Colorado Legislative Council Staff

SB17-039

FINAL FISCAL NOTE

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

Drafting Number:	LLS 17-0480	**Date:**	July 10, 2017
Prime Sponsor(s):	Sen. Lundberg Rep. Ransom	**Bill Status:**	Postponed Indefinitely
		Fiscal Analyst:	Kate Watkins (303-866-3446)

BILL TOPIC: EDUCATION INCOME TAX CREDITS FOR NONPUBLIC SCHOOL

Fiscal Impact Summary	FY 2017-2018	FY 2018-2019	FY 2019-2020	FY 2029-2030
State Revenue	**($38.5 million)**	**($107.3 million)**	**($167.9 million)**	**($664.7 million)**
General Fund	(38.5 million)	(107.3 million)	(167.9 million)	(664.7 million)
State Transfers				
Capital Construction Fund	(385,000)	(1,073,000)	*Not estimated*	
Highway Users Tax Fund	(192,500)	(536,500)	*Not estimated*	
State Expenditures	**($54.6 million)**	**($98.4 million)**	**($141.0 million)**	**/b**
School Finance */a*	(54.6 million)	(98.6 million)	(141.5 million)	(449.8 million)
General Fund		198,314	409,630	/b
Centrally Approp. Costs		32,562	135,388	/b
FTE Position Change		1.9 FTE	7.9 FTE	/b
Appropriation Required: ($54.6 million) - Department of Education (FY 2017-18).				
Future Year Impacts: Ongoing revenue and expenditure reductions.				

/a *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 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 2029-30 to fully 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 taxpayers who enroll their dependent child in a home-based or private school, or who offer a scholarship to a child who enrolls in a private school. Qualifying taxpayers may receive credits as shown in Table 1, beginning in tax year 2018 for the 2017-2018 school year.

To qualify, the child must have attended a public school in the 2016-17 school year, or must have been too young to enroll in kindergarten through twelfth grade in the 2016-17 school year. Taxpayers may then 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 may qualify for a tax credit, but not both.

Table 1. Tax Credits Available under SB17-039

Taxpayer	Amount of Credit	
	Full-Time Student	**Half-Time Student**
Parents/guardians 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 may 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, 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 funding amount to the DOR by December 15th of each applicable tax year.

State Revenue

This bill will reduce General Fund revenue by $38.5 million (half-year impact) in FY 2017-18, $107.3 million in FY 2018-19, and $167.9 million in FY 2019-20. 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 by an estimated $664.7 million in FY 2029-30, the final year of full implementation.

Data and assumptions. This fiscal note assumes that the parents/guardians or scholarship benefactors of 27,427 students will receive a tax credit for tax year 2018. Of these students, 7,918 students will be induced to enroll in a private school because of the tax credit in this bill and 1,760 parents will choose to transfer their children out of a public school into a home-based school because of this bill. Table 2 shows the estimated number of taxpayers and credit amounts for tax years 2018 and 2019 under the bill. For comparison, there were approximately 36,600 Colorado students in grades K-12 enrolled in private schools, and about 8,600 students in home-based school in academic year 2015-16.

Table 2. Estimated Number of Applicants, Tax Credit Amounts, and Revenue Impact under SB17-039			
Income Tax Year 2018			
Applicants	**Current Law**	**Induced by Bill**	**Total**
Transfers to Private School	9,753	7,918	17,671
Enrolling Kindergartners	*3,618*	*881*	*4,499*
Transfers to Home-Based School	7,996	1,760	9,756
Home-Based Kindergartners	*957*	*196*	*1,153*
Total Children	**17,749**	**9,678**	**27,427**
Tax Credits	**Credit Amount**	**Number of Children**	**Revenue Impact***
Transfers to Private School			
Claimed by Parents/Guardians	Up to $3,834	17,671	$67.7 million
Claimed for Scholarships	Average $2,013	0	$0
Transfers to Home-Based School			
Full-Time	$1,000	8,671	$9.2 million
Part-Time	$500	1,085	
		Total Tax Credits	**$77.0 million****
Income Tax Year 2019			
Applicants	**Current Law**	**Induced by Bill**	**Total**
Transfers to Private School	17,349	13,873	31,222
Enrolling Kindergartners	*3,618*	*888*	*4,506*
Transfers to Home-Based School	12,341	3,083	15,424
Home-Based Kindergartners	*957*	*197*	*1,155*
Total Children	**29,690**	**16,956**	**46,646**
Tax Credits	**Credit Amount**	**Number of Children**	**Revenue Impact***
Transfers to Private School			
Claimed by Parents/Guardians	Up to $3,930	31,222	$122.7 million
Claimed for Scholarships	Average $2,063	0	$0
Transfers to Home-Based School			
Full-Time	$1,000	14,339	$14.9 million
Part-Time	$500	1,085	
		Total Tax Credits	**$137.6 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.*

The revenue estimates in this fiscal note assume the following:

- Because the tax credit is transferable, the value of the credit will not be limited by a taxpayer's income tax liability. However, because any remaining credits may be carried forward for up to three years, tax credits may be claimed in future 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, a public school voucher program in Milwaukee that has been in operation 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. Relaxing this assumption would result in new school finance expenditures and a higher revenue impact.

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. In reducing revenue to the General Fund, this bill will reduce these transfer amounts beginning in FY 2017-18.

TABOR Impact

This bill reduces state revenue to the General Fund, which will reduce the amount of money required to be refunded under TABOR for FY 2017-18 and FY 2018-19. A TABOR refund obligation is not expected for FY 2016-17. TABOR refunds are paid out of the General Fund. The amount of money refunded via the six tier sales tax refund mechanism will be reduced by $38.5 million in FY 2017-18, as shown in Table 3. In FY 2018-19, a revenue reduction of $107.3 million is expected to trigger off the income tax rate reduction refund mechanism and increase the amount of revenue refunded by the six tier sales tax refund.

Table 3. Impact of SB17-039 on TABOR Refund Mechanisms*

	FY 2017-18 Surplus FY 2018-19 Refund Tax Year 2018	FY 2018-19 Surplus FY 2019-20 Refund Tax Year 2019
Current Law		
TABOR Refund Obligation	$279.4 million	$287.2 million
Income Tax Rate Reduction	*229.0 million*	*$242.7 million*
Sales Tax Refund	*50.4 million*	*$44.5 million*
Senate Bill 17-039		
TABOR Refund Obligation	$240.9 million	$179.9 million
Income Tax Rate Reduction	*229.0 million*	*0*
Sales Tax Refund	*11.9 million*	*179.9 million*
Change from Current Law		
TABOR Refund Obligation	($38.5 million)	($107.3 million)
Income Tax Rate Reduction	*0*	*(242.7 million)*
Sales Tax Refund	*(38.5 million)*	*135.4 million*

**Based on the Legislative Council Staff December 2016 forecast.*

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.

State Expenditures

This bill decreases state spending by $54.6 million in FY 2017-18, $98.4 million in FY 2018-19, and $141.0 million in FY 2019-20. As shown in Table 4, 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 base per pupil revenue or funding by inflation each year. The savings will be higher if base 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 4. Expenditures Under SB17-039

Cost Components	**FY 2017-18**	**FY 2018-19**	**FY 2019-20**
School Finance	($54.6 million)	($98.6 million)	($141.5 million)
Personal Services		$82,542	$343,204
FTE		1.9 FTE	7.9 FTE
Operating Expenses and Capital Outlays		$11,211	$35,723
Programming, Testing, and Form Changes		$82,754	
Document Management		$18,064	$25,432
Printing and Mailing		$3,743	$5,270
Centrally Appropriated Costs*		$32,562	$135,388
TOTAL	**($54.6 million)**	**($98.4 million)**	**($141.0 million)**

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

Department of Education School Finance. **School finance expenditures will decrease by an estimated $54.6 million in FY 2017-18, $98.6 million in FY 2018-19, and $141.5 million in FY 2019-20.** SB17-039 will cause an estimated 9,678 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 $449.8 million in FY 2029-30, the year the bill is fully phased-in. These estimates assume that 32.0 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.

Department of Revenue. This fiscal note assumes a 50 percent review rate for all taxpayers claiming the credit for tax years 2018 and 2019 and a 35 percent review rate in 2020. This will require 1.9 FTE in FY 2018-19 and 7.9 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 also requires changes to the department's GenTax software system. Changes are programmed by a contractor at a rate of $250 per hour and are expected to increase General Fund expenditures by $65,000, representing 260 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 $21,807 in FY 2018-19, $30,703 in FY 2019-20, 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, requiring $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 5.

Table 5. Centrally Appropriated Costs Under SB17-039

Cost Components	FY 2017-18	FY 2018-19	FY 2019-20
Employee Insurance (Health, Life, Dental, and Short-term Disability)		$14,906	$61,975
Supplemental Employee Retirement Payments		7,396	30,753
Leased Space		10,260	42,660
TOTAL		**$32,562**	**$135,388**

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 workload increase as a result of the bill.

Effective Date

The bill was postponed indefinitely by the House Education Committee on April 24, 2017.

State Appropriations

This bill will reduce the appropriation required for the Department of Education for the state share of school finance by an estimated $54.6 million in FY 2017-18.

State and Local Government Contacts

Education	Information Technology	Law
Personnel	Revenue	