



**Colorado
Legislative
Council
Staff**

SB16-154

FISCAL NOTE

FISCAL IMPACT: State Local Statutory Public Entity Conditional No Fiscal Impact

Drafting Number: LLS 16-0589
Prime Sponsor(s): Sen. Lundberg

Date: May 19, 2016
Bill Status: Postponed Indefinitely
Fiscal Analyst: Natalie Mullis (303-866-4778)

BILL TOPIC: TAX CREDITS FOR NON-PUBLIC EDUCATION

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018	FY 2018-2019	FY 2028-29
State Revenue				
General Fund	(\$28.6 million)	(\$72.1 million)	(\$101.8 million)	(\$315.5 million)
<i>State Transfers</i>				
Capital Construction Fund		(\$360,500)	unknown	
Highway Users Tax Fund		(\$721,000)	unknown	
State Expenditures				
School Finance /a	(\$49.1 million)	(\$89.0 million)	(\$128.5 million)	(\$415.9 million)
General Fund		\$191,976	\$328,861	/b
Centrally Approp, Costs		\$25,824	\$113,559	/b
TABOR Impact		(\$72.1 million)	unknown	unknown
FTE Position Change		1.5 FTE	6.6 FTE	/b
Appropriation Required: None				
Future Year Impacts: Ongoing revenue and expenditure reductions.				

This bill was not enacted into law; therefore, the impacts in this analysis do not take effect.

/a School finance savings assume 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 negative factor is utilized such that per pupil funding increases at faster/slower rates, the savings will be larger/smaller, assuming the value of the negative factor is not subsequently changed as a result of the bill.

/b The Department of Revenue will incur costs and require FTE in FY 2028-29 to implement the bill. These costs are currently unknown.

Note: This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

Summary of Legislation

This bill creates a transferable 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 2017 for the 2016-2017 school year. 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.

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 claiming the credit 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. There is no such certification process for children enrolling in a home-based school.

The Department of Education is required to provide the statewide average per pupil funding amount to the DOR by December 15th of each applicable tax year.

Table 1. Credits Available under SB16-154		
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

This bill will reduce General Fund revenue by up to \$28.6 million (half-year impact) in FY 2016-17 and up to \$72.1 million in FY 2017-18. 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 qualifying for a credit. General Fund revenue will be reduced an estimated \$315.5 million in FY 2028-29, the final year of full implementation.

Assumptions. Table 2 on page 4 shows the number of taxpayers and credit amounts for tax years 2017 and 2018 for each category affected by the bill. It is assumed that the parents or guardians of 21,557 students will receive the credit for tax year 2017. Of these, it is assumed that 7,189 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 1,598 parents to choose to transfer their children out of a public school into a home-based school.

There are approximately 32,000 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:

- Because the credit is transferable, it is assumed that the value of the credit will not be limited by tax liability.
- 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.
- 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 and a higher revenue impact, reducing some portion of the savings.

SB 09-228 Transfers. Senate Bill 09-228 requires transfers to the Highway Users Tax Fund (HUTF) and the Capital Construction Fund (CCF) at fixed amounts in FY 2015-16 and FY 2016-17 and by a percentage of General Fund revenue each year in FY 2017-18 through FY 2019-20. This bill will reduce these transfers along with General Fund revenue beginning in FY 2017-18.

TABOR Impact

This bill reduces General Fund revenue, which will reduce the amount of money required to be refunded under TABOR, which are paid out of the General Fund. The amount of money refunded via the six tier sales tax refund mechanism will be reduced by \$72.1 million in FY 2017-18. Since the bill reduces both revenue to the General Fund and the refund obligation by equal amounts, there is no net impact on the amount of money available in the General Fund for the budget during those years. However, the bill will reduce money available for the General Fund budget in the future during years the state does not collect money above the TABOR limit. A TABOR refund obligation is not expected for FY 2016-17.

SB16-154

Table 2. Number of Applicants and Average Tax Credit Amount Income Tax Years 2017 and 2018						
Population	Income Tax Year 2017			Income Tax Year 2018		
	Under Current Law	Induced by SB16-154	Total	Under Current Law	Induced by SB16-154	Total
Transfers to Private School	6,142	7,189	13,331	10,769	12,611	23,379
Transfers to Home-Based School	6,628	1,598	8,226	11,621	2,802	14,423
Total Children:			21,557			37,802
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 \$3,700</i>	13,331	\$49.3 million	<i>up to \$3,788</i>	23,379	\$73.1 million
Claimed for Scholarships	\$1,942 <i>on average</i>	0	\$0 million	\$1,989 <i>on average</i>	0	\$0 million
<i>For Children Transferring to a Home-Based School</i>						
Full-Time	\$1,000	7,303	\$7.8 million	\$1,000	13,501	\$14.0 million
Part-Time	\$500	922		\$500	922	
Total Tax Credits			\$57.1 million**			\$87.1 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.

State Expenditures

This bill decreases state spending by up to \$49.1 million in FY 2016-17, up to \$88.8 million in FY 2017-18 and up to \$128.1 million in FY 2018-19. 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 per pupil revenue or funding 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 3. Expenditures Under SB16-154			
Cost Components	FY 2016-17	FY 2017-18	FY 2018-19
School Finance /a	(\$49.1 million)	(\$89.0 million)	(\$128.5 million)
Personal Services		\$63,880	\$280,388
FTE		1.5 FTE	6.6 FTE
Operating Expenses and Capital Outlay Costs		\$10,831	\$29,690
Programming, Testing and Form Change Costs		\$104,154	\$0
Document Management		\$11,527	\$16,005
Printing and Mailing		\$1,584	\$2,778
Centrally Appropriated Costs*		\$25,824	\$113,559
TOTAL	(\$49.1 million)	(\$88.8 million)	(\$128.1 million)

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

/a School finance savings assume 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 negative factor is utilized such that per pupil funding increases at faster/slower rates, the savings will be larger/smaller, assuming the value of the negative factor is not subsequently changed as a result of the bill.

Department of Education School Finance. School finance expenditures will decrease by an estimated \$49.1 million in FY 2016-17, \$89.0 million in FY 2017-18, and \$128.5 million in FY 2018-19. SB16-154 will cause an estimated 8,787 students who would have otherwise remained in public school to enroll in a home-based or private school during the fall of 2017. 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 \$413.7 million in FY 2028-29, the year the bill is fully phased-in. These estimates assume that 28.6 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. The department will incur costs of \$217,800 and 1.5 FTE in FY 2017-18 and \$442,420 and 6.6 FTE in FY 2018-19. Costs include personal services, operating expenses, programming, forms changes, document management, and postage costs, as summarized in Table 3 and explained below.

This fiscal note assumes a 50 percent review rate for all taxpayers claiming the credit for tax years 2017 and 2018 and a 35 percent review rate in 2019. This will require 1.5 FTE in FY 2017-18 and 6.6 FTE in FY 2018-19 to review, audit, respond to taxpayer protests and answer phone inquiries regarding the credit. Additional time per review will be required to review third-party (transferee) and school documentation.

This bill requires changes to the department's GenTax software system. Changes are programmed by a contractor at a rate of \$200 per hour. The changes in this bill are expected to increase General Fund expenditures by \$86,400, representing 432 hours of programming. GenTax testing for this bill will require expenditures for contract personnel totaling \$15,354, representing 640 hours of testing at a rate of \$24 per hour.

Department of Personnel and Administration. Data input, imaging, document management, printing, and mailing costs are estimated at \$13,111 in FY 2017-18, \$18,783 in FY 2018-19, and by increasing amounts over time as the number of taxpayers claiming the credit increases. Scanning and imaging software will require modification to implement changes for the credit. At the rate of \$1,200 per tax form, this will require \$2,400 for forms 104CR and 106CR. These costs are reappropriated from the Department of Revenue to the document management line for the Department of Personnel and Administration.

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 SB16-154		
Cost Components	FY 2017-18	FY 2018-19
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$12,000	\$52,795
Supplemental Employee Retirement Payments	5,724	25,124
Leased Space	8,100	35,640
TOTAL	\$25,824	\$113,559

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.

Under current law, school districts and Boards of Cooperative Educational Services (BOCES) may submit a separate estimate of fiscal impacts within seven days of a bill's introduction. Estimates submitted by districts or BOCES for this bill can be found on the Legislative Council website at this address: <http://www.colorado.gov/lcs>

Effective Date

The bill was postponed indefinitely by the House Education Committee on May 2, 2016.

State and Local Government Contacts

Revenue

Personnel and Administration

Education

Law