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.)

Section 1 of the bill names it the "Quality Education and Budget Reduction Act".
Section 2 of the bill makes a nonstatutory legislative declaration regarding the fiscal impact of the bill.
Section 3 of the bill establishes a private school tuition income tax

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.
credit for income tax years commencing on or after January 1, 2012, that allows any taxpayer to claim a credit when a private school issues the taxpayer a credit certificate for enrolling a dependent qualified child in the private school or when the taxpayer awards a scholarship to a qualified child for enrollment in the private school. This section allows the credit to be carried forward for 3 years but not refunded and grants the executive director of the department of revenue 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, either an amount equal to the scholarship awarded to the qualified child or 50% of the previous year's state average per pupil revenue, whichever is less; or

- For any qualified child attending a private school on a half-time basis as described in the state board of education rules, either an amount equal to the scholarship awarded to the qualified child or 25% of the previous year's state average per pupil revenue, whichever is less.

Section 4 of the bill establishes an income tax credit for income tax years commencing on or after January 1, 2012, that allows any taxpayer who decides to home-school 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; or

- 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.

This section allows the credit to be carried forward for 3 years but not refunded.

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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 cited as the "Quality Education and Budget Reduction Act".

3 **SECTION 2. Legislative declaration.** The general assembly hereby finds and declares that although the Colorado legislative council
staff’s fiscal note may indicate that there will be a fiscal impact in fiscal year 2011-12 for the "Quality Education and Budget Reduction Act", that impact is due to an accrual accounting method that the department of revenue and the state controller are required to use. First, the credit is for the enrollment of children in private schools whose academic years generally do not commence until the first half of fiscal year 2011-12. Second, a true cash-based fiscal impact will not affect the state until the second half of fiscal year 2011-12 because the income tax returns for the income tax year that commences January 1, 2012, are not due until April 15, 2013. Therefore, only the last half of fiscal year 2011-12 will result in any economic activity that should be accounted for in analyzing the fiscal impact of the "Quality Education and Budget Reduction Act".

SECTION 3. Part 5 of article 22 of title 39, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

39-22-534. Private school tuition income tax credit - rules - definitions. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

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

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

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

(d) (I) "QUALIFIED CHILD" MEANS A CHILD ENROLLED IN A PUBLIC
SCHOOL IN THE STATE FOR THE SCHOOL YEAR PRIOR TO ENROLLMENT IN A
PRIVATE SCHOOL.

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

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

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

(2) (a) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
JANUARY 1, 2012, A PRIVATE SCHOOL SHALL ISSUE A CREDIT CERTIFICATE
TO ANY TAXPAYER THAT ENROLLS A DEPENDENT QUALIFIED CHILD IN THE
PRIVATE SCHOOL OR THAT AWARDS A SCHOLARSHIP TO A QUALIFIED CHILD
FOR ENROLLMENT IN THE PRIVATE SCHOOL. THE CREDIT CERTIFICATE
SHALL ALLOW THE TAXPAYER TO CLAIM AN INCOME TAX CREDIT WITH
RESPECT TO THE INCOME TAXES IMPOSED BY THIS ARTICLE. ONLY ONE
CREDIT CERTIFICATE SHALL BE ISSUED FOR EACH QUALIFIED CHILD.

(II) A TAXPAYER THAT ENROLLS A DEPENDENT QUALIFIED CHILD
IN A PRIVATE SCHOOL OR THAT AWARDS A SCHOLARSHIP TO A QUALIFIED
CHILD FOR ENROLLMENT IN A PRIVATE SCHOOL DURING THE 2011-12
STATE FISCAL YEAR, OR ANY STATE FISCAL YEAR THEREAFTER, SHALL BE
ELIGIBLE FOR THE INCOME TAX CREDIT SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) FOR THE INCOME TAX YEAR COMMENCING DURING THE STATE FISCAL YEAR IN WHICH THE QUALIFIED CHILD ENROLLED.

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

(c) (I) (A) FOR ANY QUALIFIED CHILD ATTENDING A PRIVATE SCHOOL ON A FULL-TIME BASIS AS DESCRIBED IN THE STATE BOARD OF EDUCATION RULES, THE AMOUNT OF THE CREDIT AUTHORIZED IN THIS SECTION FOR A TAXPAYER THAT ENROLLS A DEPENDENT QUALIFIED CHILD IN PRIVATE SCHOOL SHALL EQUAL FIFTY PERCENT OF THE PREVIOUS YEAR'S STATE AVERAGE PER PUPIL REVENUE. FOR ANY QUALIFIED CHILD ATTENDING PRIVATE SCHOOL ON A FULL-TIME BASIS AS DESCRIBED IN THE STATE BOARD OF EDUCATION RULES, THE AMOUNT OF THE CREDIT AUTHORIZED IN THIS SECTION FOR A TAXPAYER THAT AWARDS A SCHOLARSHIP TO A QUALIFIED CHILD FOR ENROLLMENT IN A PRIVATE SCHOOL SHALL EQUAL THE SCHOLARSHIP AWARDED TO THE QUALIFIED CHILD OR FIFTY PERCENT OF THE PREVIOUS YEAR'S STATE AVERAGE PER PUPIL REVENUE, WHICHEVER IS LESS.

(B) FOR ANY QUALIFIED CHILD ATTENDING A PRIVATE SCHOOL ON A HALF-TIME BASIS AS DESCRIBED IN THE STATE BOARD OF EDUCATION RULES, THE AMOUNT OF THE CREDIT AUTHORIZED IN THIS SECTION FOR A TAXPAYER THAT ENROLLS A DEPENDENT QUALIFIED CHILD IN PRIVATE SCHOOL SHALL EQUAL TWENTY-FIVE PERCENT OF THE PREVIOUS YEAR'S STATE AVERAGE PER PUPIL REVENUE. FOR ANY QUALIFIED CHILD ATTENDING PRIVATE SCHOOL ON A FULL-TIME BASIS AS DESCRIBED IN THE STATE BOARD OF EDUCATION RULES, THE AMOUNT OF THE CREDIT
AUTHORIZED IN THIS SECTION FOR A TAXPAYER THAT AWARDS A
SCHOLARSHIP TO A QUALIFIED CHILD FOR ENROLLMENT IN A PRIVATE
SCHOOL SHALL EQUAL THE SCHOLARSHIP AWARDED TO THE QUALIFIED
CHILD OR TWENTY-FIVE PERCENT OF THE PREVIOUS YEAR'S STATE
AVERAGE PER PUPIL REVENUE, WHICHEVER IS LESS.

(II) THE STATE AVERAGE PER PUPIL REVENUE SHALL BE PROVIDED
TO THE DEPARTMENT BY THE DEPARTMENT OF EDUCATION WITHIN THIRTY
DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION AND NO LATER THAN
EACH JANUARY 15 THEREAFTER.

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

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

(4) IF A TAXPAYER RECEIVING A CREDIT ALLOWED IN THIS SECTION
IS A PARTNERSHIP, LIMITED LIABILITY COMPANY, S CORPORATION, OR
SIMILAR PASS-THROUGH ENTITY, THE TAXPAYER MAY ALLOCATE THE
CREDIT AMONG ITS PARTNERS, SHAREHOLDERS, MEMBERS, OR OTHER
CONSTITUENT TAXPAYERS IN ANY MANNER AGREED TO BY THE PARTNERS,
SHAREHOLDERS, MEMBERS, OR OTHER CONSTITUENT TAXPAYERS. THE
taxpayer shall certify to the department the amount of the

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CREDIT ALLOCATED TO EACH PARTNER, SHAREHOLDER, MEMBER, OR OTHER CONSTITUENT TAXPAYER. EACH PARTNER, SHAREHOLDER, MEMBER, OR OTHER CONSTITUENT TAXPAYER SHALL BE ALLOWED TO CLAIM THE AMOUNT SUBJECT TO ANY RESTRICTIONS SET FORTH IN THIS SECTION.

(5) NO LATER THAN DECEMBER 15, 2012, AND NO LATER THAN DECEMBER 15 OF EACH YEAR THEREAFTER, EACH PRIVATE SCHOOL THAT ISSUES A CREDIT CERTIFICATE SHALL PROVIDE THE DEPARTMENT WITH AN ELECTRONIC REPORT OF ANY CREDIT CERTIFICATE ISSUED FOR THAT INCOME TAX YEAR THAT INCLUDES THE FOLLOWING INFORMATION:

(a) THE TAXPAYER'S NAME;

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

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

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

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

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

39-22-129. Credit for taxpayers that home-school a qualified child - definitions. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

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

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

(c) (I) "QUALIFIED CHILD" MEANS A DEPENDENT CHILD ENROLLED IN A PUBLIC SCHOOL IN THE STATE FOR THE SCHOOL YEAR PRIOR TO BEING HOME-SCHOoled.

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

(2) (a) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2012, THERE SHALL BE ALLOWED AS A CREDIT AGAINST THE INCOME TAXES IMPOSED BY THIS ARTICLE AN AMOUNT EQUAL TO ONE THOUSAND DOLLARS FOR ANY 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.

(II) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2012, THERE SHALL BE ALLOWED AS A CREDIT AGAINST THE INCOME TAXES IMPOSED BY THIS ARTICLE AN AMOUNT EQUAL TO FIVE HUNDRED
DOLLARS TO ANY 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.

(b) A TAXPAYER WHO HOME-SCHOOLS, DURING THE 2011-12 STATE FISCAL YEAR, OR ANY STATE FISCAL YEAR THEREAFTER, A QUALIFIED CHILD WHO WAS ENROLLED IN A PUBLIC SCHOOL IN THE STATE PRIOR TO BEING HOME-SCHOOLED SHALL BE ELIGIBLE FOR THE INCOME TAX CREDIT SPECIFIED IN SUBPARAGRAPH (I) OR (II) OF PARAGRAPH (a) OF THIS SUBSECTION (2) FOR THE INCOME TAX YEAR COMMENCING DURING THE STATE FISCAL YEAR IN WHICH THE QUALIFIED CHILD IS HOME-SCHOOLED.

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

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.