Second Regular Session

Sixty-second General Assembly

LLS NO. 00-0880.01 Bob Lackner HOUSE BILL 00-1356

STATE OF COLORADO

BY REPRESENTATIVE Swenson;
also SENATOR Teck.

A BILL FOR AN ACT

CONCERNING A CREDIT AGAINST THE STATE INCOME TAX FOR CONTRIBUTIONS BY BUSINESS ENTITIES USED TO DEFRAY EDUCATIONAL EXPENSES OF STUDENTS IN COLORADO.

Bill Summary

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

For income tax years commencing on or after January 1, 2000, allows an income tax credit for contributions by corporations to Colorado public and private schools and nonprofit scholarship funding organizations. Limits the amount of the credit to the lesser of 65 % of the aggregate contributions made or a specified percentage of the taxpayer's total income tax liability for the income tax year for which the credit is claimed.

Requires a school or nonprofit scholarship funding organization that receives a contribution to provide a receipt to the contributor. Specifies the information to be included in the receipt. Requires qualified contributions to be made subject to certain restrictions. Specifies that any amount of the credit in excess of the taxpayer's income tax liability shall not be allowed as a refund and shall not be carried forward.

Defines terms.

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

SECTION 1. Part 3 of article 22 of title 39, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to

read:

39-22-311. Credit against tax - contributions to schools or nonprofit scholarship funding organizations - definitions. (1) FOR ANY INCOME TAX YEAR COMMENCING ON OR AFTER JANUARY 1, 2000, THERE SHALL BE ALLOWED TO ANY TAXPAYER THAT MAKES A CONTRIBUTION TO A SCHOOL OR A NONPROFIT SCHOLARSHIP FUNDING ORGANIZATION A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE IN AN AMOUNT EQUAL TO THE LESSER OF:

(a) SIXTY-FIVE PERCENT OF THE AGGREGATE AMOUNT OF THE TAXPAYER'S CONTRIBUTIONS MADE DURING THE INCOME TAX YEAR FOR WHICH THE CREDIT IS CLAIMED; OR

(b) (I) IN THE CASE OF A CONTRIBUTION TO A SCHOOL, FIVE PERCENT OF THE TAXPAYER'S TOTAL INCOME TAX LIABILITY FOR THE INCOME TAX YEAR FOR WHICH THE CREDIT IS CLAIMED AFTER ALL OTHER APPLICABLE TAX CREDITS ARE APPLIED; OR

(II) IN THE CASE OF A CONTRIBUTION TO A NONPROFIT SCHOLARSHIP FUNDING ORGANIZATION, SEVENTY-FIVE PERCENT OF THE TAXPAYER'S TOTAL INCOME TAX LIABILITY FOR THE INCOME TAX YEAR FOR WHICH THE CREDIT IS CLAIMED AFTER ALL OTHER APPLICABLE TAX CREDITS ARE APPLIED.

(2) A SCHOOL OR NONPROFIT SCHOLARSHIP FUNDING ORGANIZATION THAT RECEIVES A CONTRIBUTION SHALL PROVIDE A RECEIPT TO THE TAXPAYER MAKING THE CONTRIBUTION. SUCH RECEIPT SHALL INCLUDE THE NAME OF THE SCHOOL OR NONPROFIT SCHOLARSHIP FUNDING ORGANIZATION, THE NAME OF THE TAXPAYER, THE AMOUNT OF THE CONTRIBUTION, AND SUCH ADDITIONAL INFORMATION AS THE

DEPARTMENT OF REVENUE MAY REQUIRE BY RULE.

(3) FOR PURPOSES OF THIS SECTION:

(a) "CONTRIBUTION" MEANS A DONATION OF MONEY AND DOES NOT INCLUDE A PAYMENT FOR TUITION, ACTIVITY FEES, OR OTHER EDUCATIONAL EXPENSES OF THE TAXPAYER MAKING THE PAYMENT, A SPOUSE OR DEPENDENT OF SUCH TAXPAYER, OR ANY INDIVIDUAL STUDENT IDENTIFIED BY NAME BY SUCH TAXPAYER AS THE INTENDED BENEFICIARY OF THE PAYMENT.

(b) (I) "NONPROFIT SCHOLARSHIP FUNDING ORGANIZATION" MEANS A CHARITABLE ORGANIZATION THAT:

(A) IS LOCATED IN COLORADO;

(B) IS EXEMPT FROM FEDERAL INCOME TAXES PURSUANT TO SECTION 501 (c) (3) OF THE INTERNAL REVENUE CODE; AND

(C) ALLOCATES AT LEAST NINETY PERCENT OF ITS ANNUAL REVENUE TO PROVIDING SCHOLARSHIPS FOR TUITION, TRANSPORTATION, OR TEXTBOOK EXPENSES OF STUDENTS WHO ATTEND A SCHOOL IN COLORADO AND THAT GIVES PRIORITY TO STUDENTS WHO DEMONSTRATE A NEED FOR SUCH SCHOLARSHIPS.

(II) "NONPROFIT SCHOLARSHIP FUNDING ORGANIZATION" DOES NOT INCLUDE AN ORGANIZATION THAT ONLY PROVIDES TUITION GRANTS OR SCHOLARSHIPS TO STUDENTS OF A PARTICULAR SCHOOL.

(c) "SCHOOL" MEANS A PUBLIC OR PRIVATE ELEMENTARY SCHOOL OR SECONDARY SCHOOL LOCATED WITHIN COLORADO.

(d) "TAXPAYER" MEANS A DOMESTIC OR FOREIGN CORPORATION SUBJECT TO THE PROVISIONS OF THIS PART 3.

(5) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,

A TAXPAYER IS ENTITLED TO THE CREDIT ALLOWED PURSUANT TO SUBSECTION (1) OF THIS SECTION ONLY IF:

(a) THE CONTRIBUTION IS MADE BY THE TAXPAYER UNDER THE RESTRICTION THAT IT SHALL BE USED ONLY TO PROVIDE SCHOLARSHIPS FOR TUITION, TRANSPORTATION, OR TEXTBOOK EXPENSES OF STUDENTS WHO ATTEND A SCHOOL IN COLORADO;

(b) THE TAXPAYER DOES NOT DESIGNATE A SPECIFIC STUDENT AS THE BENEFICIARY OF THE CONTRIBUTION;

(c) IN THE CASE OF A CONTRIBUTION TO A PRIVATE ELEMENTARY OR SECONDARY SCHOOL LOCATED IN COLORADO, THE CONTRIBUTION IS MADE BY THE TAXPAYER UNDER THE RESTRICTION THAT IT SHALL BE USED ONLY TO PROVIDE SCHOLARSHIPS, OF WHICH AT LEAST FIFTY PERCENT ARE GIVEN TO STUDENTS WHO WERE PREVIOUSLY ENROLLED IN A PUBLIC ELEMENTARY OR SECONDARY SCHOOL IN COLORADO; AND

(d) THE AMOUNT OF EACH SCHOLARSHIP PROVIDED DOES NOT EXCEED FIFTY PERCENT OF THE STATE'S SHARE OF THE TOTAL PROGRAM OF ALL SCHOOL DISTRICTS DETERMINED PURSUANT TO SECTION 22-54-106, C.R.S., DIVIDED BY THE FUNDED PUPIL COUNT, AS DEFINED BY SECTION 22-54-103 (7), C.R.S., FOR ALL DISTRICTS IN THE STATE FOR THE SCHOOL YEAR WHICH ENDS IN THE TAX YEAR IN WHICH THE TAXPAYER MAKES THE CONTRIBUTION.

(7) IF THE CREDIT ALLOWED PURSUANT TO SUBSECTION (1) OF THIS SECTION EXCEEDS THE INCOME TAXES DUE ON THE TAXPAYER'S INCOME, THE AMOUNT OF THE CREDIT NOT USED TO OFFSET INCOME TAXES SHALL NOT BE ALLOWED AS A REFUND AND SHALL NOT BE CARRIED FORWARD AS A CREDIT AGAINST SUBSEQUENT YEARS' INCOME TAX LIABILITY.

SECTION 2. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.