

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

**INTRODUCED**

LLS NO. 09-0681.01 Esther van Mourik

**HOUSE BILL 09-1195**

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**HOUSE SPONSORSHIP**

**Lambert, May**

**SENATE SPONSORSHIP**

**Brophy, Lundberg, Harvey, King K., Renfroe, Spence**

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**House Committees**

Education  
Finance

**Senate Committees**

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**A BILL FOR AN ACT**

101     **CONCERNING THE CREATION OF AN INCOME TAX CREDIT FOR PRIVATE**  
102             **SCHOOL TUITION.**

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**Bill Summary**

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

Establishes a private school tuition income tax credit. Allows any private school to issue credit certificates to taxpayers that apply and meet certain qualifications. Allows the credit to be carried forward for a specified time but not refunded. Specifies the amount of the credit. Grants the department of revenue rule-making authority.

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.*

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

7           **39-22-531. Private school tuition income tax credit - rules -**  
8 **definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT  
9 OTHERWISE REQUIRES:

10           (a) "CREDIT CERTIFICATE" MEANS A STATEMENT ISSUED BY A  
11 PRIVATE SCHOOL CERTIFYING THAT A CHILD ENROLLED IN THE PRIVATE  
12 SCHOOL IS A QUALIFIED CHILD AS DEFINED IN PARAGRAPH (d) OF THIS  
13 SUBSECTION (1) AND THAT THE TAXPAYER IS ENTITLED TO AN INCOME TAX  
14 CREDIT AS SPECIFIED IN THIS SECTION.

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

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

18           (d) "QUALIFIED CHILD" MEANS A CHILD ENROLLED ON A FULL-TIME  
19 BASIS IN A PUBLIC SCHOOL IN THE STATE OR ANY CHILD ENTERING  
20 KINDERGARTEN BUT SHALL NOT INCLUDE ANY CHILD CURRENTLY  
21 ENROLLED IN ANY PRIVATE SCHOOL OR HOME-SCHOOLED IN THE STATE  
22 PRIOR TO THE EFFECTIVE DATE OF THIS SECTION.

23           (e) "STATE AVERAGE PER PUPIL REVENUE" SHALL HAVE THE SAME  
24 MEANING AS SET FORTH IN SECTION 22-54-129 (1) (e), 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

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

4 (2) (a) FOR INCOME TAX YEARS COMMENCING ON OR AFTER  
5 JANUARY 1, 2009, 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 OFFERS A SCHOLARSHIP TO A QUALIFIED CHILD  
8 FOR ENROLLMENT IN THE PRIVATE SCHOOL. THE CREDIT CERTIFICATE  
9 SHALL ALLOW THE TAXPAYER TO CLAIM AN INCOME TAX CREDIT WITH  
10 RESPECT TO THE INCOME TAXES IMPOSED BY THIS ARTICLE.

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

14 (c) (I) THE AMOUNT OF THE CREDIT AUTHORIZED IN THIS SECTION  
15 SHALL EQUAL THE SCHOLARSHIP OFFERED TO A QUALIFIED CHILD OR FIFTY  
16 PERCENT OF THE PREVIOUS YEAR'S STATE AVERAGE PER PUPIL REVENUE,  
17 WHICHEVER IS LESS.

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

22 (d) THE CREDIT CERTIFICATE SHALL BE SUBMITTED BY THE  
23 TAXPAYER TO THE DEPARTMENT WITH THE TAXPAYER'S INCOME TAX  
24 RETURN FOR THAT TAX YEAR.

25 (3) IF THE CREDIT ALLOWED UNDER THIS SECTION EXCEEDS THE  
26 INCOME TAXES OTHERWISE DUE ON THE TAXPAYER'S INCOME, THE  
27 AMOUNT OF THE CREDIT NOT USED AS AN OFFSET AGAINST INCOME TAXES

1 MAY BE CARRIED FORWARD AS A TAX CREDIT AGAINST SUBSEQUENT  
2 YEARS' INCOME TAX LIABILITY FOR A PERIOD NOT EXCEEDING THREE  
3 YEARS AND SHALL BE APPLIED FIRST TO THE EARLIEST YEARS POSSIBLE.  
4 ANY CREDIT REMAINING AFTER SAID PERIOD SHALL NOT BE REFUNDED OR  
5 CREDITED TO THE TAXPAYER.

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

18 (5) NO LATER THAN DECEMBER 15, 2009, AND NO LATER THAN  
19 DECEMBER 15 OF EACH YEAR THEREAFTER, EACH PRIVATE SCHOOL THAT  
20 ISSUES A CREDIT CERTIFICATE SHALL PROVIDE THE DEPARTMENT WITH AN  
21 ELECTRONIC REPORT OF ANY CREDIT CERTIFICATE ISSUED FOR THAT  
22 INCOME TAX YEAR THAT INCLUDES THE FOLLOWING INFORMATION:

- 23 (a) THE TAXPAYER'S NAME;
- 24 (b) THE TAXPAYER'S COLORADO ACCOUNT NUMBER OR SOCIAL  
25 SECURITY NUMBER; AND
- 26 (c) ANY ASSOCIATED TAXPAYERS' NAMES AND COLORADO  
27 ACCOUNT NUMBERS OR SOCIAL SECURITY NUMBERS IF THE CREDIT

1 ALLOWED IN THIS SECTION IS ALLOCATED FROM A PASS-THROUGH ENTITY  
2 PURSUANT TO SUBSECTION (4) OF THIS SECTION.

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

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

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