

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 15-0366.01 Nicole Myers x4326

SENATE BILL 15-045

SENATE SPONSORSHIP

Lundberg,

HOUSE SPONSORSHIP

(None),

Senate Committees
Education

House Committees

A BILL FOR AN ACT

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

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>.)

The bill establishes a private school tuition income tax credit for income tax years commencing on or after January 1, 2016, that allows any taxpayer to claim a credit when the taxpayer enrolls a dependent qualified child in a private school or the taxpayer provides a scholarship to a qualified child for enrollment in a private school and the private school issues the taxpayer a credit certificate for either enrolling a dependent

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.

qualified child in the private school or providing a scholarship to a qualified child for enrollment in the private school.

The credit may be carried forward for 3 years but not refunded, and the department of revenue is granted 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, an amount equal to either the tuition paid or the scholarship provided to a qualified child, as applicable, or 50% of the previous year's state average per pupil revenues, 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, an amount equal to either the tuition paid or the scholarship provided to a qualified child, as applicable, or 25% of the previous year's state average per pupil revenues, whichever is less.

The bill establishes an income tax credit for income tax years commencing on or after January 1, 2016, that allows any taxpayer who uses home-based education for a qualified child to claim an income tax credit:

- ! In an amount equal to \$1,000 for a taxpayer who uses home-based education for 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 taught at home; and
- ! In an amount equal to \$500 for a taxpayer who uses home-based education for 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 taught at home.

The credit may be carried forward for 3 years but not refunded.

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.** In Colorado Revised Statutes, **add** 39-22-538 and
5 39-22-539 as follows:

6 **39-22-538. Private school tuition income tax credit - rules -**
7 **definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT

1 OTHERWISE REQUIRES:

2 (a) "CREDIT CERTIFICATE" MEANS A STATEMENT ISSUED BY A
3 PRIVATE SCHOOL CERTIFYING THAT A CHILD ENROLLED IN THE PRIVATE
4 SCHOOL IS A QUALIFIED CHILD AS DEFINED IN PARAGRAPH (d) OF THIS
5 SUBSECTION (1) AND THAT THE TAXPAYER IS ENTITLED TO AN INCOME TAX
6 CREDIT AS SPECIFIED IN THIS SECTION.

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

8 (c) "PRIVATE SCHOOL" HAS THE SAME MEANING AS SET FORTH IN
9 SECTION 22-30.5-103 (6.5), C.R.S.

10 (d) (I) "QUALIFIED CHILD" MEANS A CHILD ENROLLED ON A
11 FULL-TIME BASIS AS DESCRIBED IN THE STATE BOARD OF EDUCATION
12 RULES IN A PUBLIC SCHOOL IN THE STATE FOR THE SCHOOL YEAR PRIOR TO
13 ENROLLMENT IN A PRIVATE SCHOOL, BUT DOES NOT INCLUDE:

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

16 (B) A CHILD TAUGHT AT HOME IN THE STATE AS OF THE EFFECTIVE
17 DATE OF THIS SECTION.

18 (II) ONCE A CHILD IS A QUALIFIED CHILD AS SPECIFIED IN
19 SUBPARAGRAPH (I) OF THIS PARAGRAPH (d), THE CHILD WILL REMAIN A
20 QUALIFIED CHILD SO LONG AS HE OR SHE REMAINS ENROLLED IN A PRIVATE
21 SCHOOL IN THE STATE IN A KINDERGARTEN THROUGH TWELFTH GRADE
22 PROGRAM.

23 (e) "STATE AVERAGE PER PUPIL REVENUES" HAS THE SAME
24 MEANING AS SET FORTH IN SECTION 22-54-103 (12), 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
27 ARTICLE, A PARTNERSHIP, LIMITED LIABILITY COMPANY, S CORPORATION,

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

4 (2) (a) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
5 JANUARY 1, 2016, 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 PROVIDES A SCHOLARSHIP TO A QUALIFIED
8 CHILD FOR ENROLLMENT IN THE PRIVATE SCHOOL. THE CREDIT
9 CERTIFICATE ALLOWS THE TAXPAYER TO CLAIM AN INCOME TAX CREDIT
10 WITH RESPECT TO THE INCOME TAXES IMPOSED BY THIS ARTICLE.

11 (II) A TAXPAYER THAT ENROLLS A DEPENDENT QUALIFIED CHILD
12 IN A PRIVATE SCHOOL OR THAT PROVIDES A SCHOLARSHIP TO A QUALIFIED
13 CHILD FOR ENROLLMENT IN A PRIVATE SCHOOL DURING THE 2016-17
14 STATE FISCAL YEAR OR ANY STATE FISCAL YEAR THEREAFTER IS ELIGIBLE
15 FOR THE INCOME TAX CREDIT SPECIFIED IN SUBPARAGRAPH (I) OF THIS
16 PARAGRAPH (a) FOR ANY INCOME TAX YEAR IN WHICH THE QUALIFIED
17 CHILD IS ENROLLED OR IN WHICH THE SCHOLARSHIP IS OFFERED; EXCEPT
18 THAT A QUALIFIED CHILD SHALL NOT GENERATE AN INCOME TAX CREDIT
19 IN THE SAME INCOME TAX YEAR FOR BOTH A TAXPAYER THAT ENROLLS
20 THE QUALIFIED CHILD IN A PRIVATE SCHOOL AND A TAXPAYER THAT
21 PROVIDES A SCHOLARSHIP TO THE QUALIFIED CHILD FOR ENROLLMENT IN
22 A PRIVATE SCHOOL.

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

26 (c) (I) (A) FOR ANY QUALIFIED CHILD ATTENDING A PRIVATE
27 SCHOOL ON A FULL-TIME BASIS AS DESCRIBED IN THE STATE BOARD OF

1 EDUCATION RULES, THE AMOUNT OF THE CREDIT AUTHORIZED IN THIS
2 SECTION EQUALS EITHER THE AMOUNT OF TUITION PAID FOR THE
3 QUALIFIED CHILD OR THE AMOUNT OF THE SCHOLARSHIP PROVIDED TO A
4 QUALIFIED CHILD, AS APPLICABLE, OR FIFTY PERCENT OF THE PREVIOUS
5 YEAR'S STATE AVERAGE PER PUPIL REVENUES, WHICHEVER IS LESS.

6 (B) FOR ANY QUALIFIED CHILD ATTENDING PRIVATE SCHOOL ON A
7 HALF-TIME BASIS AS DESCRIBED IN THE STATE BOARD OF EDUCATION
8 RULES, THE AMOUNT OF THE CREDIT AUTHORIZED IN THIS SECTION EQUALS
9 EITHER THE AMOUNT OF TUITION PAID FOR THE QUALIFIED CHILD OR THE
10 AMOUNT OF THE SCHOLARSHIP PROVIDED TO A QUALIFIED CHILD, AS
11 APPLICABLE, OR TWENTY-FIVE PERCENT OF THE PREVIOUS YEAR'S STATE
12 AVERAGE PER PUPIL REVENUES, WHICHEVER IS LESS.

13 (II) THE STATE AVERAGE PER PUPIL REVENUES SHALL BE PROVIDED
14 TO THE DEPARTMENT BY THE DEPARTMENT OF EDUCATION WITHIN THIRTY
15 DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION AND EVERY JANUARY
16 15 THEREAFTER.

17 (d) THE TAXPAYER SHALL SUBMIT THE CREDIT CERTIFICATE TO THE
18 DEPARTMENT WITH THE TAXPAYER'S INCOME TAX RETURN FOR THAT TAX
19 YEAR.

20 (3) IF THE CREDIT ALLOWED IN THIS SECTION EXCEEDS THE INCOME
21 TAXES OTHERWISE DUE ON THE TAXPAYER'S INCOME, THE AMOUNT OF THE
22 CREDIT NOT USED AS AN OFFSET AGAINST INCOME TAXES MAY BE CARRIED
23 FORWARD AS A TAX CREDIT AGAINST SUBSEQUENT YEARS' INCOME TAX
24 LIABILITY FOR A PERIOD NOT EXCEEDING THREE YEARS AND SHALL BE
25 APPLIED FIRST TO THE EARLIEST YEARS POSSIBLE. ANY CREDIT REMAINING
26 AFTER SAID PERIOD SHALL NOT BE REFUNDED OR CREDITED TO THE
27 TAXPAYER.

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

12 (5) NO LATER THAN DECEMBER 15, 2016, AND NO LATER THAN
13 DECEMBER 15 OF EACH YEAR THEREAFTER, EACH PRIVATE SCHOOL THAT
14 ISSUES A CREDIT CERTIFICATE SHALL PROVIDE THE DEPARTMENT WITH AN
15 ELECTRONIC REPORT OF ANY CREDIT CERTIFICATE ISSUED FOR THAT
16 INCOME TAX YEAR THAT INCLUDES THE FOLLOWING INFORMATION:

17 (a) THE TAXPAYER'S NAME;

18 (b) THE TAXPAYER'S COLORADO ACCOUNT NUMBER OR SOCIAL
19 SECURITY NUMBER; AND

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

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

1 (7) ANY TAXPAYER THAT OFFSETS A TAX DEFICIENCY WITH A
2 CREDIT AUTHORIZED IN THIS SECTION THAT IS DISALLOWED PURSUANT TO
3 THIS SECTION IS LIABLE FOR SUCH TAX DEFICIENCY, INTEREST, AND
4 PENALTIES AS MAY BE SPECIFIED IN THIS ARTICLE OR OTHERWISE
5 PROVIDED BY LAW.

6 **39-22-539. Credit for taxpayers that use home-based**
7 **education for a qualified child - definitions.** (1) AS USED IN THIS
8 SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

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

10 (b) "HOME-BASED EDUCATION" MEANS THE EDUCATION OF A
11 QUALIFIED CHILD PURSUANT TO SECTION 22-33-104.5, C.R.S., OR TAUGHT
12 AT HOME UNDER THE SUPERVISION OF A PRIVATE SCHOOL.

13 (c) (I) "QUALIFIED CHILD" MEANS A DEPENDENT CHILD ENROLLED
14 ON A FULL-TIME OR HALF-TIME BASIS AS DESCRIBED IN THE STATE BOARD
15 OF EDUCATION RULES IN A PUBLIC SCHOOL IN THE STATE FOR THE SCHOOL
16 YEAR PRIOR TO BEING TAUGHT AT HOME, BUT DOES NOT INCLUDE A
17 DEPENDENT CHILD WHO IS ENROLLED IN A PRIVATE SCHOOL OR TAUGHT AT
18 HOME IN THE STATE PRIOR TO THE EFFECTIVE DATE OF THIS SECTION.

19 (II) ONCE A CHILD IS A QUALIFIED CHILD AS SPECIFIED IN
20 SUBPARAGRAPH (I) OF THIS PARAGRAPH (c), THE CHILD WILL REMAIN A
21 QUALIFIED CHILD SO LONG AS HE OR SHE CONTINUES TO BE TAUGHT AT
22 HOME IN THE STATE IN A KINDERGARTEN THROUGH TWELFTH GRADE
23 PROGRAM.

24 (2) (a) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
25 JANUARY 1, 2016, THERE IS ALLOWED AS A CREDIT AGAINST THE INCOME
26 TAXES IMPOSED BY THIS ARTICLE AN AMOUNT EQUAL TO ONE THOUSAND
27 DOLLARS FOR ANY TAXPAYER WHO USES HOME-BASED EDUCATION FOR A

1 DEPENDENT QUALIFIED CHILD WHO WAS ENROLLED ON A FULL-TIME BASIS
2 AS DESCRIBED IN THE STATE BOARD OF EDUCATION RULES IN A PUBLIC
3 SCHOOL IN THE STATE PRIOR TO BEING TAUGHT AT HOME.

4 (II) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
5 1, 2016, THERE IS ALLOWED AS A CREDIT AGAINST THE INCOME TAXES
6 IMPOSED BY THIS ARTICLE AN AMOUNT EQUAL TO FIVE HUNDRED DOLLARS
7 TO ANY TAXPAYER WHO USES HOME-BASED EDUCATION FOR A DEPENDENT
8 QUALIFIED CHILD WHO WAS ENROLLED ON A HALF-TIME BASIS AS
9 DESCRIBED IN THE STATE BOARD OF EDUCATION RULES IN A PUBLIC
10 SCHOOL IN THE STATE PRIOR TO BEING TAUGHT AT HOME.

11 (b) FOR THE 2016-17 STATE FISCAL YEAR OR ANY STATE FISCAL
12 YEAR THEREAFTER, A TAXPAYER WHO USES HOME-BASED EDUCATION FOR
13 A QUALIFIED CHILD IS ELIGIBLE FOR THE INCOME TAX CREDIT SPECIFIED IN
14 SUBPARAGRAPH (I) OR (II) OF PARAGRAPH (a) OF THIS SUBSECTION (2) FOR
15 THE INCOME TAX YEAR COMMENCING DURING THE STATE FISCAL YEAR IN
16 WHICH THE QUALIFIED CHILD IS TAUGHT AT HOME.

17 (3) IF THE CREDIT ALLOWED UNDER THIS SECTION EXCEEDS THE
18 INCOME TAXES OTHERWISE DUE ON THE TAXPAYER'S INCOME, THE
19 AMOUNT OF THE CREDIT NOT USED AS AN OFFSET AGAINST INCOME TAXES
20 MAY BE CARRIED FORWARD AS A TAX CREDIT AGAINST SUBSEQUENT
21 YEARS' INCOME TAX LIABILITY FOR A PERIOD NOT EXCEEDING THREE
22 YEARS AND SHALL BE APPLIED FIRST TO THE EARLIEST YEARS POSSIBLE.
23 ANY CREDIT REMAINING AFTER SAID PERIOD SHALL NOT BE REFUNDED OR
24 CREDITED TO THE TAXPAYER.

25 **SECTION 3. Act subject to petition - effective date.** This act
26 takes effect at 12:01 a.m. on the day following the expiration of the
27 ninety-day period after final adjournment of the general assembly (August

1 5, 2015, if adjournment sine die is on May 6, 2015); except that, if a
2 referendum petition is filed pursuant to section 1 (3) of article V of the
3 state constitution against this act or an item, section, or part of this act
4 within such period, then the act, item, section, or part will not take effect
5 unless approved by the people at the general election to be held in
6 November 2016 and, in such case, will take effect on the date of the
7 official declaration of the vote thereon by the governor.