SB15-045

Colorado Legislative Council Staff Fiscal Note

STATE and LOCAL FISCAL IMPACT

Drafting Number:	LLS 15-0366	**Date:**	January 28, 2015
Prime Sponsor(s):	Sen. Lundberg	**Bill Status:**	Senate Education
		Fiscal Analyst:	Louis Pino (303-866-3556)

BILL TOPIC: TAX CREDITS FOR NONPUBLIC EDUCATION

Fiscal Impact Summary*	FY 2015-16	FY 2016-17	FY 2017-18	FY 2028-29
State Revenue	**($12.1 million)**	**($37.2 million)**	**($64.0 million)**	**($336.7 million)**
Revenue Change General Fund	($12.1 million)	($37.2 million)	($64.0 million)	($336.7 million)
State Transfers Capital Construction Fund Highway Users Tax Fund	 $25.5 million $102.4 million			
State Expenditures				
School Finance */a*		($45.5 million)	($84.3 million)	($409.6 million)
General Fund		$159,603	$236,274	*/b*
Centrally Appropriated Costs**		$26,504	$61,971	*/b*
FTE Position Change		2.3 FTE	5.3 FTE	*/b*
TABOR Set Aside	($12.1 million)	($37.2 million)	($64.0 million)	*unknown*
Appropriation Required: None.				

* *This summary shows changes from current law under the bill for each fiscal year. Parentheses indicate a decrease in funds.*

** *These costs are not included in the bill's appropriation. See the State Expenditures section for more information.*

/a *School finance savings assume per pupil funding increase by inflation each year. Savings could occur in the state's General Fund, the State Education Fund, or a combination of both. If the negative factor is utilized such that per pupil funding increases at faster/slower rates, the savings will be larger/smaller.*

/b *The Department of Revenue will incur costs and require FTE in FY 2027-28 to implement the bill. These costs are currently unknown.*

Summary of Legislation

This bill creates an income tax credit for individuals who:

- enroll their dependent child in a home-based or private school; or
- offer a scholarship to a child who enrolls in a private school.

Qualifying taxpayers can receive credits as shown in Table 1. The income tax credit will be available beginning tax year 2016. In order to qualify, the child must have attended a public school full-time the year before enrolling in a private school and must have attended public school as of the enactment date of the bill and prior to enrolling in a home-based school. Taxpayers continue to qualify for the credit each year until their child graduates or returns to public school. Either the parent/guardian of a child or the child's scholarship provider can qualify for a credit, but not both. The credit is nonrefundable, but can be carried forward for three years.

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 (DOR) with his or her income tax return. Private schools are required to provide an electronic report for each tax credit they issue, along with other pertinent taxpayer information by December 15 of the tax year for which the certificates were issued. The Department of Education is required to provide the statewide average per pupil funding amount to the DOR by December 15th each year.

Table 1. Credits Available under SB15-045

	Amount of Credit	
Taxpayer	**Full-Time Student**	**Half-Time Student**
Parents enrolling their child in private school*	1/2 of prior year's statewide per pupil school finance funding amount.	1/4 of prior year's statewide per pupil school finance funding amount.
Scholarship benefactors for children in private school*	The lesser of 1/2 of prior year's statewide per pupil funding or the amount of the scholarship.	The lesser of 1/4 of prior year's statewide per pupil funding or the amount of the scholarship.
Parents enrolling their child in a home-based school	$1,000	$500

* *Either the parent/guardian of a child or the child's scholarship benefactor can qualify for a credit, but not both.*

State Revenue

This bill will reduce General Fund revenue by up to $12.1 million in FY 2015-16 and up to $37.2 million in FY 2016-17. Because taxpayers are able to receive the credit as long as their child remains in a nonpublic school, the credit will require 13 years to be fully phased-in as each year's cohort of transfers adds to the number of parents receiving the credit. General Fund revenue will be reduced an estimated $336.7 million in FY 2028-29, the final year of full implementation.

Table 2 on page 4 shows the number of taxpayers and credit amounts for tax years 2016 and 2017 for each category affected by the bill. It is assumed that the parents or guardians of just under 20,300 students will receive the credit for tax year 2016. Of these, it is assumed that almost 6,600 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 parents to choose to transfer their children out of a public school into a home-based school. Finally, it is assumed that about 9,842 students will receive a scholarship to attend private school. Because the bill requires that a child generate only one tax credit, it is assumed that half of these scholarships will generate a credit for the scholarship benefactors.

There are approximately 46,000 Colorado students in grades K-12 enrolled in private or home-based schools this year. For purposes of this fiscal note, the following is assumed:

- The value of the tax credit for children attending private school is assumed to be reduced by about one-half in the first year for which the credit is available because of limited tax liability. About 40 percent of the remaining tax credit is assumed to be carried forward and claimed against tax liability during 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, while the number of children who transfer to a home-based school because of this credit will equal about 0.2 percent of public school enrollment each year. These estimates are based on the performance of the Milwaukee Parental Choice Program, the public school voucher program in Milwaukee that has been in operation since 1990.

- 46 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.[1] The average amount assumed for the scholarship was reduced to reflect the fact that the credit is capped. Scholarship providers are assumed to have sufficient tax liability to claim the full credit in the first year.

- An individual child receiving a scholarship from an individual or business other than their parent or guardian would qualify either their parent/guardian or their scholarship providers for a credit, but not both.

- Because a child must have been enrolled full-time in a public school during the year prior to enrolling in a private school, parents enrolling children into private school during kindergarten will not qualify for the credit.

- It is assumed that parents and/or guardians who would not have otherwise enrolled their child in public school will not temporarily do so for the purpose of qualifying for this credit. Relaxing this assumption would result in new school finance expenditures that would reduce some portion of the savings.

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[1] Arizona Department of Revenue, "Private School Tuition Organization Income Tax Credits in Arizona: A Summary of Activity, FY 2011." http://www.azdor.gov/ReportsResearch/SchoolTaxCredit.aspx

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Table 2. Number of Applicants and Average Tax Credit Amount Income Tax Years 2016 and 2017						
	Income Tax Year 2016			**Income Tax Year 2017**		
Population	Under Current Law	Induced by SB15-045	Total	Under Current Law	Induced by SB15-045	Total
Transfers to Private School	6,125	6,658	12,783	10,717	12,022	22,739
Transfers to Home-Based School	6,274	1,234	7,508	10,979	2,173	13,152
Total Children:			**20,291**			**35,891**
Tax Credits	Value of Credit	Number of Children	Revenue Impact*	Value of Credit	Number of Children	Revenue Impact*
For Children Transferring to Private School						
Claimed by Parents/Guardians	*up to* $3,629	9,842	$13.6 million	*up to* $3,842	17,509	$30.6 million
Claimed for Scholarships	$1,867 *on average*	2,940	$5.5 million	$1,937 *on average*	5,230	$10.1 million
For Children Transferring to a Home-Based School						
Full-Time	$1,000	7,432	$5.0 million	$1,000	13,075	$9.5 million
Part-Time	$500	77	$0.8 million	$500	78	$1.6 million
Total Tax Credits			**$24.2 million****			**$50.2 million****

* *The revenue impact will not equal the product of the credit and the number of credits because it is assumed that not all parents and guardians will have sufficient liability to claim the full credit in the first tax year.*

** *The total revenue impact shown here is for a full tax year, while the revenue impact in the note is converted to a fiscal year basis.*

TABOR Impact

As shown in Table 3, the bill is projected to reduce state General Fund revenue by up to $12.1 million in FY 2015-16 and up to $37.2 million in FY 2016-17. This will reduce the state's TABOR surplus and the amount of money required to be refunded to taxpayers. Table 3 shows the projected impact on the mechanisms used to refund the TABOR surplus in current law. Revenue is refunded in the year following the year in which it is collected.

Table 3. Impact of SB15-045 on Current Refund Mechanisms
Millions of Dollars

	FY 2015-16 Surplus FY 2016-17 Refund Tax Year 2016	**FY 2016-17 Surplus FY 2017-18 Refund Tax Year 2107**
Current Law		
Revenue above the TABOR limit	$116.7 million	$620.4 million
Earned Income Tax Credit	$89.3 million	permanent*
Income Tax Rate Reduction		$229.7 million
Sales Tax Refund	$31.0 million**	$390.7 million
Senate Bill 15-045		
Revenue above the TABOR limit	$104.6 million	$583.2 million
Earned Income Tax Credit	$89.3 million	
Income Tax Rate Reduction		$229.7 million
Sales Tax Refund	$18.9 million	$353.5 million
Change from Current Law		
Revenue above the TABOR limit	($12.1 million)	($37.2 million)
Earned Income Tax Credit		
Income Tax Rate Reduction		
Sales Tax Refund	($12.1 million)	($37.2 million)
Total Change from Current Law	($12.1 million)	($37.2 million)

Source: Legislative Council Staff Forecast, December 2014.
* *The EITC becomes permanent beginning in the first tax year following the tax year when it is used as a TABOR refund mechanism. Under current law, the EITC is expected to become permanent beginning in tax year 2017.*
** *$3.6 million is added to the sales tax refund in FY 2015-16 to correct for previous under-refunds*

Based on the December 2014 Legislative Council Staff forecast, the Earned Income Tax Credit (EITC) is expected to be available as a TABOR refund mechanism in FY 2015-16 and then become permanent in following fiscal years. This bill reduces the FY 2015-16 TABOR surplus but does not alter the mechanisms to refund the money. TABOR surplus will be refunded through the EITC and Six Tier Sales Tax Refund.

SB 09-228 Transfers. When the TABOR surplus is between 1.0 percent and 3.0 percent of General Fund revenue, the SB 09-228 transfers are cut in half; when the TABOR surplus exceeds 3.0 percent the SB 09-228 transfers are eliminated. This bill will reduce the TABOR surplus in FY 2015-16 to below 1.0 percent of General Fund revenue, which will increase the amount of money transferred to the Capital Construction Fund by $25.5 million and the Highway Users Tax Fund by $102.4 million in FY 2015-16.

State Expenditures

This bill does not change state expenditures in FY 2015-16 but decreases state spending by up to $45.3 million in FY 2016-17 and up to $84.0 million in FY 2017-18. The majority of the expenditure impact in FYs 2016-17 and 2017-18 is a reduction in school finance expenditures. It is assumed that the total decrease in school finance expenditures will be absorbed by the state's share of school finance, since revenue sources for the local share of school finance are not changed by the bill. Changes in school finance expenditures could occur in the General Fund, the State Education Fund, or a combination of both.

The school finance impact reflects an increase in per pupil by inflation each year. The savings will be higher if per pupil funding is increased at rates greater than inflation. If the negative factor is utilized such that total program increases at slower rates, the savings will be smaller.

Table 4. Expenditures Under SB15-045

Cost Components	FY 2015-16	FY 2016-17	FY 2017-18
Department of Education			
School Finance /a	$0	($45.5 million)	($84.3 million)
Department of Revenue			
Personal Services		$94,492	$217,922
		2.3 FTE	5.3 FTE
Operating Expenses and Capital Outlay Costs		$27,111	$5,035
Programming Costs		$38,000	$13,317
Centrally Appropriated Costs*		$26,504	$61,971
TOTAL		**Up to ($45.3 million)**	**Up to ($84.0 million)**

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

Department of Education School Finance. $0 in FY 2015-16, ($45.5 million) in FY 2016-17 and ($84.3 million) in FY 2017-18. SB15-045 will cause an estimated 7,900 full-time equivalent students who would have otherwise remained in public school to enroll in a home-based or private school. As a result, less money will be required by the school finance formula to fund public education. Savings are driven only from those children whose parents are expected to enroll their children in a private or home-based school directly because of the credit. Savings will increase each year as more students are induced by the credit to transfer from public to private school and are estimated to equal $409.6 million in FY 2028-29, the year the bill is fully phased-in. These estimates assume that 30.7 percent of the state's public school enrollment is located in districts with declining enrollment over time, which reduce the savings because of five-year enrollment averaging.

Department of Revenue. The department will incur costs of $159,603 and 2.3 FTE in FY 2016-17 and $236,274 and 5.3 FTE in FY 2017-18. 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. In FY 2016-17, the department will incur one-time programming costs of $26,280 to modify the GenTax Systems. The $11,720 balance of programming costs will go to the Department of Personnel and Administration (DPA) for document management and form change costs.

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 4.

Table 4. Centrally Appropriated Costs Under SB15-045*

Cost Components	FY 2015-16	FY 2016-17
Employee Insurance (Health, Life, Dental, and Short-term Disability)	$18,232	$42,013
Supplemental Employee Retirement Payments	$8,272	$19,958
TOTAL	**$26,504**	**$61,971**

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

School District Impact

School district funded pupil counts and state aid to districts will decrease as a result of reduced enrollment. Although the bill does not require public schools to certify the eligibility of children to receive the credit, school districts may experience additional administrative burdens to aid in this effort.

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 takes effect August 5, 2015, if the General Assembly adjourns on May 6, 2015, as scheduled, and no referendum petition is filed. Tax changes are effective beginning tax year 2016.

State and Local Government Contacts

Revenue Education Law