

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

INTRODUCED

LLS NO. 09-0416.01 Ed DeCecco

SENATE BILL 09-221

SENATE SPONSORSHIP

Lundberg, Harvey, Cadman, Schultheis, Brophy, Renfroe, Scheffel

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Lambert,

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State, Veterans & Military Affairs
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A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF A PILOT PROPERTY TAX CREDIT TO**
102 **SUPPORT EDUCATION IN THE STATE.**

Bill Summary

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

For a total of 4 property tax years, creates a property tax credit for tuition payments to an independent or parochial school or other educational expenses for a student who previously attended a public school (credit).

Establishes who may claim the credit and the maximum amount of the credit. Prohibits the credit from being refunded or carried forward to a subsequent property tax year. Requires an affidavit, which must include

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.

certain information, to be submitted in order to claim the credit. Permits the credit to be transferred and establishes transfer procedures.

Establishes a mechanism for a county treasurer to be reimbursed by the state treasurer from the state general fund for local revenue lost as a result of a taxpayer claiming the credit.

Specifies that the credits shall not affect a school district's share of its total program for purposes of the "Public School Finance Act of 1994".

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

2 **SECTION 1.** Title 39, Colorado Revised Statutes, is amended BY
3 THE ADDITION OF A NEW ARTICLE to read:

4 **ARTICLE 3.3**

5 **Property Tax Credits Related to Education**

6 **39-3.3-101. Legislative declaration.** (1) THE GENERAL
7 ASSEMBLY HEREBY FINDS AND DECLARES THAT:

8 (a) NONPUBLIC EDUCATIONAL CHOICES PLAY AN IMPORTANT ROLE
9 IN ACHIEVING COLORADO'S GOAL OF ENHANCING EDUCATIONAL
10 OPPORTUNITIES FOR ALL CHILDREN;

11 (b) ALL COLORADANS SUPPORT PUBLIC EDUCATION THROUGH
12 SALES AND INCOME TAXES;

13 (c) PUBLIC EDUCATION IS ALSO SUPPORTED BY PROPERTY TAXES
14 PAID BY HOMEOWNERS AND INDIRECTLY PAID BY RENTERS AS A PORTION
15 OF THEIR RENT;

16 (d) AS A RESULT OF SECTION 17 OF ARTICLE IX OF THE STATE
17 CONSTITUTION, WHICH WAS APPROVED BY VOTERS IN THE 2000 GENERAL
18 ELECTION, PUBLIC EDUCATION IN THIS STATE WILL BE ADEQUATELY
19 FUNDED;

20 (e) IT IS THEREFORE SOUND PUBLIC POLICY TO MAKE EDUCATIONAL
21 CHOICES AVAILABLE TO MORE FAMILIES WITHOUT IMPROPERLY INVOLVING

1 THE STATE IN THE DIRECT SUPPORT OF PAROCHIAL SCHOOLS;

2 (f) IF A STUDENT LEAVES A PUBLIC SCHOOL IN ORDER TO ATTEND
3 AN INDEPENDENT OR PAROCHIAL SCHOOL OR A HOME-BASED
4 EDUCATIONAL PROGRAM, IT SAVES BOTH THE PUBLIC SCHOOL DISTRICT
5 AND THE STATE MONEY THAT WOULD HAVE BEEN NEEDED TO PAY FOR THE
6 STUDENT'S PUBLIC SCHOOL EDUCATION;

7 (g) THE STATE CAN USE A PORTION OF THESE SAVINGS TO OFFER A
8 PROPERTY TAX CREDIT FOR THE PARENT WHOSE EDUCATIONAL CHOICE
9 SAVED THE STATE MONEY;

10 (h) SINCE NO STATE MONEY GOES DIRECTLY TO PAROCHIAL
11 SCHOOLS, THIS SYSTEM AVOIDS THE STATE IMPERMISSIBLY SUPPORTING OR
12 INFLUENCING PAROCHIAL EDUCATION.

13 (2) NOW, THEREFORE, IT IS THE INTENT OF THE GENERAL
14 ASSEMBLY IN ENACTING THIS ARTICLE TO ESTABLISH A FOUR-YEAR
15 PROPERTY TAX CREDIT PILOT PROGRAM.

16 **39-3.3-102. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
17 CONTEXT OTHERWISE REQUIRES:

18 (1) "AFFIDAVIT" MEANS THE AFFIDAVIT DESCRIBED IN SECTION
19 39-3.3-104.

20 (2) "CREDIT" OR "EDUCATION-RELATED CREDIT" MEANS THE
21 PROPERTY TAX CREDIT CREATED BY SECTION 39-3.3-103.

22 (3) "PARENT" MEANS A LEGAL GUARDIAN OR ANY OTHER PERSON
23 WHO HAS PHYSICAL CUSTODY OF A CHILD.

24 (4) "QUALIFIED STUDENT" MEANS A STUDENT WHO, DURING A
25 STATE FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2009, ATTENDS AN
26 INDEPENDENT OR PAROCHIAL SCHOOL IN THE STATE OR PARTICIPATES IN
27 A HOME-BASED EDUCATIONAL PROGRAM AND WHO, DURING THE ENTIRE

1 PRIOR STATE FISCAL YEAR, WAS ENROLLED IN A PUBLIC SCHOOL IN THE
2 STATE.

3 (5) "RENTER" MEANS A PERSON WHO OCCUPIES A RESIDENTIAL
4 PROPERTY AS THAT PERSON'S PRINCIPAL RESIDENCE DURING THE PROPERTY
5 TAX YEAR FOR WHICH AN EDUCATION-RELATED CREDIT IS CLAIMED AND
6 WHO HAS A LEASEHOLD INTEREST IN THE RESIDENTIAL PROPERTY.

7 **39-3.3-103. Property tax credit - qualified student - tuition and**
8 **educational expenses.** (1) (a) FOR A PROPERTY TAX YEAR COMMENCING
9 ON OR AFTER JANUARY 1, 2009, BUT PRIOR TO JANUARY 1, 2013, A PARENT
10 OF A QUALIFIED STUDENT SHALL BE ENTITLED TO A PROPERTY TAX CREDIT
11 FOR TUITION OR OTHER EDUCATIONAL EXPENSES PAID BY THE PARENT
12 DURING THE PROPERTY TAX YEAR FOR THE QUALIFIED STUDENT. THE
13 PARENT MAY CLAIM OR TRANSFER THE CREDIT PURSUANT TO SECTION
14 39-3.3-104.

15 (b) FOR A QUALIFIED STUDENT WHO IN THE PRIOR STATE FISCAL
16 YEAR WAS A FULL-TIME STUDENT IN A PUBLIC SCHOOL, THE AMOUNT OF
17 THE CREDIT CREATED BY THIS SECTION SHALL BE EQUAL TO ONE
18 THOUSAND DOLLARS. FOR A QUALIFIED STUDENT WHO IN THE PRIOR STATE
19 FISCAL YEAR WAS A PART-TIME STUDENT IN A PUBLIC SCHOOL, THE
20 AMOUNT OF THE CREDIT SHALL BE EQUAL TO FIVE HUNDRED DOLLARS.

21 (c) FOR A PROPERTY TAX YEAR COMMENCING ON OR AFTER
22 JANUARY 1, 2010, BUT PRIOR TO JANUARY 1, 2013, A PARENT WHO WAS
23 PREVIOUSLY ENTITLED TO THE PROPERTY TAX CREDIT CREATED BY THIS
24 SECTION SHALL BE ENTITLED TO A PROPERTY TAX CREDIT FOR TUITION OR
25 OTHER EDUCATIONAL EXPENSES PAID BY THE PARENT DURING THE
26 PROPERTY TAX YEAR FOR EACH STUDENT WHO PREVIOUSLY MET THE
27 DEFINITION OF A QUALIFIED STUDENT, SO LONG AS THE STUDENT IS A

1 RESIDENT OF THE STATE AND CONTINUES TO BE ENROLLED AT AN
2 INDEPENDENT OR PAROCHIAL SCHOOL IN THE STATE OR IN A HOME-BASED
3 EDUCATIONAL PROGRAM AND UNTIL THE STUDENT GRADUATES HIGH
4 SCHOOL. THE LIMITS SET FORTH IN PARAGRAPH (b) OF THIS SUBSECTION
5 (1) THAT APPLIED WHEN THE STUDENT WAS A QUALIFIED STUDENT SHALL
6 APPLY FOR A CREDIT CLAIMED PURSUANT TO THIS PARAGRAPH (c).

7 (2) THE CREDIT CREATED BY THIS SECTION MAY NOT BE REFUNDED
8 OR CARRIED FORWARD TO A SUBSEQUENT PROPERTY TAX YEAR.

9 **39-3.3-104. Claiming the credit - affidavit - transfers of credit.**

10 (1) IN ORDER TO CLAIM OR TRANSFER AN EDUCATION-RELATED CREDIT,
11 A PARENT SHALL PREPARE A SIGNED AFFIDAVIT CONTAINING THE
12 FOLLOWING:

13 (a) THE NAME, ADDRESS, AND PHONE NUMBER OF THE PARENT;

14 (b) THE NAME OF THE SCHOOL DISTRICT IN WHICH THE QUALIFIED
15 STUDENT WAS ENROLLED PRIOR TO TRANSFERRING TO AN INDEPENDENT OR
16 PAROCHIAL SCHOOL OR PARTICIPATING IN A HOME-BASED EDUCATIONAL
17 PROGRAM;

18 (c) THE NAME OF THE INDEPENDENT OR PAROCHIAL SCHOOL THAT
19 THE QUALIFIED STUDENT ATTENDS, OR, IF THE STUDENT PARTICIPATES IN
20 A HOME-BASED EDUCATIONAL PROGRAM, THE SCHOOL DISTRICT TO WHICH
21 THE PARENT SENT A NOTICE PURSUANT TO SECTION 22-33-104.5 (3) (e),
22 C.R.S.;

23 (d) WHETHER THE QUALIFIED STUDENT WAS A FULL-TIME OR
24 PART-TIME STUDENT DURING HIS OR HER LAST YEAR IN PUBLIC SCHOOL;
25 AND

26 (e) THE AMOUNT OF THE CREDIT CLAIMED.

27 (2) A PARENT WHO PREPARES AN AFFIDAVIT MAY SUBMIT THE

1 AFFIDAVIT AS PARTIAL OR FULL PAYMENT OF PROPERTY TAXES OWED ON
2 REAL PROPERTY OWNED BY THE PARENT THAT ARE LEVIED BY EACH LOCAL
3 GOVERNMENT IN WHICH THE PROPERTY IS LOCATED IN THE PROPERTY TAX
4 YEAR FOR WHICH THE CREDIT IS CLAIMED.

5 (3) (a) AN EDUCATION-RELATED CREDIT MAY BE SOLD OR
6 OTHERWISE TRANSFERRED; EXCEPT THAT THE CASH VALUE OF THE RETURN
7 CONSIDERATION SHALL NOT BE LESS THAN NINETY PERCENT OF THE
8 AMOUNT OF THE VALUE OF THE CREDIT. THE TRANSFER SHALL INCLUDE
9 THE ASSIGNMENT OF THE AFFIDAVIT. A TRANSFEREE MUST SUBMIT AN
10 ASSIGNED AFFIDAVIT TO A COUNTY TREASURER IN ORDER TO CLAIM THE
11 CREDIT. THE CREDIT MAY BE TRANSFERRED MORE THAN ONCE, BUT ONLY
12 THE TAXPAYER WHO SUBMITS THE ASSIGNED AFFIDAVIT SHALL BE
13 ELIGIBLE TO CLAIM THE CREDIT.

14 (b) IF AN EDUCATION-RELATED CREDIT IS TRANSFERRED TO A
15 PERSON WHO HOLDS MONEY IN ESCROW FOR THE PAYMENT OF PROPERTY
16 TAXES FOR A TAXPAYER, THE PERSON SHALL REFUND TO THE TAXPAYER
17 THE AMOUNT OF THE CREDIT CLAIMED IN THE AFFIDAVIT, UP TO THE TOTAL
18 AMOUNT OF THE PROPERTY TAXES, WITHIN THIRTY DAYS OF PAYING THE
19 TAXES.

20 (c) THE PROVISIONS OF THIS SUBSECTION (3) SHALL APPLY TO BOTH
21 PROPERTY OWNERS AND RENTERS.

22 (4) IN ORDER TO CLAIM AN EDUCATION-RELATED CREDIT, A
23 TAXPAYER CLAIMING THE CREDIT MUST SUBMIT THE AFFIDAVIT TO A
24 COUNTY TREASURER NO LATER THAN APRIL 1 OF THE YEAR FOLLOWING
25 THE PROPERTY TAX YEAR FOR WHICH THE CREDIT IS CLAIMED.

26 (5) THE COUNTY TREASURER SHALL APPLY THE
27 EDUCATION-RELATED CREDIT AGAINST THE PROPERTY TAX LIABILITY OF

1 THE TAXPAYER CLAIMING THE CREDIT WITHIN TEN DAYS AFTER RECEIVING
2 A VALID AFFIDAVIT.

3 **39-3.3-105. Reimbursement for local governments -**
4 **apportionment of taxes.** (1) ON OR BEFORE APRIL 15 OF THE YEAR
5 FOLLOWING THE PROPERTY TAX YEAR FOR WHICH AN EDUCATION-RELATED
6 CREDIT IS CLAIMED, THE COUNTY TREASURER WHO APPLIES THE CREDIT
7 AGAINST A TAXPAYER'S PROPERTY TAX LIABILITY PURSUANT TO SECTION
8 39-3.3-104 (5) SHALL SEND THE AFFIDAVIT TO THE STATE TREASURER FOR
9 REIMBURSEMENT OF THE CREDIT. THE STATE TREASURER SHALL
10 REIMBURSE A COUNTY TREASURER FROM THE STATE GENERAL FUND TO
11 THE EXTENT THAT SUCH MONEY IS APPROPRIATED BY THE GENERAL
12 ASSEMBLY FOR SUCH PURPOSE.

13 (2) IF THE AMOUNT OF THE EDUCATION-RELATED CREDIT CLAIMED
14 BY A TAXPAYER IS LESS THAN THE TOTAL AMOUNT OF THE PROPERTY
15 TAXES OWED BY THE TAXPAYER, THE COUNTY TREASURER SHALL REDUCE
16 THE TOTAL TAXES OWED BY THE AMOUNT OF THE CREDIT AND APPORTION,
17 CREDIT, OR DISTRIBUTE THE DIFFERENCE IN THE MANNER SET FORTH IN
18 SECTION 39-10-107. UPON RECEIPT OF REIMBURSEMENT FROM THE STATE
19 TREASURER, THE COUNTY TREASURER SHALL APPORTION, CREDIT, OR
20 DISTRIBUTE THE REIMBURSEMENT IN THE SAME MANNER.

21 **39-3.3-106. Effect on "Public School Finance Act of 1994".**
22 FOR PURPOSES OF SECTION 22-54-106 (1) (a) (I), C.R.S., AN
23 EDUCATION-RELATED CREDIT CLAIMED BY A TAXPAYER ON PROPERTY
24 LOCATED IN A SCHOOL DISTRICT SHALL NOT REDUCE THE AMOUNT OF
25 PROPERTY TAX REVENUE THAT THE SCHOOL DISTRICT IS ENTITLED TO
26 RECEIVE FROM THE PROPERTY TAX LEVY.

27 **39-3.3-107. Repeal of article.** THIS ARTICLE IS REPEALED,

1 EFFECTIVE JANUARY 1, 2015.

2 **SECTION 2. Act subject to petition - effective date.** This act
3 shall take effect at 12:01 a.m. on the day following the expiration of the
4 ninety-day period after final adjournment of the general assembly that is
5 allowed for submitting a referendum petition pursuant to article V,
6 section 1 (3) of the state constitution, (August 4, 2009, if adjournment
7 sine die is on May 6, 2009); except that, if a referendum petition is filed
8 against this act or an item, section, or part of this act within such period,
9 then the act, item, section, or part, if approved by the people, shall take
10 effect on the date of the official declaration of the vote thereon by
11 proclamation of the governor.