONPUBLIC EDUCATION.

Fiscal Impact Summary	FY 2010-2011	FY 2011-2012	FY 2012-2013	FY 2022-2023
<b>State Revenue</b>				
General Fund - Income Taxes	(\$23.4 million)	(\$67.3 million)	(\$106.8 million)	(\$407.4 million)
<b>State Expenditures</b>				
School Finance /a	(\$56.0 million)	(\$98.9 million)	(\$138.8 million)	(\$430.3 million)
General Fund	\$60,000	\$114,181	\$181,989	/b
<b>FTE Position Change</b>		1.5 FTE	4.0 FTE	/b
<b>Effective Date:</b> The bill was postponed indefinitely by the House Finance Committee on February 24, 2010.				
<b>Appropriation Summary for FY 2010-2011:</b> \$56.0 million reduction to school finance. /a				
<b>Local Government Impact:</b> School district expenditures and FTE would decrease.				

/a School finance savings could occur in the state's General Fund, the State Education Fund, or a combination of both.  
 /b The Department of Revenue will incur costs and require FTE in FY 2022-23 to implement the bill. These costs are currently unknown.

**Summary of Legislation**

The bill creates an income tax credit for individuals who enroll their dependent child in a home-based or private school and to any taxpayer who offers a scholarship to a child who enrolls in a private school. In order to qualify, the child must have been enrolled in a public school immediately before enrolling in the private school or a home-based school. Children continue to qualify for the credit each year until they graduate or return to a public school. The credit is not refundable but can be carried forward for three years.

**Credit for home-schooled children.** Individuals who enroll their child in a home-based school will receive a credit for each year the child is in the home-based school. The credit is equal to \$500 for children who would have been enrolled part-time in public school and \$1,000 for children who would have been enrolled full-time in a public school.

**Credit for private-schooled children.** An individual whose child had previously been enrolled full-time in a public school and who enrolls the child in private school will receive a credit equal to half of the state's average per pupil school finance funding for the most recent full fiscal year. If the child had been enrolled in the public school on a half-time basis, the credit is equal to a quarter of the state's average per pupil school finance funding for the most recent full fiscal year. These amounts are equal to \$3,629 and \$1,814, respectively, for tax year 2011.

***Credit for taxpayers offering scholarships.*** Taxpayers offering scholarships to a child enrolled in private school who had previously been enrolled full-time in a public school will receive a credit equal to the amount of the scholarship or half of the state average per pupil school finance funding, whichever is lower. Credits for scholarships offered to children who had previously been enrolled part-time in a public school will equal the lesser of the amount of the scholarship or one quarter of the state average per pupil school finance funding.

In order to receive a credit, a taxpayer must obtain a tax credit certificate from the private school in which the child is enrolled. The taxpayer must then submit the tax credit certificate to the Department of Revenue with his or her income tax return. Private schools are required to provide an electronic report to the Department of Revenue for each tax credit certificate they issue, along with other pertinent taxpayer information, to the Department of Revenue by December 15th of the tax year for which the certificates were issued.

## **State Revenue**

General Fund revenue will be reduced \$23.4 million in FY 2010-11 and \$67.3 million in FY 2011-12. Because children are able to receive the credit for their entire private school career, the credit will require 13 years to be fully phased-in as each year's cohort of transfers adds to the number of children receiving the credit. General Fund revenue will be reduced an estimated \$407.4 million in FY 2022-23, the final year of the phase-in.

It is assumed that the parents or guardians of approximately 15,000 students will receive the credit for tax year 2011, with about half receiving scholarships averaging about \$2,000. Of these, it is assumed that about 7,000 students would be induced to enroll in a private school because of the tax credit in this bill and that the tax credit would cause about 1,200 to choose to leave public school to enroll in a home-based school. Table 1 shows the number of taxpayers and credit amounts for tax years 2011 through 2013 and for tax year 2023, the last year of the phase-in period, for each category of taxpayer affected by the bill.

There are approximately 40,300 Colorado students in grades K-12 enrolled in private schools and 7,000 students enrolled in home-based education this year. For purposes of this fiscal note, the following is assumed:

- According to the Department of Education, 6,682 students transferred from public schools to private schools and 648 students transferred to a home-based school in FY 2008-09. Transfers that would have occurred under current law are assumed to continue to occur at this rate.
- The value of the tax credit for children attending private school was assumed to be reduced by a third in the first year for which the credit is available because of limited tax liability. About one half of the remaining tax credit is assumed to be carried forward into the following three tax years.

- The number of children who transfer from a public school to a private school because of this tax credit will equal approximately 0.9 percent of public school enrollment each year. This estimate is based on the performance of the Milwaukee Parental Choice Program, the public school voucher program in the city of Milwaukee that has been in operation since 1990.
- The number of children who transfer from a public school to a home-based school because of this tax credit will equal approximately 0.2 percent of public school enrollment each year. This is based on the performance of the Milwaukee Parental Choice Program adjusted for the number of children that are home-schooled relative to the number of children attending private school.
- 52.5 percent of the children who receive the credit for attending private school will receive a scholarship from an individual or business other than their parent or guardian. This assumption, and the assumed average scholarship, is based on the performance of Arizona's income tax credit for donations to private school tuition organizations as reported by the Arizona Department of Revenue<sup>1</sup> and the Goldwater Institute.<sup>2</sup> The average amount assumed for the scholarship was reduced to reflect the fact that the credit is capped.
- An individual child receiving a scholarship from an individual or business other than their parent or guardian would qualify both their parent/guardian and their scholarship benefactor for a credit.

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<sup>1</sup> Arizona Department of Revenue, Office of Economic Research and Analysis, "Individual Income Tax Credit for Donations to Private School Tuition Organizations: Reporting for 2007 and 2008."

<sup>2</sup> Murray, Vicki and Ross Groen, Goldwater Institute Policy Report. "Survey of Arizona Private Schools: Tuition, Testing, and Curricula," No. 199, January 5, 2005.

# HB10-1295

**Table 1**  
**Number of Applicants and Average Amount of the Credit**  
**Income Tax Years 2011-2013 and 2023**

	2011		2012		2013		2023	
Population	# of Children	Credit Amount	# of Children	Credit Amount	# of Children	Credit Amount	# of Children	Credit Amount
<b>Parents/Guardians of Children in Private School</b>								
<i>Children Transferring to A Private School Under Current Law</i>								
Full-Time*	6,682	\$3,629	11,604	\$3,651	16,090	\$3,753	39,230	\$4,897
<i>Children Induced to Attend Private School By HB 10-1295</i>								
Full-Time*	6,159	\$3,629	11,122	\$3,651	15,591	\$3,753	36,774	\$4,897
Part-Time*	817	\$1,814	822	\$1,825	826	\$1,845	876	\$2,449
<b>Total Private School Children:</b>	<b>13,250</b>		<b>23,137</b>		<b>32,094</b>		<b>76,442</b>	
<b>Parents/Guardians of Children in a Home-Based School</b>								
<i>Children Transferring to Home School Under Current Law</i>								
Full-Time*	648	\$1,000	1,125	\$1,000	1,560	\$1,000	3,804	\$1,000
<i>Children Induced to Attend Home School By HB 10-1295</i>								
Full-Time*	1,074	\$1,000	1,939	\$1,000	2,723	\$1,000	6,640	\$1,000
Part-Time*	142	\$500	143	\$500	144	\$500	153	\$500
<b>Total Home School Children:</b>	<b>1,793</b>		<b>3,136</b>		<b>4,355</b>		<b>10,521</b>	
<b>Individuals and Businesses Providing Scholarships to Qualifying Children</b>								
Children Receiving Scholarships	7,078	\$1,931	12,202	\$1,985	16,844	\$2,053	39,838	\$2,661

\* Full-time indicates that the child would have otherwise been enrolled full-time in a public school. Part-time indicates that the child would have otherwise been enrolled part-time in a public school.

**State Expenditures**

As shown in Table 2, state expenditures will decrease \$55.9 million in FY 2009-10 and \$98.8 million in FY 2010-11. The majority of changes occur in school finance expenditures. Changes in school finance could occur in the General Fund, the State Education Fund, or a combination of both.

<b>Table 2. Expenditures Under HB10-1296</b>			
<b>Cost Components</b>	<b>FY 2010-11</b>	<b>FY 2011-12</b>	<b>FY 2012-13</b>
<b>Department of Education - School Finance /a</b>	(\$55,976,061)	(\$98,887,373)	(\$138,765,850)
<b>Department of Revenue - General Fund</b>			
Personal Services		\$64,981	\$170,828
<i>FTE</i>		1.5	4.0
Operating Expenses and Capital Outlay		\$17,186	\$11,158
Computer Programming	\$60,000	\$32,012	
<b>TOTAL</b>	<b>(\$55,916,061)</b>	<b>(\$98,773,192)</b>	<b>(\$138,583,861)</b>

*/a School finance savings and expenditures could occur in the state's General Fund, the State Education Fund, or a combination of both.*

**School Finance - (\$56.0 million) in FY 2010-11, (\$98.9 million) in FY 2011-12, and (\$139.8 million) in FY 2012-13.** HB 10-1295 will cause about 7,700 full-time-equivalent students to enroll in a home-based or private school who would have otherwise remained in public school each year. As a result, less money will be required by the school finance formula to fund public education. School finance savings could occur in the General Fund, the State Education Fund, or a combination of both. Savings under the school finance formula will increase each year as more students are induced by the credit to transfer from public to private school. School finance savings will equal \$430.3 million in FY 2022-23, the year in which it is fully phased-in.

**Department of Revenue.** The department will incur costs of \$114,181 in FY 2011-12 in staff (1.5 FTE) and operating costs to administer the tax credit. For FY 2012-13, these costs will be \$181,989 (4.0 FTE). These resources are needed to work with taxpayers regarding the credit and to review tax returns to verify eligibility and ensure the credit is claimed correctly. The FY 2011-12 costs are for a half-year impact as credits would not start to be claimed until tax returns are filed in 2012. The FY 2012-13 costs are a full-year impact and will increase over time as the credit becomes fully phased-in.

**Computer Programming Costs.** The department will also incur information technology-related expenses of \$60,000 in FY 2010-11 and \$32,012 in FY 2011-12 to implement the provisions of this bill.

In FY 2010-11, at an estimated cost of \$60,000, the department will need to contract with the State Internet Portal Authority (SIPA) to develop an online certification filing system. This is needed to enable private schools to file reports on tax certificates securely through the Colorado.gov website and to allow the information to be received by the department's tax system.

The \$32,012 in expenditures needed in FY 2011-12 is based on an expected 816 hours of programming by an IT Professional III at a rate of \$39.23 per hour to modify the state's tax system, called GenTax, to allow for the new tax credit.

It is assumed that the **Department of Education** will implement the bill within existing resources.

### **School District Impact**

**School district** expenditures and FTE will decrease as a result of reduced enrollment.

### **State Appropriations**

For FY 2010-11, this note indicates the following changes in appropriations:

- a reduction of \$55,976,051 in appropriations to the Department of Education for the school finance formula; and
- the Department of Revenue requires a General Fund appropriation of \$60,000.

### **Departments Contacted**

Revenue          Education          Law