

Colorado Legislative Council Staff Fiscal Note

**STATE and LOCAL
REVISED FISCAL IMPACT**

(replaces fiscal note dated February 22, 2011)

Drafting Number: LLS 11-0002

Date: April 4, 2011

Prime Sponsor(s): Rep. Swalm
Sen. Lundberg

Bill Status: House Appropriations
Fiscal Analyst: Natalie Mullis (303-866-4778)

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

Fiscal Impact Summary	FY 2011-12	FY 2012-13	FY 2013-14	FY 2023-24
State Revenue				
General Fund - Income Taxes	(\$10.5 million)	(\$33.5 million)	(\$58.9 million)	(\$284.0 million)
State Expenditures				
School Finance /a		(\$59.6 million)	(\$93.9 million)	(\$322.3 million)
General Fund - Grants		6.0 million	10.8 million	38.3 million
General Fund - DOR	75,480	41,689	105,080	/b
FTE Position Change		0.6 FTE	2.0 FTE	/b
Effective Date: Upon signature of the Governor, or upon becoming law without his signature.				
Appropriation Summary for FY 2011-2012: \$75,480 to the Department of Revenue				
Local Government Impact: School district expenditures and funded pupil counts would decrease.				

/a There are no changes to school finance expenditures in FY 2011-12 because of the budget stabilization factor. School finance savings could occur in the General Fund, the State Education Fund, or a combination of both.
/b Estimated costs shown for FY 2023-24 are for grants to school districts. The Department of Revenue will incur costs and require FTE in FY 2023-24. These costs are currently unknown.

Summary of Legislation

As amended in the House Finance Committee, 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 for at least a full school year before enrolling in the private or home-based school and must have completed a full school year in that private or home-based school. Taxpayers continue to qualify for the credit each year until their children graduate or return to a public school. A child can qualify either their parent/guardian or their scholarship benefactor for a credit, but not both. The credit is not refundable but can be carried forward for three years.

For each qualified child that transfers to a private school and for which a credit is claimed, the bill provides a \$500 grant to the school district that loses the child for as long as that child remains in private school. The first grants will be provided in FY 2012-13 for children who attend private school during the 2011-2012 school year.

To receive the credit, a taxpayer must obtain a certificate from the private school in which the child is enrolled, and submit it 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.

Table 1
Credits Available under HB11-1048

Taxpayer	Amount of Credit	
	Full-Time Student	Half-Time Student
Parents Enrolling Their Child in Private School*	1/2 of Statewide Per Pupil Funding less \$250: \$3,118 in 2012	1/4 of Statewide Per Pupil Funding less \$250: \$1,453 in 2012
Scholarship Benefactors for Children in Private School*	The lesser of 1/2 of Statewide Per Pupil Funding less \$250 or the Amount of the Scholarship	The lesser of 1/4 of Statewide Per Pupil Funding less \$250 or the Amount of the Scholarship
Parents Enrolling Their Child in a Home-based School	\$1,000	\$500

* A child can qualify either their parent/guardian or their scholarship benefactor for a credit, but not both.

State Revenue

General Fund revenue will be reduced \$10.5 million in FY 2011-12 and \$33.5 million in FY 2012-13. 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. Each child qualifying for the credit, including those who would have enrolled in private school under current law, will cause a reduction in revenue. General Fund revenue will be reduced an estimated \$284.0 million in FY 2023-24, the final year of the phase-in. These figures have not been adjusted for inflation.

It is assumed that the parents or guardians of approximately 13,800 students will receive the credit for tax year 2012. Of these, it is assumed that about 6,200 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 1,100 to choose to leave public school to enroll in a home-based school. Table 2 shows the number of taxpayers and credit amounts for tax years 2012 through 2014 and for tax year 2024, the last year of the phase-in period, for each category of taxpayer affected by the bill.

There are approximately 37,700 Colorado students in grades K-12 enrolled in private schools and 6,500 students enrolled in home-based education this year. For purposes of this fiscal note, the following is assumed:

- According to the Department of Education, 5,858 students transferred from public schools to private schools and 648 students transferred to a home-based school in FY 2009-10. Transfers that would have occurred under current law are assumed to continue to occur at this rate. Enrollment growth is expected to increase at rates predicted by the December Legislative Council Staff K-12 enrollment forecast.
- 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 an LCS analysis of 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.

Staff analyzed the increase in the Milwaukee program during the 1999-00 through 2001-02 school years, the first three years after it was fully funded. The increase in participation in the Milwaukee program was calculated to be, on average over the three years, about 1.7 percent of public school enrollment. This estimate was adjusted for estimates in the number of children participating in the program who transferred from home-based schools based on changes in Milwaukee's enrollment in home-based schools during that period.

For House Bill 11-1048, staff reduced the 1.7 percent to 0.9 percent, or about half of the Milwaukee figure, for the following two reasons. First, in the Milwaukee program, the city provides parents with the full amount of tuition for each child. Under this bill, parents or scholarship benefactors receive a tax credit a year later and their benefit is limited by their tax liability. Second, the 1.7 percent Milwaukee figure includes children that would have transferred regardless of the voucher. While the Milwaukee program includes means testing, implying that most students were induced to transfer by the voucher, some allowance for non-induced children is necessary.

- 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 estimate is based on an LCS analysis of the performance of the Milwaukee Parental Choice Program adjusted for the number of children that are home-schooled relative to those attending private school.
- Because the credit is not refundable, it is assumed that parents and guardians enrolling their children in private schools will eventually, on average, be able to claim only about 83 percent of the tax credits available to them. The value of these tax credits was assumed to be reduced by 40 percent in the first year for which the credit is available because of limited tax liability. About 60 percent of the remaining tax credit is assumed to be carried forward into the following three tax years.

- Pursuant to the bill, it is assumed that only one tax credit will be provided per child and the parent/guardian and scholarship benefactors for those children receiving scholarships will jointly determine which should receive the credit. It is assumed that about 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 Revenue¹ and the Goldwater Institute.² The average amount assumed for the scholarship was reduced to reflect the fact that the credit is capped.
- 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, Office of Economic Research and Analysis, "Individual Income Tax Credit for Donations to Private School Tuition Organizations: Reporting for 2007 and 2008."

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

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Table 2
Number of Applicants and Average Amount of the Credit
Income Tax Years 2012-2014 and 2024

	2012		2013		2014		2024	
Population	# of Children	Credit Amount	# of Children	Credit Amount	# of Children	Credit Amount	# of Children	Credit Amount
Parents/Guardians and Scholarship Benefactors of Children in Private School								
Children Transferring to A Private School Under Current Law	5,858	\$3,407	10,193	\$3,368	14,192	\$3,759	35,385	\$5,052
Children Induced to Attend Private School By HB 11-1048	6,221	\$3,407	11,398	\$3,368	16,218	\$3,759	42,220	\$5,052
Total Private School Children:	12,079		21,591		30,410		77,614	
Parents/Guardians of Children in a Home-Based School								
Children Transferring to Home School Under Current Law	648	\$1,000	1,128	\$1,000	1,570	\$1,000	3,914	\$1,000
Children Induced to Attend Home School By HB 11-1048	1,084	\$1,000	1,995	\$1,000	2,839	\$1,000	7,363	\$1,000
Total Home School Children:	1,732		3,122		4,409		11,277	

State Expenditures

State expenditures will increase \$75,480 in FY 2011-12 and decrease \$53.5 million in FY 2012-13. Beginning in FY 2012-13, the majority of changes occur in school finance expenditures and grants to school districts. 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.

Table 3. Expenditures Under HB11-1048			
Cost Components	FY 2011-12	FY 2012-13	FY 2013-14
Department of Education			
School Finance /a		(\$59,599,410)	(\$93,859,172)
Grants to Schools - General Fund		6,039,268	10,795,597
Department of Revenue - General Fund	75,480	41,840	100,957
FTE		0.6	2.0
TOTAL	\$75,480	(\$53,518,302)	(\$82,962,618)

/a There are no changes to school finance expenditures in FY 2011-12 because of the budget stabilization factor. School finance savings and expenditures could occur in the state's General Fund, the State Education Fund, or a combination of both.

Department of Education School Finance — no change in FY 2011-12, (\$59.6 million) in FY 2012-13, and (\$93.9 million) in FY 2013-14. HB 11-1048 will cause about 7,300 full-time-equivalent students to enroll in a home-based or private school who would have otherwise remained in public school each year. For FY 2011-12, the budget stabilization factor will adjust under current law in such a way that state expenditures on school finance will not change with reduced enrollment. However, the budget stabilization factor is not currently in law beginning in FY 2012-13, and as a result, lower enrollment will mean that 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. These estimates assume that 43 percent of the state's public school enrollment is located in districts with declining enrollment over time.

The school finance savings are likely overstated beginning in FY 2012-13 because they are based on an average per pupil funding amount that is increasing by almost 12 percent between FY 2011-12 and FY 2012-13 due to the expiration under current law of the budget stabilization factor.

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 and are estimated to equal \$322.3 million in FY 2023-24, the year in which the bill is fully phased-in.

Department of Education Grants to School Districts — \$6.0 million General Fund in FY 2012-13 and \$10.8 million General Fund in FY 2013-14. For each qualified child that transfers to a private school and for which a credit is claimed, the bill provides a \$500 grant to the school district that loses the child for as long as that child remains in private school. School districts will receive an estimated 12,079 grants in FY 2012-13 and 21,591 grants in FY 2013-14.

Department of Revenue - \$75,580 in FY 2010-11, \$41,840 and 0.6 FTE in FY 2012-13, and \$100,957 and 2.0 FTE in FY 2013-14. In FY 2011-12, an estimated \$75,480 in computer programming costs 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 incur costs of \$40,840 in FY 2012-13 in staff (0.6 FTE) and operating costs to administer the tax credit. For FY 2013-14, these costs will be \$100,957 (2.0 FTE). These resources are needed to work with taxpayers regarding the credit, to review tax returns to verify eligibility and ensure the credit is claimed correctly, and to track and provide information to the Department of Education on the distribution of grants to school districts. The FY 2012-13 costs are for a half-year impact as credits would not start to be claimed until tax returns are filed in 2013. The FY 2013-14 costs are a full-year impact and will increase over time as the credit becomes fully phased-in and the number of taxpayers qualifying for the credit increases.

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

School District Impact

School districts will receive less state aid and funded pupil counts may decrease as a result of reduced enrollment.

State Appropriations

For FY 2011-12, the Department of Revenue requires a General Fund appropriation of \$75,480.

Departments Contacted

Revenue Education Law