

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 11-0002.01 Esther van Mourik

HOUSE BILL 11-1048

HOUSE SPONSORSHIP

Swalm,

SENATE SPONSORSHIP

Lundberg,

House Committees
Education

Senate 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/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.

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

1 staff's fiscal note may indicate that there will be a fiscal impact in fiscal
2 year 2011-12 for the "Quality Education and Budget Reduction Act", that
3 impact is due to an accrual accounting method that the department of
4 revenue and the state controller are required to use. First, the credit is for
5 the enrollment of children in private schools whose academic years
6 generally do not commence until the first half of fiscal year 2011-12.
7 Second, a true cash-based fiscal impact will not affect the state until the
8 second half of fiscal year 2011-12 because the income tax returns for the
9 income tax year that commences January 1, 2012, are not due until April
10 15, 2013. Therefore, only the last half of fiscal year 2011-12 will result
11 in any economic activity that should be accounted for in analyzing the
12 fiscal impact of the "Quality Education and Budget Reduction Act".

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

16 **39-22-534. Private school tuition income tax credit - rules -**
17 **definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
18 OTHERWISE REQUIRES:

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

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

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

27 (d) (I) "QUALIFIED CHILD" MEANS A CHILD ENROLLED IN A PUBLIC

1 SCHOOL IN THE STATE FOR THE SCHOOL YEAR PRIOR TO ENROLLMENT IN A
2 PRIVATE SCHOOL.

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

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

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

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

24 (II) A TAXPAYER THAT ENROLLS A DEPENDENT QUALIFIED CHILD
25 IN A PRIVATE SCHOOL OR THAT AWARDS A SCHOLARSHIP TO A QUALIFIED
26 CHILD FOR ENROLLMENT IN A PRIVATE SCHOOL DURING THE 2011-12
27 STATE FISCAL YEAR, OR ANY STATE FISCAL YEAR THEREAFTER, SHALL BE

1 ELIGIBLE FOR THE INCOME TAX CREDIT SPECIFIED IN SUBPARAGRAPH (I) OF
2 THIS PARAGRAPH (a) FOR THE INCOME TAX YEAR COMMENCING DURING
3 THE STATE FISCAL YEAR IN WHICH THE QUALIFIED CHILD ENROLLED.

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

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

20 (B) FOR ANY QUALIFIED CHILD ATTENDING A PRIVATE SCHOOL ON
21 A HALF-TIME BASIS AS DESCRIBED IN THE STATE BOARD OF EDUCATION
22 RULES, THE AMOUNT OF THE CREDIT AUTHORIZED IN THIS SECTION FOR A
23 TAXPAYER THAT ENROLLS A DEPENDENT QUALIFIED CHILD IN PRIVATE
24 SCHOOL SHALL EQUAL TWENTY-FIVE PERCENT OF THE PREVIOUS YEAR'S
25 STATE AVERAGE PER PUPIL REVENUE. FOR ANY QUALIFIED CHILD
26 ATTENDING PRIVATE SCHOOL ON A FULL-TIME BASIS AS DESCRIBED IN THE
27 STATE BOARD OF EDUCATION RULES, THE AMOUNT OF THE CREDIT

1 AUTHORIZED IN THIS SECTION FOR A TAXPAYER THAT AWARDS A
2 SCHOLARSHIP TO A QUALIFIED CHILD FOR ENROLLMENT IN A PRIVATE
3 SCHOOL SHALL EQUAL THE SCHOLARSHIP AWARDED TO THE QUALIFIED
4 CHILD OR TWENTY-FIVE PERCENT OF THE PREVIOUS YEAR'S STATE
5 AVERAGE PER PUPIL REVENUE, WHICHEVER IS LESS.

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

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

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

21 (4) IF A TAXPAYER RECEIVING A CREDIT ALLOWED IN THIS SECTION
22 IS A PARTNERSHIP, LIMITED LIABILITY COMPANY, S CORPORATION, OR
23 SIMILAR PASS-THROUGH ENTITY, THE TAXPAYER MAY ALLOCATE THE
24 CREDIT AMONG ITS PARTNERS, SHAREHOLDERS, MEMBERS, OR OTHER
25 CONSTITUENT TAXPAYERS IN ANY MANNER AGREED TO BY THE PARTNERS,
26 SHAREHOLDERS, MEMBERS, OR OTHER CONSTITUENT TAXPAYERS. THE
27 TAXPAYER SHALL CERTIFY TO THE DEPARTMENT THE AMOUNT OF THE

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

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

11 (a) THE TAXPAYER'S NAME;

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

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

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

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

27 **SECTION 4.** Part 1 of article 22 of title 39, Colorado Revised

1 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
2 read:

3 **39-22-129. Credit for taxpayers that home-school a qualified**
4 **child - definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
5 OTHERWISE REQUIRES:

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

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

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

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

18 (2) (a) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
19 JANUARY 1, 2012, THERE SHALL BE ALLOWED AS A CREDIT AGAINST THE
20 INCOME TAXES IMPOSED BY THIS ARTICLE AN AMOUNT EQUAL TO ONE
21 THOUSAND DOLLARS FOR ANY TAXPAYER WHO HOME-SCHOOLS A
22 QUALIFIED CHILD WHO WAS ENROLLED ON A FULL-TIME BASIS AS
23 DESCRIBED IN THE STATE BOARD OF EDUCATION RULES IN A PUBLIC
24 SCHOOL IN THE STATE PRIOR TO BEING HOME-SCHOOLED.

25 (II) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
26 1, 2012, THERE SHALL BE ALLOWED AS A CREDIT AGAINST THE INCOME
27 TAXES IMPOSED BY THIS ARTICLE AN AMOUNT EQUAL TO FIVE HUNDRED

1 DOLLARS TO ANY TAXPAYER WHO HOME-SCHOOLS A QUALIFIED CHILD
2 WHO WAS ENROLLED ON A HALF-TIME BASIS AS DESCRIBED IN THE STATE
3 BOARD OF EDUCATION RULES IN A PUBLIC SCHOOL IN THE STATE PRIOR TO
4 BEING HOME-SCHOOLED.

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

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

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