SB15-045

Colorado Legislative Council Staff Fiscal Note

STATE and LOCAL
REVISED FISCAL IMPACT

(replaces fiscal note dated February 4, 2015)

Drafting Number: LLS 15-0366
Prime Sponsor(s): Sen. Lundberg
Date: March 24, 2015
Bill Status: Senate Second Reading
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)**	**($37.0 million)**	**($71.7 million)**	**($393.7 million)**
Revenue Change General Fund	($12.1 million)	($37.0 million)	($71.7 million)	($393.7 million)
State Transfers Capital Construction Fund Highway Users Tax Fund	 ($30,250) ($121,000)			
State Expenditures				
School Finance */a*		($44.1 million)	($81.3 million)	($360.6 million)
General Fund		$159,603 /c	$236,274 /c	/b
Centrally Appropriated Costs**		$26,504 /c	$61,971 /c	/b
FTE Position Change		2.3 FTE /c	5.3 FTE /c	/b
TABOR Set Aside	($12.1 million)	($37.0 million)	($71.7 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.*
/c *The Department of Revenue's administrative costs for a refundable tax credit are higher than those for a nonrefundable tax credit. These estimates do not incorporate these additional costs.*

This revised fiscal note is provided pursuant to Senate Rule 25 (e)

Summary of Legislation

This bill creates a partially refundable 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 partially refundable. The bill allows any unused credit to be refunded after a three-year carry forward period.

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 $37.0 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 $393.7 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. The full tax credit is assumed to be claimed within three years, because the bill allows any unused credit to be refunded after the three-year carry forward period.

- 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.

- 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.

[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 $3,719	17,509	$30.2 million
Claimed for Scholarships	$1,867 *on average*	2,940	$5.5 million	$1,926 *on average*	5,230	$10.0 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	$38,500	$500	78	$39,000
Total Tax Credits			**$24.1 million****			**$49.8 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

This bill reduces state revenue by $12.1 million in FY 2015-16 and $37.0 million in FY 2016-17, which will reduce the amount required to be refunded under TABOR. TABOR refunds are paid from the General Fund.

SB 09-228 Transfers. Transfers to the Capital Construction Fund and Highway Users Tax Fund required by Senate Bill 09-228 are determined by General Fund Revenue and the size of the TABOR surplus. By reducing the General Fund revenue will decrease the transfer for Capital Construction by $30,250 and the transfer to the Highway Users Tax Fund by $121,000 in FY 2015-16.

State Expenditures

This bill does not change state expenditures in FY 2015-16 but decreases state spending by up to $43.9 million in FY 2016-17 and up to $81.0 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	($44.1 million)	($81.3 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 ($43.9 million)**	**Up to ($81.0 million)**

** Centrally appropriated costs are not included in the bill's appropriation.*
*** The Department of Revenue's administrative costs for a refundable tax credit are higher than those for a nonrefundable tax credit. These estimates do not incorporate these additional costs.*

Department of Education School Finance. $0 in FY 2015-16, ($44.1 million) in FY 2016-17 and ($81.3 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. It is important to note that the Department of Revenue's administrative costs for a refundable tax credit are higher than those for a nonrefundable tax credit. These estimates do not incorporate these additional 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