A BILL FOR AN ACT

CONCERNING THE CREATION OF INCOME TAX CREDITS FOR NONPUBLIC 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.)

The bill establishes a private school tuition income tax credit for income tax years commencing on or after January 1, 2016, 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 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 revenues, 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 revenues, whichever is less.

The bill establishes an income tax credit for income tax years commencing on or after January 1, 2016, that allows any taxpayer who uses home-based education for a qualified child to claim an income tax credit:

In an amount equal to $1,000 for a taxpayer who uses home-based education for 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 taught at home; and

In an amount equal to $500 for a taxpayer who uses home-based education for 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 taught at home.

The credit may be carried forward for 3 years but not refunded.

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

SECTION 1. Short title. This act shall be known and may be cited as the "Quality Education and Budget Reduction Act".

SECTION 2. In Colorado Revised Statutes, add 39-22-538 and 39-22-539 as follows:

39-22-538. 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 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" HAS 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 ON A FULL-TIME BASIS AS DESCRIBED IN THE STATE BOARD OF EDUCATION RULES IN A PUBLIC SCHOOL IN THE STATE FOR THE SCHOOL YEAR PRIOR TO ENROLLMENT IN A PRIVATE SCHOOL, BUT DOES NOT INCLUDE:

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

(B) A CHILD TAUGHT AT HOME IN THE STATE AS OF THE EFFECTIVE DATE OF THIS SECTION.

(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 PRIVATE SCHOOL IN THE STATE IN A KINDERGARTEN THROUGH TWELFTH GRADE PROGRAM.

(e) "STATE AVERAGE PER PUPIL REVENUES" HAS THE SAME MEANING AS SET FORTH IN SECTION 22-54-103 (12), 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, AND SUBCHAPTER S SHAREHOLDER OF SUCH
PASS-THROUGH ENTITY.

(2) (a) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
JANUARY 1, 2016, A PRIVATE SCHOOL SHALL ISSUE A CREDIT CERTIFICATE
TO ANY TAXPAYER THAT ENROLLS A DEPENDENT QUALIFIED CHILD IN THE
PRIVATE SCHOOL OR THAT PROVIDES A SCHOLARSHIP TO A QUALIFIED
CHILD FOR ENROLLMENT IN THE PRIVATE SCHOOL. THE CREDIT
CERTIFICATE ALLOWS THE TAXPAYER TO CLAIM AN INCOME TAX CREDIT
WITH RESPECT TO THE INCOME TAXES IMPOSED BY THIS ARTICLE.

(II) A TAXPAYER THAT ENROLLS A DEPENDENT QUALIFIED CHILD
IN A PRIVATE SCHOOL OR THAT PROVIDES A SCHOLARSHIP TO A QUALIFIED
CHILD FOR ENROLLMENT IN A PRIVATE SCHOOL DURING THE 2016-17
STATE FISCAL YEAR OR ANY STATE FISCAL YEAR THEREAFTER IS ELIGIBLE
FOR THE INCOME TAX CREDIT SPECIFIED IN SUBPARAGRAPH (I) OF THIS
PARAGRAPH (a) FOR ANY INCOME TAX YEAR IN WHICH THE QUALIFIED
CHILD IS ENROLLED OR IN WHICH THE SCHOLARSHIP IS OFFERED; EXCEPT
THAT A QUALIFIED CHILD SHALL NOT GENERATE AN INCOME TAX CREDIT
IN THE SAME INCOME TAX YEAR FOR BOTH A TAXPAYER THAT ENROLLS
THE QUALIFIED CHILD IN A PRIVATE SCHOOL AND A TAXPAYER THAT
PROVIDES A SCHOLARSHIP TO THE QUALIFIED CHILD FOR ENROLLMENT IN
A PRIVATE SCHOOL.

(b) A PRIVATE SCHOOL SHALL ISSUE ANY CREDIT CERTIFICATES
PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) UPON APPLICATION
FOR A CREDIT 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 EQUALS EITHER THE AMOUNT OF TUITION PAID FOR THE
QUALIFIED CHILD OR THE AMOUNT OF THE SCHOLARSHIP PROVIDED TO A
QUALIFIED CHILD, AS APPLICABLE, OR FIFTY PERCENT OF THE PREVIOUS
YEAR'S STATE AVERAGE PER PUPIL REVENUES, WHICHEVER IS LESS.

(B) FOR ANY QUALIFIED CHILD ATTENDING 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 EQUALS
EITHER THE AMOUNT OF TUITION PAID FOR THE QUALIFIED CHILD OR THE
AMOUNT OF THE SCHOLARSHIP PROVIDED TO A QUALIFIED CHILD, AS
APPLICABLE, OR TWENTY-FIVE PERCENT OF THE PREVIOUS YEAR'S STATE
AVERAGE PER PUPIL REVENUES, WHICHEVER IS LESS.

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

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

(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.
(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 credit allocated to each partner, shareholder, member, or other constituent taxpayer. Each partner, shareholder, member, or other constituent taxpayer may claim the amount subject to any restrictions set forth in this section.

(5) No later than December 15, 2016, 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 of the department may promulgate rules as 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 is liable for such tax deficiency, interest, and penalties as may be specified in this article or otherwise provided by law.

39-22-539. Credit for taxpayers that use home-based education for a qualified child - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "DEPARTMENT" means the department of revenue.

(b) "HOME-BASED EDUCATION" means the education of a qualified child pursuant to section 22-33-104.5, C.R.S., or taught at home under the supervision of a private school.

(c)(I) "QUALIFIED CHILD" means a dependent child enrolled on a full-time or half-time basis as described in the state board of education rules in a public school in the state for the school year prior to being taught at home, but does not include a dependent child who is enrolled in a private school or taught at home in the state prior to the effective date of this section.

(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 taught at home in the state in a kindergarten through twelfth grade program.

(2) (a) (I) For income tax years commencing on or after January 1, 2016, there is allowed as a credit against the income taxes imposed by this article an amount equal to one thousand dollars for any taxpayer who uses home-based education for a
DEPENDENT 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 TAUGHT AT HOME.

(II) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2016, THERE IS ALLOWED AS A CREDIT AGAINST THE INCOME TAXES IMPOSED BY THIS ARTICLE AN AMOUNT EQUAL TO FIVE HUNDRED DOLLARS TO ANY TAXPAYER WHO USES HOME-BASED EDUCATION FOR A DEPENDENT 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 TAUGHT AT HOME.

(b) FOR THE 2016-17 STATE FISCAL YEAR OR ANY STATE FISCAL YEAR THEREAFTER, A TAXPAYER WHO USES HOME-BASED EDUCATION FOR A QUALIFIED CHILD IS 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 TAUGHT AT HOME.

(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.

SECTION 3. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August
5, 2015, if adjournment sine die is on May 6, 2015); except that, if a
referendum petition is filed pursuant to section 1 (3) of article V of the
state constitution against this act or an item, section, or part of this act
within such period, then the act, item, section, or part will not take effect
unless approved by the people at the general election to be held in
November 2016 and, in such case, will take effect on the date of the
official declaration of the vote thereon by the governor.