

Second Regular Session  
Sixty-seventh General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 10-0765.01 Esther van Mourik

HOUSE BILL 10-1295

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**A BILL FOR AN ACT**

101 **CONCERNING THE CREATION OF INCOME TAX CREDITS FOR NONPUBLIC**  
102 **EDUCATION.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

**Section 1** of the bill specifies that this is the "Quality Education and Budget Reduction Act".

**Section 2** of the bill specifies a nonstatutory legislative declaration regarding the fiscal impact of the bill.

**Section 3** of the bill establishes a private school tuition income tax

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.

credit for income tax years commencing on or after January 1, 2011, that allows any taxpayer to claim a credit when a private school issues the taxpayer a credit certificate for enrolling a dependent qualified child in the private school or offers a scholarship to a qualified child for enrollment in the private school. This section allows the credit to be carried forward for 3 years but not be refunded and grants the department of revenue rule-making authority. The amount of the credit is:

- ! For any qualified child attending a private school on a full-time basis as described in the state board of education rules, either an amount equal to the scholarship offered to a qualified child or 50% of the previous year's state average per pupil revenue, whichever is less; and
- ! For any qualified child attending a private school on a half-time basis as described in the state board of education rules, either an amount equal to the scholarship offered to a qualified child or 25% of the previous year's state average per pupil revenue, whichever is less.

**Section 4** of the bill establishes an income tax credit for taxpayers who decide to home-school a qualified child, commencing on or after January 1, 2011, that allows any taxpayer who decides to home-school a qualified child to claim an income tax credit:

- ! In an amount equal to \$500 for a taxpayer who home-schools a qualified child who was enrolled on a half-time basis as described in the state board of education rules in a public school in the state prior to being home-schooled; and
- ! In an amount equal to \$1,000 for a taxpayer who home-schools a qualified child who was enrolled on a full-time basis as described in the state board of education rules in a public school in the state prior to being home-schooled.

This section allows the credit to be carried forward for 3 years but not refunded.

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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. Legislative declaration.** The general assembly  
5 hereby finds and declares that although the Colorado legislative council  
6 staff's fiscal note may indicate that there will be a fiscal impact in fiscal

1 year 2010-11 for the "Quality Education and Budget Reduction Act", that  
2 is due to an accrual accounting method that the department of revenue  
3 and the state controller are required to use. First, the credit is for the  
4 enrollment of children in private schools whose academic years generally  
5 do not commence until the first half of fiscal year 2010-11. Second, a  
6 true cash-based fiscal impact will not affect the state until the second half  
7 of fiscal year 2010-11 because the income tax returns for the income tax  
8 year that commences January 1, 2011, are not due until April 15, 2012.  
9 Therefore, only the last half of fiscal year 2010-11 will result in any  
10 economic activity that should be accounted for in analyzing the fiscal  
11 impact of the "Quality Education and Budget Reduction Act".

12 **SECTION 3.** Part 5 of article 22 of title 39, Colorado Revised  
13 Statutes, is amended BY THE ADDITION OF A NEW SECTION to  
14 read:

15 **39-22-534. Private school tuition income tax credit - rules -**  
16 **definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT  
17 OTHERWISE REQUIRES:

18 (a) "CREDIT CERTIFICATE" MEANS A STATEMENT ISSUED BY A  
19 PRIVATE SCHOOL CERTIFYING THAT A CHILD ENROLLED IN THE PRIVATE  
20 SCHOOL IS A QUALIFIED CHILD AS DEFINED IN PARAGRAPH (d) OF THIS  
21 SUBSECTION (1) AND THAT THE TAXPAYER IS ENTITLED TO AN INCOME TAX  
22 CREDIT AS SPECIFIED IN THIS SECTION.

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

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

26 (d) (I) "QUALIFIED CHILD" MEANS A CHILD ENROLLED ON A  
27 FULL-TIME BASIS AS DESCRIBED IN THE STATE BOARD OF EDUCATION

1 RULES IN A PUBLIC SCHOOL IN THE STATE FOR THE SCHOOL YEAR PRIOR TO  
2 ENROLLMENT IN A PRIVATE SCHOOL BUT SHALL NOT INCLUDE:

3 (A) A CHILD ENROLLED IN ANY PRIVATE SCHOOL IN THE STATE FOR  
4 THE SCHOOL YEAR PRIOR TO THE EFFECTIVE DATE OF THIS SECTION; OR

5 (B) A CHILD HOME-SCHOOLED IN THE STATE AS OF THE EFFECTIVE  
6 DATE OF THIS SECTION.

7 (II) ONCE A CHILD IS A QUALIFIED CHILD AS SPECIFIED IN  
8 SUBPARAGRAPH (I) OF THIS PARAGRAPH (d), THE CHILD WILL REMAIN A  
9 QUALIFIED CHILD SO LONG AS HE OR SHE REMAINS ENROLLED IN A  
10 KINDERGARTEN THROUGH TWELFTH GRADE PRIVATE SCHOOL IN THE  
11 STATE.

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

14 (f) "TAXPAYER" MEANS A RESIDENT INDIVIDUAL OR A DOMESTIC  
15 OR FOREIGN CORPORATION SUBJECT TO THE PROVISIONS OF PART 3 OF THIS  
16 ARTICLE, A PARTNERSHIP, S CORPORATION, OR OTHER SIMILAR  
17 PASS-THROUGH ENTITY, ESTATE, OR TRUST, AND A PARTNER, MEMBER,  
18 AND SUBCHAPTER S SHAREHOLDER OF SUCH PASS-THROUGH ENTITY.

19 (2) (a) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER  
20 JANUARY 1, 2011, A PRIVATE SCHOOL SHALL ISSUE A CREDIT CERTIFICATE  
21 TO ANY TAXPAYER THAT ENROLLS A DEPENDENT QUALIFIED CHILD IN THE  
22 PRIVATE SCHOOL OR THAT OFFERS A SCHOLARSHIP TO A QUALIFIED CHILD  
23 FOR ENROLLMENT IN THE PRIVATE SCHOOL. THE CREDIT CERTIFICATE  
24 SHALL ALLOW THE TAXPAYER TO CLAIM AN INCOME TAX CREDIT WITH  
25 RESPECT TO THE INCOME TAXES IMPOSED BY THIS ARTICLE.

26 (II) A TAXPAYER THAT ENROLLS A DEPENDENT QUALIFIED CHILD  
27 IN THE PRIVATE SCHOOL OR THAT OFFERS A SCHOLARSHIP TO A QUALIFIED

1 CHILD FOR ENROLLMENT IN A PRIVATE SCHOOL DURING THE 2010-11  
2 STATE FISCAL YEAR, OR ANY STATE FISCAL YEAR THEREAFTER, SHALL BE  
3 ELIGIBLE FOR THE INCOME TAX CREDIT SPECIFIED IN SUBPARAGRAPH (I) OF  
4 THIS PARAGRAPH (a) FOR THE INCOME TAX YEAR COMMENCING DURING  
5 THE STATE FISCAL YEAR IN WHICH THE QUALIFIED CHILD ENROLLED.

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

9 (c) (I) (A) FOR ANY QUALIFIED CHILD ATTENDING PRIVATE SCHOOL  
10 ON A FULL-TIME BASIS AS DESCRIBED IN THE STATE BOARD OF EDUCATION  
11 RULES, THE AMOUNT OF THE CREDIT AUTHORIZED IN THIS SECTION SHALL  
12 EQUAL THE SCHOLARSHIP OFFERED TO A QUALIFIED CHILD OR FIFTY  
13 PERCENT OF THE PREVIOUS YEAR'S STATE AVERAGE PER PUPIL REVENUE,  
14 WHICHEVER IS LESS.

15 (B) FOR ANY QUALIFIED CHILD ATTENDING PRIVATE SCHOOL ON A  
16 HALF-TIME BASIS AS DESCRIBED IN THE STATE BOARD OF EDUCATION  
17 RULES, THE AMOUNT OF THE CREDIT AUTHORIZED IN THIS SECTION SHALL  
18 EQUAL THE SCHOLARSHIP OFFERED TO A QUALIFIED CHILD OR  
19 TWENTY-FIVE PERCENT OF THE PREVIOUS YEAR'S STATE AVERAGE PER  
20 PUPIL REVENUE, WHICHEVER IS LESS.

21 (II) THE STATE AVERAGE PER PUPIL REVENUE SHALL BE PROVIDED  
22 TO THE DEPARTMENT BY THE DEPARTMENT OF EDUCATION WITHIN THIRTY  
23 DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION AND EVERY JANUARY  
24 15 THEREAFTER.

25 (d) THE CREDIT CERTIFICATE SHALL BE SUBMITTED BY THE  
26 TAXPAYER TO THE DEPARTMENT WITH THE TAXPAYER'S INCOME TAX  
27 RETURN FOR THAT TAX YEAR.

1           (3) IF THE CREDIT ALLOWED UNDER THIS SECTION EXCEEDS THE  
2 INCOME TAXES OTHERWISE DUE ON THE TAXPAYER'S INCOME, THE  
3 AMOUNT OF THE CREDIT NOT USED AS AN OFFSET AGAINST INCOME TAXES  
4 MAY BE CARRIED FORWARD AS A TAX CREDIT AGAINST SUBSEQUENT  
5 YEARS' INCOME TAX LIABILITY FOR A PERIOD NOT EXCEEDING THREE  
6 YEARS AND SHALL BE APPLIED FIRST TO THE EARLIEST YEARS POSSIBLE.  
7 ANY CREDIT REMAINING AFTER SAID PERIOD SHALL NOT BE REFUNDED OR  
8 CREDITED TO THE TAXPAYER.

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

21           (5) NO LATER THAN DECEMBER 15, 2011, AND NO LATER THAN  
22 DECEMBER 15 OF EACH YEAR THEREAFTER, EACH PRIVATE SCHOOL THAT  
23 ISSUES A CREDIT CERTIFICATE SHALL PROVIDE THE DEPARTMENT WITH AN  
24 ELECTRONIC REPORT OF ANY CREDIT CERTIFICATE ISSUED FOR THAT  
25 INCOME TAX YEAR THAT INCLUDES THE FOLLOWING INFORMATION:

- 26           (a) THE TAXPAYER'S NAME;
- 27           (b) THE TAXPAYER'S COLORADO ACCOUNT NUMBER OR SOCIAL

1 SECURITY NUMBER; AND

2 (c) ANY ASSOCIATED TAXPAYERS' NAMES AND COLORADO  
3 ACCOUNT NUMBERS OR SOCIAL SECURITY NUMBERS IF THE CREDIT  
4 ALLOWED IN THIS SECTION IS ALLOCATED FROM A PASS-THROUGH ENTITY  
5 PURSUANT TO SUBSECTION (4) OF THIS SECTION.

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

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

15 **SECTION 4.** Part 1 of article 22 of title 39, Colorado Revised  
16 Statutes, is amended BY THE ADDITION OF A NEW SECTION to  
17 read:

18 **39-22-129. Credit for taxpayers that home-school a qualified**  
19 **child - definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT  
20 OTHERWISE REQUIRES:

21 (a) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE.

22 (b) "HOME-SCHOOL" MEANS THE EDUCATION OF A QUALIFIED  
23 CHILD PURSUANT TO SECTION 22-33-104 (2) (i), C.R.S., OR TAUGHT AT  
24 HOME UNDER THE SUPERVISION OF A PRIVATE SCHOOL.

25 (c) (I) "QUALIFIED CHILD" MEANS A DEPENDENT CHILD ENROLLED  
26 ON A FULL-TIME OR HALF-TIME BASIS AS DESCRIBED IN THE STATE BOARD  
27 OF EDUCATION RULES IN A PUBLIC SCHOOL IN THE STATE BUT SHALL NOT

1 INCLUDE ANY DEPENDENT CHILD CURRENTLY ENROLLED IN ANY PRIVATE  
2 SCHOOL OR HOME-SCHOOLED IN THE STATE PRIOR TO THE EFFECTIVE DATE  
3 OF THIS SECTION.

4 (II) ONCE A CHILD IS A QUALIFIED CHILD AS SPECIFIED IN  
5 SUBPARAGRAPH (I) OF THIS PARAGRAPH (c), THE CHILD WILL REMAIN A  
6 QUALIFIED CHILD SO LONG AS HE OR SHE CONTINUES TO BE  
7 HOME-SCHOOLED IN THE STATE IN A KINDERGARTEN THROUGH TWELFTH  
8 GRADE PROGRAM.

9 (2) (a) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER  
10 JANUARY 1, 2011, THERE SHALL BE ALLOWED AS A CREDIT AGAINST THE  
11 INCOME TAXES IMPOSED BY THIS ARTICLE AN AMOUNT EQUAL TO ONE  
12 THOUSAND DOLLARS FOR ANY TAXPAYER WHO HOME-SCHOOLS A  
13 QUALIFIED CHILD WHO WAS ENROLLED ON A FULL-TIME BASIS AS  
14 DESCRIBED IN THE STATE BOARD OF EDUCATION RULES IN A PUBLIC  
15 SCHOOL IN THE STATE PRIOR TO BEING HOME-SCHOOLED.

16 (II) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY  
17 1, 2011, THERE SHALL BE ALLOWED AS A CREDIT AGAINST THE INCOME  
18 TAXES IMPOSED BY THIS ARTICLE AN AMOUNT EQUAL TO FIVE HUNDRED  
19 DOLLARS TO ANY TAXPAYER WHO HOME-SCHOOLS A QUALIFIED CHILD  
20 WHO WAS ENROLLED ON A HALF-TIME BASIS AS DESCRIBED IN THE STATE  
21 BOARD OF EDUCATION RULES IN A PUBLIC SCHOOL IN THE STATE PRIOR TO  
22 BEING HOME-SCHOOLED.

23 (b) A TAXPAYER WHO HOME-SCHOOLS, DURING THE 2010-11  
24 STATE FISCAL YEAR, OR ANY STATE FISCAL YEAR THEREAFTER, A  
25 QUALIFIED CHILD WHO WAS ENROLLED IN A PUBLIC SCHOOL IN THE STATE  
26 PRIOR TO BEING HOME-SCHOOLED SHALL BE ELIGIBLE FOR THE INCOME  
27 TAX CREDIT SPECIFIED IN SUBPARAGRAPH (I) OR (II) OF PARAGRAPH (a) OF



1 THIS SUBSECTION (2) FOR THE INCOME TAX YEAR COMMENCING DURING  
2 THE STATE FISCAL YEAR IN WHICH THE QUALIFIED CHILD IS  
3 HOME-SCHOOLED.

4 (3) IF THE CREDIT ALLOWED UNDER THIS SECTION EXCEEDS THE  
5 INCOME TAXES OTHERWISE DUE ON THE TAXPAYER'S INCOME, THE  
6 AMOUNT OF THE CREDIT NOT USED AS AN OFFSET AGAINST INCOME TAXES  
7 MAY BE CARRIED FORWARD AS A TAX CREDIT AGAINST SUBSEQUENT  
8 YEARS' INCOME TAX LIABILITY FOR A PERIOD NOT EXCEEDING THREE  
9 YEARS AND SHALL BE APPLIED FIRST TO THE EARLIEST YEARS POSSIBLE.  
10 ANY CREDIT REMAINING AFTER SAID PERIOD SHALL NOT BE REFUNDED OR  
11 CREDITED TO THE TAXPAYER.

12 **SECTION 5. Safety clause.** The general assembly hereby finds,  
13 determines, and declares that this act is necessary for the immediate  
14 preservation of the public peace, health, and safety.