HB 23-1079

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number:	LLS 23-0606	**Date:**	February 14, 2023
Prime Sponsors:	Rep. DeGraaf	**Bill Status:**	House Education
		Fiscal Analyst:	Elizabeth Ramey | 303-866-3522 elizabeth.ramey@coleg.gov

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

Summary of Fiscal Impact:

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

The bill creates an income tax credit for the parents, guardians, or scholarship benefactors of students who enroll in a private or home-based school. Beginning in FY 2023-34, the bill reduces state revenue and expenditures for school finance, and increases state expenditures for implementation beginning in FY 2024-25.

Appropriation Summary: For FY 2023-24, the bill requires an appropriation of $972,141 to the Department of Revenue.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under HB 23-1079

		Budget Year FY 2023-24	Out Year FY 2024-25
Revenue	General Fund	($74.0 million)	($207.4 million)
	Total Revenue	**($74.0 million)**	**($207.4 million)**
Expenditures	School Finance[1]	($62.1 million)	($121.0 million)
	General Fund	$972,141	$1,095,485
	Centrally Appropriated	$224,590	$285,928
	Total Expenditures	**($60.9 million)**	**($119.6 million)**
	Total FTE	**13.7 FTE**	**17.5 FTE**
Transfers		-	-
Other Budget Impacts	TABOR Refund	($74.0 million)	($207.4 million)
	General Fund Reserve	$145,821	$164,323

[1] *Expenditures for school finance may be from the General Fund or the State Education Fund. Expenditures from the State Education Fund do not impact the General Fund Reserve. The General Fund reserve impact above does not include the potential impact from a reduction in General Fund appropriated for school finance.*

Summary of Legislation

The bill creates a nonrefundable, transferrable 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 2024.

Table 2
Tax Credits Available Under HB 23-1079

Taxpayer	Credit Amount	
	Full-Time Student	**Half-Time Student**
Parents/guardians enrolling their child in private school[1]	Lesser of 60% of prior year statewide average per pupil funding or the amount of tuition paid	Lesser of 30% of prior year statewide average per pupil funding or the amount of tuition paid
Scholarship benefactors for children in private school[1]	Lesser of 60% of prior year statewide average per pupil funding or the amount of the scholarship	Lesser of 30% of prior year statewide average per pupil funding or the amount of the scholarship
Parents enrolling their child in a home-based school	40% of prior year statewide average per pupil funding	20% of prior year statewide average per pupil funding

[1] *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 2022-2023 school year. Taxpayers may qualify for the credit each year until their child graduates or 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 their 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. A certification process is not required for children enrolling in a home-based school.

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

Assumptions

This fiscal note assumes that the parents/guardians or scholarship benefactors of 27,819 students will receive a tax credit for tax year 2024. Of these students, 7,666 students who otherwise would have attended a public school will be induced to enroll in a private school because of the tax credit in this bill, and 1,703 will be induced to attend a home-based school. These induced transfers will result in savings for school finance, while the revenue impact will apply to all qualifying taxpayers, regardless of whether the student for which the credit is claimed is induced to transfer or would have enrolled or transferred without the bill. Table 3 shows the estimated number of taxpayers and credit amounts for tax years 2024 and 2025 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. This fiscal note assumes that taxpayers will carry forward any unused credit amounts for the three years allowable in the bill before transferring any remaining credit amounts to a third party. If taxpayers transfer their unused credits before the end of the three-year period, revenue impacts will occur earlier.

- The number of children induced to 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.

State Revenue

This bill reduces General Fund revenue by $74.0 million in FY 2023-24 (a half-year impact), by $207.4 million in FY 2024-25, by $325.9 million in FY 2025-26, and by larger amounts in subsequent years. Table 3 shows the estimated number of taxpayers and credit amounts on a tax year basis for 2024 and 2025 under the bill.

Table 3
Estimated Number of Applicants, Credit Amounts, and Revenue Impact Under HB 23-1079

Income Tax Year 2024

Applicants	Current Law	Induced by Bill	Total
Transfers to Private School	8,954	7,666	16,620
Transfers to Home-Based	9,496	1,703	11,199
Total Children	**18,450**	**9,369**	**27,819**

Tax Credits	Credit Amount	No. of Children	Revenue Impact*
Transfers to Private School	Up to $6,242	16,620	$103.7 million
Transfers to Home-Based School			
Full-Time	$4,162	10,005	$44.1 million
Part-Time	$2,081	1,195	
	Total Tax Credits	**27,819**	**$147.9 million***

Income Tax Year 2025

Applicants	Current Law	Induced by Bill	Total
Transfers to Private School	15,831	13,333	29,164
Transfers to Home-Based	15,001	2,963	17,964
Total Children	**30,833**	**16,296**	**47,128**

Tax Credits	Credit Amount	No. of Children	Revenue Impact*
Transfers to Private School	Up to $6,548	29,164	$191.0 million
Transfers to Home-Based			
Full-Time	$4,366	16,771	$75.8 million
Part-Time	$2,183	1,193	
	Total Tax Credits	**47,128**	**$266.8 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 tax liability to claim the full credit in the first year.*

State Expenditures

This bill decreases total state expenditures by $60.9 million in FY 2023-24, by $119.6 million in FY 2024- 25, and by $177.2 million in FY 2025-25. As shown in Table 4, the majority of the expenditure impact is a reduction in school finance expenditures from the General Fund or State Education Fund, while General Fund expenditures will increase in the Department of Revenue to implement the bill.

Table 4
Expenditures Under HB 23-1079

	FY 2023-24	FY 2024-25
School Finance	**($62.1 million)**	**($121.0 million)**
Department of Revenue		
Personal Services	$786,608	$994,591
Operating Expenses	$20,115	$23,625
Capital Outlay Costs	$100,050	$20,010
Computer Programming and Testing	$57,976	-
Document Management	-	$49,931
Research and Analysis	$7,392	$7,328
Centrally Appropriated Costs[1]	$224,590	$285,928
DOR Subtotal	**$1,196,731**	**$1,381,413**
Total Cost	**($60.9 million)**	**($119.6 million)**
Total FTE	**13.7 FTE**	**17.5 FTE**

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

Public school finance. School finance expenditures will decrease by an estimated $62.1 million in FY 2023-24, $121.0 million in FY 2024-25, $177.2 million in FY 2025-26, 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, the State Public School Fund, or a combination of these.

This bill will cause an estimated 9,369 students who would have otherwise enrolled in public school to enroll instead in a private or home-based school during the fall of 2023. 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 35.3 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 the December 2022 LCS forecast, along with 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 Revenue. The bill increases state expenditures in the DOR by $1,196,731 in FY 2023- 24 and $1,381,413 in FY 2024-25, paid from the General Fund. Expenditures are shown in Table 4 and detailed below.

- **Personal Services.** The DOR will require additional staff to review and process additional tax returns claiming the new credits under the bill. In FY 2023-24, the department will require 13.7 FTE for tax examiners, program management, and document testing. In FY 2024-25 and ongoing, the department will require 17.5 FTE for tax examiners and program management. 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. Operating expenses include telephone, computers, and other supplies for these staff.

- **Computer programming and testing.** For FY 2023-24 only, the bill will require changes to DOR's GenTax software system and additional testing. Changes are programmed by a contractor at a cost of $225 per hour. Approximately 120 hours of computer programming will be required to implement this bill, totaling $27,000. Additional computer and user acceptance testing are required to ensure programming changes are tested and functioning properly, requiring 968 hours at a rate of $32 per hour, resulting in an additional $30,976 in expenditures by the department.

- **Document management and form changes.** The bill requires $49,931 in FY 2024-25 for expenditures related to document management, data entry, and tax form changes. These expenditures will take place in the Department of Personnel and Administration using reappropriated funds from the DOR.

- **Data reporting.** Expenditures in the Office of Research and Analysis are required for data management and reporting. These costs are estimated at $7,392, or 231 hours at a rate of $32 per hour starting in FY 2023-24 and similar amounts in future years.

Colorado 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.

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 and supplemental employee retirement payments, are shown in Table 4.

Other Budget Impacts

TABOR refunds. The bill is expected to decrease the amount of state revenue required to be refunded to taxpayers by the amounts shown in the State Revenue section above. This estimate assumes the December 2022 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2024-25. Because TABOR refunds are paid from the General Fund, decreased General Fund revenue will lower the TABOR refund obligation, but result in no net change to the amount of General Fund otherwise available to spend or save.

General Fund reserve. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1, decreasing the amount of General Fund available for other purposes.

School Districts

School district funded pupil counts and state aid to districts will decrease as a result of reduced public school enrollment, as discussed in the state expenditures section. 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 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State Appropriations

For FY 2023-24, the bill requires an appropriation of $972,141 to the Department of Revenue, and 13.7 FTE.

State and Local Government Contacts

Education	Information Technology	Law
Personnel	Revenue	School Districts