

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 14-0483.01 Nicole Myers x4326

SENATE BILL 14-033

SENATE SPONSORSHIP

Lundberg, Brophy, Cadman, Grantham, Harvey, Herpin, Hill, Lambert, Marble, Rivera

HOUSE SPONSORSHIP

(None),

Senate Committees
State, Veterans, & Military Affairs

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/bills summaries>.)

The bill establishes a private school tuition income tax credit for income tax years commencing on or after January 1, 2014, 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

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.

issues the taxpayer a credit certificate for either enrolling a dependent 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 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, 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 revenue, whichever is less.

The bill establishes an income tax credit for income tax years commencing on or after January 1, 2014, that allows any taxpayer who home-schools a qualified child to claim an income tax credit:

- ! 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; and
- ! 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.

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. 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
7 year 2014-15 for the "Quality Education and Budget Reduction Act", that

1 is due to an accrual accounting method that the department of revenue
2 and the state controller are required to use. First, the credit is for the
3 enrollment of children in private schools whose academic years generally
4 do not commence until the first half of fiscal year 2014-15. Second, a true
5 cash-based fiscal impact will not affect the state until the second half of
6 fiscal year 2014-15 because the income tax returns for the income tax
7 year that commences January 1, 2014, are not due until April 15, 2015.
8 Therefore, only the last half of fiscal year 2014-15 will result in any
9 economic activity that should be accounted for in analyzing the fiscal
10 impact of the "Quality Education and Budget Reduction Act".

11 **SECTION 3.** In Colorado Revised Statutes, **add** 39-22-536 and
12 39-22-537 as follows:

13 **39-22-536. Private school tuition income tax credit - rules -**
14 **definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
15 OTHERWISE REQUIRES:

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

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

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

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

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

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

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

10 (e) "STATE AVERAGE PER PUPIL REVENUE" HAS THE SAME
11 MEANING AS SET FORTH IN SECTION 22-54-103 (12), C.R.S.

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

18 (2) (a) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
19 JANUARY 1, 2014, A PRIVATE SCHOOL SHALL ISSUE A CREDIT CERTIFICATE
20 TO ANY TAXPAYER THAT ENROLLS A DEPENDENT QUALIFIED CHILD IN THE
21 PRIVATE SCHOOL OR THAT PROVIDES A SCHOLARSHIP TO A QUALIFIED
22 CHILD FOR ENROLLMENT IN THE PRIVATE SCHOOL. THE CREDIT
23 CERTIFICATE ALLOWS THE TAXPAYER TO CLAIM AN INCOME TAX CREDIT
24 WITH RESPECT TO THE INCOME TAXES IMPOSED BY THIS ARTICLE.

25 (II) A TAXPAYER THAT ENROLLS A DEPENDENT QUALIFIED CHILD
26 IN A PRIVATE SCHOOL OR THAT OFFERS A SCHOLARSHIP TO A QUALIFIED
27 CHILD FOR ENROLLMENT IN A PRIVATE SCHOOL DURING THE 2014-15

1 STATE FISCAL YEAR OR ANY STATE FISCAL YEAR THEREAFTER IS ELIGIBLE
2 FOR THE INCOME TAX CREDIT SPECIFIED IN SUBPARAGRAPH (I) OF THIS
3 PARAGRAPH (a) FOR ANY INCOME TAX YEAR IN WHICH THE QUALIFIED
4 CHILD IS ENROLLED OR IN WHICH THE SCHOLARSHIP IS OFFERED; EXCEPT
5 THAT A QUALIFIED CHILD SHALL NOT GENERATE AN INCOME TAX CREDIT
6 IN THE SAME INCOME TAX YEAR FOR BOTH A TAXPAYER THAT ENROLLS
7 THE QUALIFIED CHILD IN PRIVATE SCHOOL AND A TAXPAYER THAT
8 PROVIDES A SCHOLARSHIP TO THE QUALIFIED CHILD FOR ENROLLMENT IN
9 A PRIVATE SCHOOL.

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

13 (c) (I) (A) FOR ANY QUALIFIED CHILD ATTENDING A PRIVATE
14 SCHOOL ON A FULL-TIME BASIS AS DESCRIBED IN THE STATE BOARD OF
15 EDUCATION RULES, THE AMOUNT OF THE CREDIT AUTHORIZED IN THIS
16 SECTION EQUALS EITHER THE AMOUNT OF TUITION PAID FOR THE
17 QUALIFIED CHILD OR THE AMOUNT OF THE SCHOLARSHIP PROVIDED TO A
18 QUALIFIED CHILD, AS APPLICABLE, OR FIFTY PERCENT OF THE PREVIOUS
19 YEAR'S STATE AVERAGE PER PUPIL REVENUE, WHICHEVER IS LESS.

20 (B) FOR ANY QUALIFIED CHILD ATTENDING PRIVATE SCHOOL ON A
21 HALF-TIME BASIS AS DESCRIBED IN THE STATE BOARD OF EDUCATION
22 RULES, THE AMOUNT OF THE CREDIT AUTHORIZED IN THIS SECTION EQUALS
23 EITHER THE AMOUNT OF TUITION PAID FOR THE QUALIFIED CHILD OR THE
24 AMOUNT OF THE SCHOLARSHIP OFFERED TO A QUALIFIED CHILD, AS
25 APPLICABLE, OR TWENTY-FIVE PERCENT OF THE PREVIOUS YEAR'S STATE
26 AVERAGE PER PUPIL REVENUE, WHICHEVER IS LESS.

27 (II) THE STATE AVERAGE PER PUPIL REVENUE SHALL BE PROVIDED

1 TO THE DEPARTMENT BY THE DEPARTMENT OF EDUCATION WITHIN THIRTY
2 DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION AND EVERY JANUARY
3 15 THEREAFTER.

4 (d) THE TAXPAYER SHALL SUBMIT THE CREDIT CERTIFICATE TO THE
5 DEPARTMENT WITH THE TAXPAYER'S INCOME TAX RETURN FOR THAT TAX
6 YEAR.

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

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

26 (5) NO LATER THAN DECEMBER 15, 2014, AND NO LATER THAN
27 DECEMBER 15 OF EACH YEAR THEREAFTER, EACH PRIVATE SCHOOL THAT

1 ISSUES A CREDIT CERTIFICATE SHALL PROVIDE THE DEPARTMENT WITH AN
2 ELECTRONIC REPORT OF ANY CREDIT CERTIFICATE ISSUED FOR THAT
3 INCOME TAX YEAR THAT INCLUDES THE FOLLOWING INFORMATION:

4 (a) THE TAXPAYER'S NAME;

5 (b) THE TAXPAYER'S COLORADO ACCOUNT NUMBER OR SOCIAL
6 SECURITY NUMBER; AND

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

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

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

20 **39-22-537. Credit for taxpayers that home-school a qualified**
21 **child - definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
22 OTHERWISE REQUIRES:

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

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

27 (c) (I) "QUALIFIED CHILD" MEANS A DEPENDENT CHILD ENROLLED

1 ON A FULL-TIME OR HALF-TIME BASIS AS DESCRIBED IN THE STATE BOARD
2 OF EDUCATION RULES IN A PUBLIC SCHOOL IN THE STATE FOR THE SCHOOL
3 YEAR PRIOR TO BEING HOME-SCHOOLED, BUT DOES NOT INCLUDE ANY
4 DEPENDENT CHILD CURRENTLY ENROLLED IN ANY PRIVATE SCHOOL OR
5 HOME-SCHOOLED IN THE STATE PRIOR TO THE EFFECTIVE DATE OF THIS
6 SECTION.

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

12 (2) (a) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
13 JANUARY 1, 2014, THERE IS ALLOWED AS A CREDIT AGAINST THE INCOME
14 TAXES IMPOSED BY THIS ARTICLE AN AMOUNT EQUAL TO ONE THOUSAND
15 DOLLARS FOR ANY TAXPAYER WHO HOME-SCHOOLS A DEPENDENT
16 QUALIFIED CHILD WHO WAS ENROLLED ON A FULL-TIME BASIS AS
17 DESCRIBED IN THE STATE BOARD OF EDUCATION RULES IN A PUBLIC
18 SCHOOL IN THE STATE PRIOR TO BEING HOME-SCHOOLED.

19 (II) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
20 1, 2014, THERE IS ALLOWED AS A CREDIT AGAINST THE INCOME TAXES
21 IMPOSED BY THIS ARTICLE AN AMOUNT EQUAL TO FIVE HUNDRED DOLLARS
22 TO ANY TAXPAYER WHO HOME-SCHOOLS A DEPENDENT QUALIFIED CHILD
23 WHO WAS ENROLLED ON A HALF-TIME BASIS AS DESCRIBED IN THE STATE
24 BOARD OF EDUCATION RULES IN A PUBLIC SCHOOL IN THE STATE PRIOR TO
25 BEING HOME-SCHOOLED.

26 (b) FOR THE 2014-15 STATE FISCAL YEAR OR ANY STATE FISCAL
27 YEAR THEREAFTER, A TAXPAYER WHO HOME-SCHOOLS A QUALIFIED CHILD

1 IS ELIGIBLE FOR THE INCOME TAX CREDIT SPECIFIED IN SUBPARAGRAPH (I)
2 OR (II) OF PARAGRAPH (a) OF THIS SUBSECTION (2) FOR THE INCOME TAX
3 YEAR COMMENCING DURING THE STATE FISCAL YEAR IN WHICH THE
4 QUALIFIED CHILD IS HOME-SCHOOLED.

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

13 **SECTION 4. Act subject to petition - effective date.** This act
14 takes effect at 12:01 a.m. on the day following the expiration of the
15 ninety-day period after final adjournment of the general assembly (August
16 6, 2014, if adjournment sine die is on May 7, 2014); except that, if a
17 referendum petition is filed pursuant to section 1 (3) of article V of the
18 state constitution against this act or an item, section, or part of this act
19 within such period, then the act, item, section, or part will not take effect
20 unless approved by the people at the general election to be held in
21 November 2014 and, in such case, will take effect on the date of the
22 official declaration of the vote thereon by the governor.