

**First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 09-0681.01 Esther van Mourik

HOUSE BILL 09-1195

HOUSE SPONSORSHIP

Lambert, May

SENATE SPONSORSHIP

Brophy, Lundberg, Harvey, King K., Renfroe, Spence

House Committees

Education
Finance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF AN INCOME TAX CREDIT FOR PRIVATE**
102 **SCHOOL TUITION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Establishes a private school tuition income tax credit. Allows any private school to issue credit certificates to taxpayers that apply and meet certain qualifications. Allows the credit to be carried forward for a specified time but not refunded. Specifies the amount of the credit. Grants the department of revenue rule-making authority.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Short title.** This act shall be known and may be
3 cited as the "Quality Education and Budget Reduction Act".

4 **SECTION 2.** Part 5 of article 22 of title 39, Colorado Revised
5 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
6 read:

7 **39-22-531. Private school tuition income tax credit - rules -**
8 **definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
9 OTHERWISE REQUIRES:

10 (a) "CREDIT CERTIFICATE" MEANS A STATEMENT ISSUED BY A
11 PRIVATE SCHOOL CERTIFYING THAT A CHILD ENROLLED IN THE PRIVATE
12 SCHOOL IS A QUALIFIED CHILD AS DEFINED IN PARAGRAPH (d) OF THIS
13 SUBSECTION (1) AND THAT THE TAXPAYER IS ENTITLED TO AN INCOME TAX
14 CREDIT AS SPECIFIED IN THIS SECTION.

15 (b) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE.

16 (c) "PRIVATE SCHOOL" SHALL HAVE THE SAME MEANING AS SET
17 FORTH IN SECTION 22-30.5-103 (6.5), C.R.S.

18 (d) "QUALIFIED CHILD" MEANS A CHILD ENROLLED ON A FULL-TIME
19 BASIS IN A PUBLIC SCHOOL IN THE STATE OR ANY CHILD ENTERING
20 KINDERGARTEN BUT SHALL NOT INCLUDE ANY CHILD CURRENTLY
21 ENROLLED IN ANY PRIVATE SCHOOL OR HOME-SCHOOLED IN THE STATE
22 PRIOR TO THE EFFECTIVE DATE OF THIS SECTION.

23 (e) "STATE AVERAGE PER PUPIL REVENUE" SHALL HAVE THE SAME
24 MEANING AS SET FORTH IN SECTION 22-54-129 (1) (e), C.R.S.

25 (f) "TAXPAYER" MEANS A RESIDENT INDIVIDUAL OR A DOMESTIC
26 OR FOREIGN CORPORATION SUBJECT TO THE PROVISIONS OF PART 3 OF THIS

1 ARTICLE, A PARTNERSHIP, S CORPORATION, OR OTHER SIMILAR
2 PASS-THROUGH ENTITY, ESTATE, OR TRUST, AND A PARTNER, MEMBER,
3 AND SUBCHAPTER S SHAREHOLDER OF SUCH PASS-THROUGH ENTITY.

4 (2) (a) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
5 JANUARY 1, 2009, A PRIVATE SCHOOL SHALL ISSUE A CREDIT CERTIFICATE
6 TO ANY TAXPAYER THAT ENROLLS A DEPENDENT QUALIFIED CHILD IN THE
7 PRIVATE SCHOOL OR THAT OFFERS A SCHOLARSHIP TO A QUALIFIED CHILD
8 FOR ENROLLMENT IN THE PRIVATE SCHOOL. THE CREDIT CERTIFICATE
9 SHALL ALLOW THE TAXPAYER TO CLAIM AN INCOME TAX CREDIT WITH
10 RESPECT TO THE INCOME TAXES IMPOSED BY THIS ARTICLE.

11 (b) A PRIVATE SCHOOL SHALL ISSUE ANY CREDIT CERTIFICATES
12 PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) UPON APPLICATION
13 FOR A CREDIT BY A TAXPAYER.

14 (c) (I) THE AMOUNT OF THE CREDIT AUTHORIZED IN THIS SECTION
15 SHALL EQUAL THE SCHOLARSHIP OFFERED TO A QUALIFIED CHILD OR FIFTY
16 PERCENT OF THE PREVIOUS YEAR'S STATE AVERAGE PER PUPIL REVENUE,
17 WHICHEVER IS LESS.

18 (II) THE STATE AVERAGE PER PUPIL REVENUE SHALL BE PROVIDED
19 TO THE DEPARTMENT BY THE DEPARTMENT OF EDUCATION WITHIN THIRTY
20 DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION AND EVERY JANUARY
21 15 THEREAFTER.

22 (d) THE CREDIT CERTIFICATE SHALL BE SUBMITTED BY THE
23 TAXPAYER TO THE DEPARTMENT WITH THE TAXPAYER'S INCOME TAX
24 RETURN FOR THAT TAX YEAR.

25 (3) IF THE CREDIT ALLOWED UNDER THIS SECTION EXCEEDS THE
26 INCOME TAXES OTHERWISE DUE ON THE TAXPAYER'S INCOME, THE
27 AMOUNT OF THE CREDIT NOT USED AS AN OFFSET AGAINST INCOME TAXES

1 MAY BE CARRIED FORWARD AS A TAX CREDIT AGAINST SUBSEQUENT
2 YEARS' INCOME TAX LIABILITY FOR A PERIOD NOT EXCEEDING THREE
3 YEARS AND SHALL BE APPLIED FIRST TO THE EARLIEST YEARS POSSIBLE.
4 ANY CREDIT REMAINING AFTER SAID PERIOD SHALL NOT BE REFUNDED OR
5 CREDITED TO THE TAXPAYER.

6 (4) IF A TAXPAYER RECEIVING A CREDIT ALLOWED IN THIS SECTION
7 IS A PARTNERSHIP, LIMITED LIABILITY COMPANY, S CORPORATION, OR
8 SIMILAR PASS-THROUGH ENTITY, THE TAXPAYER MAY ALLOCATE THE
9 CREDIT AMONG ITS PARTNERS, SHAREHOLDERS, MEMBERS, OR OTHER
10 CONSTITUENT TAXPAYERS IN ANY MANNER AGREED TO BY THE PARTNERS,
11 SHAREHOLDERS, MEMBERS, OR OTHER CONSTITUENT TAXPAYERS. THE
12 TAXPAYER SHALL CERTIFY TO THE DEPARTMENT THE AMOUNT OF THE
13 CREDIT ALLOCATED TO EACH PARTNER, SHAREHOLDER, MEMBER, OR
14 OTHER CONSTITUENT TAXPAYER. EACH PARTNER, SHAREHOLDER,
15 MEMBER, OR OTHER CONSTITUENT TAXPAYER SHALL BE ALLOWED TO
16 CLAIM THE AMOUNT SUBJECT TO ANY RESTRICTIONS SET FORTH IN THIS
17 SECTION.

18 (5) NO LATER THAN DECEMBER 15, 2009, AND NO LATER THAN
19 DECEMBER 15 OF EACH YEAR THEREAFTER, EACH PRIVATE SCHOOL THAT
20 ISSUES A CREDIT CERTIFICATE SHALL PROVIDE THE DEPARTMENT WITH AN
21 ELECTRONIC REPORT OF ANY CREDIT CERTIFICATE ISSUED FOR THAT
22 INCOME TAX YEAR THAT INCLUDES THE FOLLOWING INFORMATION:

- 23 (a) THE TAXPAYER'S NAME;
- 24 (b) THE TAXPAYER'S COLORADO ACCOUNT NUMBER OR SOCIAL
25 SECURITY NUMBER; AND
- 26 (c) ANY ASSOCIATED TAXPAYERS' NAMES AND COLORADO
27 ACCOUNT NUMBERS OR SOCIAL SECURITY NUMBERS IF THE CREDIT

1 ALLOWED IN THIS SECTION IS ALLOCATED FROM A PASS-THROUGH ENTITY
2 PURSUANT TO SUBSECTION (4) OF THIS SECTION.

3 (6) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT MAY
4 PROMULGATE RULES AS MAY BE NECESSARY TO ADMINISTER AND ENFORCE
5 ANY PROVISION OF THIS SECTION. THE RULES SHALL BE PROMULGATED IN
6 ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S.

7 (7) ANY TAXPAYER THAT OFFSETS A TAX DEFICIENCY WITH A
8 CREDIT AUTHORIZED IN THIS SECTION THAT IS DISALLOWED PURSUANT TO
9 THIS SECTION SHALL BE LIABLE FOR SUCH TAX DEFICIENCY, INTEREST, AND
10 PENALTIES AS MAY BE SPECIFIED IN THIS ARTICLE OR OTHERWISE
11 PROVIDED BY LAW.

12 **SECTION 3. Act subject to petition - effective date.** This act
13 shall take effect at 12:01 a.m. on the day following the expiration of the
14 ninety-day period after final adjournment of the general assembly that is
15 allowed for submitting a referendum petition pursuant to article V,
16 section 1 (3) of the state constitution, (August 4, 2009, if adjournment
17 sine die is on May 6, 2009); except that, if a referendum petition is filed
18 against this act or an item, section, or part of this act within such period,
19 then the act, item, section, or part, if approved by the people, shall take
20 effect on the date of the official declaration of the vote thereon by
21 proclamation of the governor.