

Colorado Legislative Council Staff Fiscal Note

**FINAL
FISCAL NOTE**

Drafting Number: LLS 14-0483
Prime Sponsor(s): Sen. Lundberg

Date: May 13, 2014
Bill Status: Postponed Indefinitely
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SHORT TITLE: TAX CREDITS FOR NONPUBLIC EDUCATION

Fiscal Impact Summary*	FY 2013-2014	FY 2014-2015	FY 2015-2016	FY 2026-2027
State Revenue	(\$11.6 million)	(\$35.3 million)	(\$59.3 million)	(\$283.8 million)
Revenue Change General Fund	(\$11.6 million)	(\$35.3 million)	(\$59.3 million)	(\$283.8 million)
State Expenditures		\$190,166	(\$40.7 million)	(\$384.2 million)
School Finance /a General Fund		\$181,318	(\$40.8 million) \$155,015	(\$384.2 million) /b
Centrally Appropriated Costs**		\$8,858	\$21,579	/b
FTE Position Change		1.2	2.8	/b

Appropriation Required: Department of Revenue - \$181,318 (FY 2014-15)

* 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 total program expenditures increase by inflation plus enrollment growth each year. 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 2026-27 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; or
- offer a scholarship to a child who enrolls in a private school.

Taxpayers qualifying for the credit can receive credits as shown in Table 1. 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 a public school. Either the parent/guardian of a child or the child's scholarship benefactor can qualify for a credit, but not both. The credit is not refundable 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 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. The Department of Education is required to provide the statewide average per pupil funding amount to the Department of Revenue by each December 15th.

Table 1. Credits Available under SB14-033		
Taxpayer	Amount of Credit	
	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

General Fund revenue will be reduced \$11.6 million in FY 2013-14 and \$35.3 million in FY 2014-15. 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 children receiving the credit. General Fund revenue will be reduced an estimated \$283.8 million in FY 2026-27, the final year of the phase-in.

It is assumed that the parents or guardians of just under 20,300 students will receive the credit for tax year 2014. Of these, it is assumed that a little more than 6,400 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 a little more than 1,500 parents to choose to transfer their children out of a public school into a home-based school. In addition, according to the Department of Education, 6,221 students transferred from a public school to a private school and 6,085 students transferred from a public school to a home-based school in FY 2012-13. Finally, it is assumed that about 5,800 students, or about 30 percent of the total number of students transferring from public school will receive a scholarship to attend private school. Because the bill requires that a child generate only one credit, it is assumed that half of these scholarships will generate a credit for the scholarship benefactors. Table 2 on page 4 shows the number of taxpayers and credit amounts for tax years 2014 and 2015 for each category affected by the bill.

There are approximately 44,000 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 was assumed to be reduced by about one half in the first year for which the credit is available because of limited tax liability. About forty 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 the city of 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 benefactors 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 benefactor 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 express purpose of pulling them out in order to qualify for this credit.

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 Amount of the Credit
Income Tax Years 2014 and 2015

Population	Income Tax Year 2014			Income Tax Year 2015		
	Under Current Law	Induced by SB14-033	Total	Under Current Law	Induced by SB14-033	Total
Transfers to Private School	6,221	6,429	12,650	10,865	11,582	22,447
Transfers to Home-Based School	6,085	1,523	7,608	10,628	2,669	13,297
Total Children:	20,258			35,744		
Tax Credits	Value of Credit	Number of Children	Revenue Impact	Value of Credit	Number of Children	Revenue Impact
<i>For Children Transferring to Private School</i>						
Claimed by Parents/Guardians	<i>up to \$3,423</i>	9,741	\$12.8 million*	<i>up to \$3,522</i>	15,770	\$25.5 million*
Claimed for Scholarships	<i>\$1,809 on average</i>	2,909	\$5.3 million	<i>\$1,862 on average</i>	6,677	\$12.4 million
<i>For Children Transferring to a Home-Based School</i>						
Full-Time	\$1,000	7,514	\$5.1 million*	\$1,000	13,202	\$9.4 million*
Part-Time	\$500	94	\$37,200*	\$500	95	\$39,700
Total Tax Credits	\$23.2 million**			\$47.3 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. For example, the revenue impact for FY 2013-14 is equal to one half of the \$23.2 million impact for tax year 2014, or \$11.6 million.

State Expenditures

State expenditures will increase by \$190,166 in FY 2014-15 and decrease by up to \$40.7 million in FY 2015-16 and up to \$75.4 million in FY 2016-17. The majority of the expenditure impact in FYs 2015-16 and 2016-17 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 total program of inflation plus enrollment growth each year. The savings will be higher if total program is increased at rates greater than inflation plus enrollment growth. If the negative factor is further utilized such that total program increases at slower rates, the savings will be smaller.

Table 3. Expenditures Under SB14-033			
Cost Components	FY 2014-15	FY 2015-16	FY 2016-17
Department of Education			
School Finance /a	\$0	(\$40.8 million)	(\$75.5 million)
Department of Revenue			
Personal Services	\$49,610	\$115,755	\$115,755
FTE- Tax Examiner I	1.2	2.8	2.8
Operating Expenses and Capital Outlay Costs	\$15,508	\$4,260	\$4,260
Programming Costs	\$116,200	\$35,500	\$35,000
Centrally Appropriated Costs*	\$8,848	\$21,579	\$22,513
TOTAL	\$190,166	(\$40.7 million)	(\$75.4 million)

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

/a Changes to school finance assume total program expenditures increase by inflation plus enrollment growth each year, as specified by SB13-108. Savings could occur in the state's General Fund, the State Education Fund, or a combination of both.

Department of Education School Finance — \$0 in FY 2014-15, (\$40.8 million) in FY 2015-16 and (\$75.5 million) in FY 2016-17. Each year, SB14-033 will cause an estimated 8,000 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 \$384.2 million in FY 2026-27, 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 reduces the savings because of five-year enrollment averaging.

Department of Revenue - \$181,318 and 1.2 FTE in FY 2014-15, \$155,015 and 2.8 FTE in FY 2015-16. Computer programming costs of \$75,000 in FY 2014-15 and \$35,000 each year thereafter will be needed by the Department of Revenue 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 Department will also require \$41,200 in FY 2014-15 to make programming modifications to its GenTax database and to add new lines to the individual and corporate income tax forms.

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 SB14-033*		
Cost Components	FY 2014-15	FY 2015-16
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$5,403	\$12,607
Supplemental Employee Retirement Payments	\$3,455	\$8,972
TOTAL	\$8,858	\$21,579

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

School District Impact

Assuming the negative factor is not further utilized to prevent total program school finance expenditures to increase at rates less than inflation plus population growth, 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.

Effective Date

The bill was postponed indefinitely by the Senate State, Veterans, and Military Affairs Committee on January 22, 2014.

State Appropriations

For FY 2014-15, the Department of Revenue requires a General Fund appropriation of \$181,318 and 1.2 FTE.

State and Local Government Contacts

Revenue

Education

Law