# SB 18-083

Legislative Council Staff

*Nonpartisan Services for Colorado's Legislature*

# REVISED FISCAL NOTE

(replaces fiscal note dated February 5, 2018)

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|---|---|---|---|
| **Drafting Number:** | LLS 18-0406 | **Date:** | April 5, 2018 |
| **Prime Sponsors:** | Sen. Lundberg<br>Rep. Ransom | **Bill Status:** | Senate Appropriations |
| | | **Fiscal Analyst:** | Greg Sobetski \| 303-866-4105<br>Greg.Sobetski@state.co.us |

**Bill Topic:** EDUCATION INCOME TAX CREDITS FOR NONPUBLIC SCHOOL

**Summary of Fiscal Impact:**

- ☒ State Revenue
- ☒ State Expenditure
- ☐ State Transfer
- ☒ TABOR Refund
- ☒ Local Government
- ☐ Statutory Public Entity

This bill creates an income tax credit for the parents, guardians, or scholarship benefactors of students who enroll in a private or home-based school as a kindergartner or after having previously enrolled in public school. It is expected to reduce state revenue and state expenditures for school finance, while increasing smaller expenditures for implementation. These impacts are ongoing.

**Appropriation Summary:** For FY 2018-19, this bill reduces the Department of Education appropriation required for the state share of school finance by $51.8 million.

**Fiscal Note Status:** This revised fiscal note reflects the introduced bill and the March 2018 Legislative Council Staff revenue forecast.

**Table 1**
**State Fiscal Impacts Under SB 18-083**

| | | FY 2018-19 | FY 2019-20 | FY 2020-21 | FY 2030-31 |
|---|---|---|---|---|---|
| **Revenue** | General Fund | ($37.3 million) | ($108.9 million) | ($175.0 million) | ($692.1 million) |
| | **Total** | **($37.3 million)** | **($108.9 million)** | **($175.0 million)** | **($692.1 million)** |
| **Expenditure** | School Finance* | ($51.8 million) | ($93.8 million) | ($135.1 million) | ($424.3 million) |
| | General Fund | - | $319,594 | $544,937 | ** |
| | Centrally Approp | - | $60,801 | $176,056 | ** |
| | **Total** | **($51.8 million)** | **($93.4 million)** | **($134.4 million)** | ** |
| | **Total FTE** | **-** | **3.2 FTE** | **10.0 FTE** | ** |
| **Transfers** | | - | - | - | - |
| **TABOR Refund** | | ($30.3 million) | ($87.1 million) | not estimated | not estimated |

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

** *The Department of Revenue will incur costs and require personnel in FY 2030-31 to fully implement the bill. These costs are not estimated.*

## Summary of Legislation

This bill creates a transferable income tax credit for taxpayers who enroll their dependent child in a home-based or private primary or secondary school, or who offer a scholarship to a child who enrolls in a private primary or secondary school. Qualifying taxpayers may receive credits as shown in Table 2 beginning in tax year 2019 for the 2018-2019 school year.

**Table 2**
**Tax Credits Available Under SB 18-083**

| Taxpayer | Amount of Credit | |
|---|---|---|
| | **Full-Time Student** | **Half-Time Student** |
| Parents/guardians enrolling their child in private school* | Lesser of 50% of prior year statewide per pupil funding or the amount of tuition paid | Lesser of 25% of prior year statewide per pupil funding or the amount of tuition paid |
| Scholarship benefactors for children in private school* | Lesser of 50% of prior year statewide per pupil funding or the amount of the scholarship | Lesser of 25% of prior year 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 or scholarship benefactor may be allowed a tax credit, but not both.*

To qualify, the child must have attended a public school, or must have been too young to enroll in kindergarten, during the 2017-2018 school year. Taxpayers may qualify for the credit each year until their child graduates or otherwise leaves home-based or private school. Either the parent/guardian of a child or the child's scholarship provider may qualify for a tax credit, but not both.

In order to receive a credit, a taxpayer must obtain a tax credit certificate from the private school in which the child is enrolled and submit the 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 15th of the tax year for which the certificates were issued. A certification process is not required for children enrolling in a home-based school.

To determine available tax credit amounts, the Department of Education is required to provide the statewide average per pupil school finance funding amount to the DOR by January 15th of each applicable tax year.

## State Revenue

This bill reduces General Fund revenue by $37.3 million in FY 2018-19, $108.9 million in FY 2019-20, $175.0 million in FY 2020-21, and larger amounts in subsequent years. The amount for FY 2018-19 represents a half-year impact for tax year 2019 on an accrual accounting basis. Because the bill does not allow a tax credit for children enrolled in a private or home-based school at its effective date, its full fiscal impact will occur only after the cohort of students who will attend kindergarten during the 2018-2019 school year reaches twelfth grade in 2030-2031. When fully phased in, the bill is expected to reduce General Fund revenue by $692.1 million in FY 2030-31.

**Table 3**
**Estimated Number of Applicants, Tax Credit Amounts, and Revenue Impact Under SB 18-083**

**Income Tax Year 2019**

| **Applicants** | **Current Law** | **Induced by Bill** | **Total** |
|---|---|---|---|
| Transfers to Private School | 9,843 | 7,946 | 17,789 |
| *Enrolling Kindergartners* | *3,618* | *882* | *4,500* |
| Transfers to Home-Based School | 7,875 | 1,766 | 9,641 |
| *Home-Based Kindergartners* | *789* | *196* | *985* |
| **Total Children** | **17,718** | **9,712** | **27,430** |
| **Tax Credits** | **Credit Amount** | **Number of Children** | **Revenue Impact*** |
| Transfers to Private School | | | |
| Claimed by Parents/Guardians | Up to $3,964 | 17,789 | $70.5 million |
| Claimed by Scholarships | Average $2,081 | 0 | $0 |
| Transfers to Home-Based School | | | |
| Full-Time | $1,000 | 8,575 | $8.6 million |
| Part-Time | $500 | 1,065 | $0.5 million |
| | | **Total Tax Credits** | **$79.6 million**** |

**Income Tax Year 2020**

| **Applicants** | **Current Law** | **Induced by Bill** | **Total** |
|---|---|---|---|
| Transfers to Private School | 17,506 | 13,906 | 31,412 |
| *Enrolling Kindergartners* | *3,618* | *879* | *4,497* |
| Transfers to Home-Based School | 12,423 | 3,090 | 15,513 |
| *Home-Based Kindergartners* | *789* | *195* | *984* |
| **Total Children** | **29,929** | **16,996** | **46,925** |
| **Tax Credits** | **Credit Amount** | **Number of Children** | **Revenue Impact*** |
| Transfers to Private School | | | |
| Claimed by Parents/Guardians | Up to $4,079 | 31,412 | $128.1 million |
| Claimed by Scholarships | Average $2,141 | 0 | $0 |
| Transfers to Home-Based School | | | |
| Full-Time | $1,000 | 14,448 | $14.5 million |
| Part-Time | $500 | 1,065 | $0.5 million |
| | | **Total Tax Credits** | **$143.1 million**** |

* *The revenue impact does not equal the amount of the average credit multiplied by the number of children because it is assumed that not all parents and guardians will have sufficient income tax liability to claim the full credit in the first tax year.*
** *These amounts are presented on a tax year basis and are converted to a fiscal year basis for fiscal note purposes.*

**Data and assumptions.** This fiscal note assumes that the parents/guardians or scholarship benefactors of 27,430 students will receive a tax credit for tax year 2019. Of these students, 7,946 students will be induced to enroll in a private school because of the tax credit in this bill and 1,766 students will be induced to attend a home-based school. Table 3 shows the estimated number of taxpayers and credit amounts for tax years 2019 and 2020 under the bill.

The revenue estimates assume the following:

- Because the tax credit is transferable, the full value of all credits allowed will be used to reduce Colorado income tax by some taxpayer at some point in time. However, parents/guardians whose credit amount is greater than their income tax liability may choose to carry the credit forward for a three-year period, as allowed in the bill, rather than immediately transferring the credit upon receipt.

- 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. Under these assumptions, the number of children migrating to private or home-based school compounds each year over a 12-year period. These estimates are based on evidence from the Milwaukee Parental Choice Program, a school voucher program in Milwaukee that has operated since 1990.

- 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. To the extent that parents do so, the state revenue reduction will be greater than estimated and the reduction in school finance expenditures, described in the State Expenditures section, will be partially offset.

**Conservation easement credit.** For tax year 2019 only, the bill is expected to increase income tax revenue by $5.0 million by reducing the amount of conservation easement income tax credits claimed in 2019. In most years, the conservation easement credit is nonrefundable. In tax years following fiscal years when the state collects a TABOR surplus, the credit is partially refundable, meaning a larger credit is available to some taxpayers and state income tax revenue is reduced. This bill is expected to eliminate the FY 2018-19 TABOR surplus, making the credit fully nonrefundable in tax year 2019 and increasing income tax revenue. This increase will partially offset the revenue reductions anticipated for FY 2018-19 and FY 2019-20.

## TABOR Refund

**FY 2018-19.** This bill reduces state income tax revenue by an amount sufficient to eliminate the $8.4 million TABOR surplus that is expected to be collected in FY 2018-19 under current law and the March 2018 Legislative Council Staff revenue forecast. Because the bill reduces state revenue by $37.3 million while reducing the amount required to be set aside for TABOR refunds by $8.4 million, the bill reduces the amount available for the FY 2018-19 General Fund budget by $28.9 million, though the entirety of this amount may be offset by reduced school finance expenditures depending on how the bill changes appropriations.

In addition, the elimination of the FY 2018-19 surplus will result in the following fiscal impacts:

- TABOR refund obligations carried over from prior surpluses, estimated at $21.8 million, will be postponed until the next TABOR refund occurs. This amount was already set aside in the General Fund during prior years; and
- partial refundability of the gross conservation easement income tax credit will not be available in tax year 2019, resulting in an estimated $2.5 million General Fund revenue increase in each of FY 2018-19 and FY 2019-20.

**FY 2019-20.** This bill reduces the amount required to be set aside for TABOR refunds for FY 2019-20 by $108.9 million. Because the bill reduces General Fund revenue and the refund obligation by equal amounts, this reduction has no impact on the amount available for the FY 2019-20 General Fund budget. However, the amount available for the budget in this year will be reduced by $30.3 million before accounting for changes in expenditures. This is because, under current law, moneys set aside for TABOR refunds are first used to pay reimbursements in the following year to local governments for the property tax loss they experience as a result of the senior homestead exemption and disabled veterans property tax exemption up to the annual expenditure for this reimbursement, estimated at $160.6 million in FY 2019-20. Under the bill, because no funds will be set aside under TABOR in FY 2018-19, all local government reimbursements must be expended from the General Fund in FY 2019-20.

The TABOR refund obligation for FY 2019-20 will be decreased by $87.1 million, representing the net impact of a $108.9 million reduction in revenue and a $21.8 million increase in adjustments for previous underrefunds. This amount will be refunded in reimbursements for the senior homestead and disabled veteran property tax exemptions in FY 2020-21. Adjustments for previous underrefunds are already restricted in the General Fund and have no impact on the FY 2019-20 General Fund budget.

State revenue subject to TABOR is not estimated for years beyond FY 2019-20. Impacts of the bill on the state TABOR situation are presented in Table 4.

**Table 4**
**TABOR Impacts of SB 18-083**

| | FY 2018-19 | FY 2019-20 |
|---|---|---|
| **Current Law** | | |
| TABOR Surplus | $8.4 million | $156.4 million |
| Adjustments for Previous Underrefunds | $21.8 million | - |
| TABOR Refund Obligation | $30.3 million | $156.4 million |
| **SB 18-083** | | |
| TABOR Surplus | - | $47.5 million |
| Adjustments for Previous Underrefunds | - | $21.8 million |
| TABOR Refund Obligation | - | $69.3 million |
| **Change in TABOR Surplus** | **($8.4 million)** | **($108.9 million)** |
| **Change in TABOR Refund Obligation** | **($30.3 million)** | **($87.1 million)** |

### State Expenditures

This bill decreases state expenditures by $51.8 million in FY 2018-19, $93.4 million in FY 2019-20, and $134.4 million in FY 2020-21. As shown in Table 5, the majority of the expenditure impact is a reduction in school finance expenditures. Expenditures will fall beyond FY 2020-21 as children enroll in private schools or home-based schools instead of public schools. As shown in Table 1, the bill is expected to reduce school finance expenditures by $424.3 million in FY 2030-31.

**Table 5**
**Expenditures Under SB 18-083**

| Cost Components | FY 2018-19 | FY 2019-20 | FY 2020-21 |
|---|---|---|---|
| **School Finance** | **($51.8 million)** | **($93.8 million)** | **($135.1 million)** |
| **Department of Revenue** | | | |
| Personal Services | - | $156,986 | $485,675 |
| Operating Expenses and Capital Outlay Costs | - | $21,852 | $37,718 |
| Computer System Changes | - | $123,360 | - |
| Document Management and Form Changes | - | $17,396 | $21,544 |
| Centrally Appropriated Costs* | - | $60,801 | $176,056 |
| FTE – Personal Services | - | 3.2 FTE | 10.0 FTE |
| **Dept of Revenue (Subtotal)** | **-** | **$380,395** | **$720,993** |
| **Total** | **($51.8 million)** | **($93.4 million)** | **($134.4 million)** |

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

**Public school finance.** School finance expenditures will decrease by an estimated $51.8 million in FY 2018-19, $93.8 million in FY 2019-20, $135.1 million in FY 2020-21, and larger amounts in subsequent years. It is assumed that the total decrease in school finance expenditures will occur in the state share of school finance, as revenue that comprises the local share is unaffected by this bill. Reductions in school finance expenditures could result in cost savings in the General Fund, the State Education Fund, or a combination of the two.

This bill will cause an estimated 9,712 students who would have otherwise enrolled in public school to enroll instead in a private or home-based school during the fall of 2018. As a result, state expenditures for public school finance are expected to decrease. Savings are attributable only to those children who are expected to enroll in a private or home-based school as a direct result of the tax incentive in this bill. These estimates assume that 40.0 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.

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

**Department of Education.** The department is required to provide the statewide average per pupil school finance funding amount to the DOR by January 15th of each tax year. This minimal workload increase can be accomplished within existing appropriations.

**Department of Revenue.** General Fund expenditures for the DOR are expected to increase by $380,395 and 3.2 FTE in FY 2019-20 and $720,993 and 10.0 FTE in FY 2020-21. Costs are for personal services, computer programming, and document management as described in the following paragraphs.

*Personal services.* The department is expected to require 3.2 FTE in FY 2019-20 and 10.0 FTE in FY 2020-21 for its taxpayer services section to administer the new tax credit. Personnel costs are based on the assumption that verifying taxpayer eligibility to claim the credit will be more labor intensive than for most other tax credits. Personnel are needed to match student certificates to the correct parent, guardian, benefactor, or transferee; ensure that multiple taxpayers are not allowed a tax credit for a single student; and verify home-based school student enrollment, as home-based schools are not required to issue credit certificates. Workload will begin in 2020 for credits claimed on tax year 2019 returns and will intensify in subsequent years as the population of qualifying taxpayers expands through 2030.

*Computer programming.* This bill requires changes to the Department of Revenue's GenTax software system during FY 2019-20. Changes are programmed by a contractor at a rate of $250 per hour. The changes in this bill are expected to increase General Fund expenditures by $108,000, representing 432 hours of programming. All GenTax programming changes are tested by department staff. Testing for this bill will require the expenditures for contract personnel totaling $15,360, representing 640 hours of testing at a rate of $24 per hour.

*Document management.* Document management costs are related to postage and mailing expenses as well as data entry for taxpayers filing paper income tax returns. Costs are estimated at $17,396 in FY 2019-20 and $21,544 in FY 2020-21. Most document management tasks are accomplished in the Department of Personnel and Administration (DPA) and paid with reappropriated DOR funds. These costs are a subset of total DOR expenditures for document management and are estimated at $15,103 in FY 2019-20 and $17,623 in FY 2020-21.

**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. These costs, which include employee insurance, supplemental employee retirement payments, and leased space, are estimated to be $60,801 in FY 2019-20 and $176,056 in FY 2020-21.

## School District Impact

School district funded pupil counts and state aid to districts will decrease as a result of reduced public school enrollment. Although the bill does not require public schools to certify taxpayer eligibility for the credit, school districts may experience a small workload increase to verify taxpayer eligibility in response to state, private school, or parent/guardian inquiries.

## Effective Date

The bill takes effect August 8, 2018, if the General Assembly adjourns on May 9, 2018, as scheduled, and no referendum petition is filed.

## State Appropriations

For FY 2018-19, this bill reduces the required appropriation to the Department of Education for the state share of school finance by $51.8 million.

**State and Local Government Contacts**

| | | |
|---|---|---|
| Education | Information Technology | Law |
| Revenue | School Districts | |