HB13-1176

Colorado Legislative Council Staff Fiscal Note

STATE FISCAL IMPACT

Drafting Number: LLS 13-0549
Prime Sponsor(s): Rep. Saine
Sen. Marble

Date: February 14, 2013
Bill Status: House Education
Fiscal Analyst: Natalie Mullis (303-866-4778)

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

Fiscal Impact Summary	FY 2013-2014	FY 2014-2015	FY 2015-2016	FY 2025-2026
State Revenue General Fund - Income Tax	($14.4 million)	($42.8 million)	($71.3 million)	($325.8 million)
State Expenditures School Finance */a* General Fund	($37.6 million) $115,000	($68.6 million) $107,842	($99.2 million) $197,909	($343.7 million) */b*
FTE Position Change		1.5 FTE	3.5 FTE	*/b*
Effective Date: Upon signature of the Governor, or upon becoming law without his signature. Tax credits are effective beginning tax year 2014 for taxpayers whose qualifying children and scholarship beneficiaries enroll in a public or home-based school beginning with school year 2013-14.				
Appropriation Summary for FY 2013-2014: $115,000 General Fund to the Department of Revenue.				
Local Government Impact: School district expenditures and FTE will decrease.				

/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 2025-26 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. Both the parent/guardian of a child and the child's scholarship benefactor can qualify for a credit. 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 HB13-1176

	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: $3,240 for tax year 2014	1/4 of prior year's statewide per pupil school finance funding amount: $1,620 for tax year 2014
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

* *The parent/guardian of a child and the child's scholarship benefactor can qualify for a credit.*

State Revenue

General Fund revenue will be reduced $14.4 million in FY 2013-14 and $42.8 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 $325.8 million in FY 2025-26, the final year of the phase-in.

It is assumed that the parents or guardians of just under 18,650 students will receive the credit for tax year 2014. Of these, it is assumed that about 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 about 1,150 to choose to leave public school to enroll in a home-based school. In addition, according to the Department of Education, 5,617 students transferred from a public school to a private school and 5,444 students transferred from a public school to a home-based school in FY 2011-12. Finally it is assumed that about 5,500 students, or about 30 percent of the total number of students transferring from public school, will receive a scholarship to attend private school. Table 2 shows the number of taxpayers and credit amounts for tax years 2014 through 2016 and for tax year 2026, the last year of the phase-in period, for each category of taxpayer affected by the bill.

There are approximately 40,000 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 both their parent/guardian and their scholarship benefactor for a credit.

- 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.

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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 Amount of the Credit
Income Tax Years 2014-2016 and 2026

	2014		**2015**		**2016**		**2026**	
Population	# of Children	Credit Amount	# of Children	Credit Amount	# of Children	Credit Amount	# of Children	Credit Amount
Parents/Guardians of Children in Private School								
Children Transferring to Private School Under Current Law								
Full-Time*	5,617	$3,240	9,810	$3,295	13,703	$3,364	35,207	$4,380
Children Induced to Transfer to Private School by HB13-1176								
Full-Time*	6,410	$3,240	11,475	$3,295	16,167	$3,364	40,668	$4,380
Total Private School Children:	**12,027**		**21,285**		**29,870**		**75,875**	
Parents/Guardians of Children in a Home-Based School								
Children Transferring to Home School Under Current Law								
Full-Time*	5,444	$1,000	9,508	$1,000	13,281	$1,000	34,123	$1,000
Children Induced to Transfer to Home School by HB13-1176								
Full-Time*	1,117	$1,000	2,000	$1,000	2,818	$1,000	7,093	$1,000
Part-Time*	68	$500	68	$500	68	$500	68	$500
Total Home School Children:	**6,629**		**11,576**		**16,167**		**41,282**	
Total	**18,565**		**32,861**		**46,037**		**117,157**	
Individuals and Businesses Providing Scholarships to Qualifying Children								
Children Receiving Scholarships	5,533	$1,712 *On Average*	9,791	$1,741 *On Average*	13,741	$1,778 *On Average*	34,903	$2,300 *On Average*

* *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. Because a child must have been enrolled full-time in a public school during the year prior to enrolling in a private school, this analysis assumes that parents enrolling kindergartners (or part-time students) into private school will not qualify for the credit.*

State Expenditures

State expenditures will decrease by up to $37.5 million in FY 2013-14 and up to $68.5 million in FY 2013-14. The majority of the expenditure impact 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 HB13-1176

Cost Components	**FY 2013-14**	**FY 2014-15**	**FY 2015-16**
Department of Education			
School Finance /a	($37,588,090)	($68,563,077)	($99,231,458)
Department of Revenue - General Fund	$115,000	$107,842	$197,909
FTE		1.5	3.5
TOTAL	**($37,473,090)**	**($68,455,235)**	**($99,033,549)**

/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 —($37.6 million) in FY 2011-12 and ($68.6 million) in FY 2012-13. Each year, HB13-1176 will cause an estimated 7,600 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 $343.7 million in FY 2025-26, 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 - $115,000 in FY 2013-14, $107,842 and 1.5 FTE in FY 2014-15, and $197,900 and 3.5 FTE in FY 2015-16. Computer programming costs of $75,000 in FY 2013-14 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 $40,000 in FY 2013-14 to make programming modifications to its GenTax database and to add new lines to the individual and corporate income tax forms.

The department will incur costs of $72,842 in FY 2014-15 in staff (1.5 FTE) and operating costs to administer the tax credit. For FY 2015-16, these costs will be $162,909 (3.5 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. Costs 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.

Expenditures Not Included

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 summarized in Table 4.

Table 4. Expenditures Not Included Under HB13-1176*

Cost Components	FY 2014-15	FY 2015-16
Employee Insurance (Health, Life, Dental, and Short-term Disability)	$9,936	$23,184
Supplemental Employee Retirement Payments	$4,470	$10,420
TOTAL	**$14,406**	**$33,604**

**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.

State Appropriations

For FY 2013-14, this note indicates the following changes in appropriations:

- a reduction of $37,588,090 in appropriations to the Department of Education for the school finance formula, assuming total program is increased by inflation plus enrollment growth; and
- the Department of Revenue requires a General Fund appropriation of $115,000.

Departments Contacted

Revenue   Education   Law