

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 10-0785.01 Esther van Mourik

HOUSE BILL 10-1296

HOUSE SPONSORSHIP

Swalm,

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House Committees
Finance

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A BILL FOR AN ACT

101 CONCERNING AN INCENTIVE FOR ENROLLMENT OF QUALIFIED
102 CHILDREN IN PRIVATE SCHOOLS.

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 creates a new income tax credit for the income tax year commencing January 1, 2011, and each income tax year thereafter, of \$1,000 for a taxpayer that enrolls a qualified child in private school.

The bill defines a qualified child as a dependent child enrolled on a full-time basis in a public school in the state or any dependent child who

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.

would be entering a public school kindergarten program in the state. The bill further states that a qualified child is not a dependent child enrolled in any private school in the state for the school year prior to the effective date of the bill or a dependent child home-schooled in the state as of the effective date of the bill. Once a dependent child becomes a qualified child, the dependent child will remain a qualified child so long as he or she remains dependent and enrolled in a private school in the state.

The bill specifies that the credit is refundable and requires the private school to issue credit certificates, which are then required to be filed with the taxpayer's income tax return.

The bill also requires a grant to be made to any public school district that loses a student for whom an income tax credit is claimed. That school district would receive a \$1,000 grant for each student the district loses for which a credit is claimed. The grant must then be distributed by the school district to the particular school the qualified child would have attended if he or she had not been enrolled in a private school. The grant is received by the school district for every year that the qualified child is enrolled in private school.

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

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

5 **39-22-129. Credit for taxpayers that enroll a qualified child in**
6 **private school - definitions.** (1) AS USED IN THIS SECTION, UNLESS THE
7 CONTEXT OTHERWISE REQUIRES:

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

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

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

1 (d) (I) "QUALIFIED CHILD" MEANS A DEPENDENT CHILD ENROLLED
2 ON A FULL-TIME BASIS IN A PUBLIC SCHOOL IN THE STATE OR ANY
3 DEPENDENT CHILD WHO WOULD BE ELIGIBLE TO ENTER A PUBLIC SCHOOL
4 KINDERGARTEN PROGRAM IN THE STATE. "QUALIFIED CHILD" SHALL NOT
5 INCLUDE:

6 (A) A DEPENDENT CHILD ENROLLED IN ANY PRIVATE SCHOOL IN
7 THE STATE FOR THE SCHOOL YEAR PRIOR TO THE EFFECTIVE DATE OF THIS
8 SECTION; OR

9 (B) A DEPENDENT CHILD HOME-SCHOOLED IN THE STATE AS OF THE
10 EFFECTIVE DATE OF THIS SECTION.

11 (II) ONCE A DEPENDENT CHILD BECOMES A QUALIFIED CHILD AS
12 SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (d), THE DEPENDENT
13 CHILD WILL REMAIN A QUALIFIED CHILD SO LONG AS HE OR SHE REMAINS
14 DEPENDENT AND ENROLLED IN A PRIVATE SCHOOL IN THE STATE.

15 (2) (a) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
16 JANUARY 1, 2011, A PRIVATE SCHOOL SHALL ISSUE A CREDIT CERTIFICATE
17 TO ANY TAXPAYER THAT ENROLLS A QUALIFIED CHILD IN THE PRIVATE
18 SCHOOL ON A FULL-TIME BASIS. THE CREDIT CERTIFICATE SHALL ALLOW
19 THE TAXPAYER TO CLAIM AN INCOME TAX CREDIT WITH RESPECT TO THE
20 INCOME TAXES IMPOSED BY THIS ARTICLE.

21 (b) (I) A PRIVATE SCHOOL SHALL ISSUE A CREDIT CERTIFICATE
22 PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) UPON APPLICATION
23 FOR A CREDIT BY A TAXPAYER.

24 (II) THE CREDIT CERTIFICATE SHALL SPECIFY THE PUBLIC SCHOOL
25 AND SCHOOL DISTRICT THAT THE CHILD WOULD HAVE ATTENDED HAD THE
26 QUALIFIED CHILD NOT TRANSFERRED TO A PRIVATE SCHOOL.

27 (III) A COPY OF THE CREDIT CERTIFICATE SHALL BE SENT BY THE

1 PRIVATE SCHOOL TO THE DEPARTMENT OF EDUCATION.

2 (c) FOR ANY QUALIFIED CHILD ATTENDING PRIVATE SCHOOL, THE
3 AMOUNT OF THE CREDIT AUTHORIZED IN THIS SECTION SHALL EQUAL ONE
4 THOUSAND DOLLARS.

5 (d) THE CREDIT CERTIFICATE SHALL BE SUBMITTED BY THE
6 TAXPAYER TO THE DEPARTMENT WITH THE TAXPAYER'S INCOME TAX
7 RETURN FOR THAT TAX YEAR.

8 (3) IF THE CREDIT ALLOWED UNDER THIS SECTION EXCEEDS THE
9 INCOME TAXES OTHERWISE DUE ON THE TAXPAYER'S INCOME, THE
10 AMOUNT OF THE CREDIT NOT USED AS AN OFFSET AGAINST INCOME TAXES
11 SHALL BE REFUNDED OR CREDITED TO THE TAXPAYER.

12 (4) (a) ANY PUBLIC SCHOOL DISTRICT THAT LOSES A QUALIFIED
13 CHILD FOR WHICH AN INCOME TAX CREDIT IS CLAIMED PURSUANT TO THIS
14 SECTION SHALL RECEIVE A ONE-THOUSAND-DOLLAR GRANT PER QUALIFIED
15 CHILD FOR EVERY YEAR THE QUALIFIED CHILD REMAINS ENROLLED IN A
16 KINDERGARTEN THROUGH TWELFTH GRADE PRIVATE SCHOOL. THE GRANT
17 SHALL THEN BE TRANSFERRED BY THE SCHOOL DISTRICT TO THE SCHOOL
18 THE QUALIFIED CHILD WOULD HAVE ATTENDED.

19 (b) THE DEPARTMENT SHALL NOTIFY THE JOINT BUDGET
20 COMMITTEE ON MAY 1, 2012, AND EACH MAY 1 THEREAFTER, OF THE
21 NUMBER OF TAXPAYERS THAT SUBMITTED CREDIT CERTIFICATES TO CLAIM
22 THE CREDIT SPECIFIED IN THIS SECTION FOR THE PREVIOUS INCOME TAX
23 YEAR. ON MAY 10, 2012, AND EACH MAY 10 THEREAFTER, THE GENERAL
24 ASSEMBLY SHALL THEN APPROPRIATE ONE THOUSAND DOLLARS FROM THE
25 GENERAL FUND FOR EACH TAXPAYER THAT CLAIMED THE CREDIT TO THE
26 DEPARTMENT OF EDUCATION FOR DISTRIBUTION TO SCHOOL DISTRICTS AS
27 SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (4).

1 **SECTION 2. Safety clause.** The general assembly hereby finds,
2 determines, and declares that this act is necessary for the immediate
3 preservation of the public peace, health, and safety.