

First Regular Session
Sixty-third General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 01-0693.02 Jason Gelender

HOUSE BILL 01-1219

HOUSE SPONSORSHIP

Swenson

SENATE SPONSORSHIP

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A BILL FOR AN ACT

101 **CONCERNING A CREDIT AGAINST STATE INCOME TAX FOR**
102 **CONTRIBUTIONS THAT ARE DIRECTED TO ORGANIZATIONS THAT**
103 **PROVIDE EDUCATIONAL ASSISTANCE.**

Bill Summary

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

For any income tax year commencing on or after January 1, 2001, but prior to January 1, 2006, allows an income tax credit to any taxpayer who makes a qualifying contribution to be used by a certified nonprofit educational assistance organization if the amount of excess state revenues for the state fiscal year that ends in the income tax year exceeds a specified amount, as annually adjusted for inflation. Limits the amount of the credit to the lesser of a specified percentage of the amount of

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.*

HOUSE
3rd Reading Unamended
April 18, 2001

HOUSE
Amended 2nd Reading
April 17, 2001

qualifying contributions made or the taxpayer's total income tax liability for the income tax year for which a credit is claimed. Limits the total amount of credits to be awarded annually. Specifies procedural requirements for claiming the credit.

Requires the department of revenue to contractually designate a nonprofit organization to certify nonprofit educational assistance organizations and administer the credit. Specifies requirements that an organization must meet to be selected as the designated nonprofit organization. Establishes certification criteria for nonprofit educational assistance organizations.

Requires the designated nonprofit organization to approve applications for tax credits up to the limit on the total amount of credits to be awarded annually in the order for which they were applied. Specifies the process by which contributions and applications for approval of a tax credit are made to the designated nonprofit organization.

Requires the designated nonprofit organization to submit an annual report to the state auditor and the legislative audit committee that evaluates the implementation of the credit and provides information concerning the amounts of credits claimed and allowed. Allows the state auditor to audit the report.

Requires the state auditor to submit a report on the implementation and effects of the credit to the house and senate education committees by a specified date, and specifies the information that the report must include. Requires the state auditor to consult with the department of education in preparing the report.

Defines terms.

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

2 **SECTION 1.** Part 5 of article 22 of title 39, Colorado Revised
3 Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

4 **39-22-527. Credit for contributions to nonprofit educational**
5 **assistance organizations - mechanism to refund excess state revenues**
6 **- legislative declaration - administration of credit. (1) Legislative**
7 **declaration.** THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES
8 THAT:

9 (a) THE DEVELOPMENT OF YOUNG PEOPLE IS CRITICAL TO THEIR
10 FUTURE SUCCESS AND THE FUTURE SUCCESS OF THE STATE;

1 (b) EACH CHILD IS UNIQUE AND HAS INDIVIDUAL NEEDS THAT MAY
2 BE SERVED BY EXPANDED EDUCATIONAL OPPORTUNITIES;

3 (c) THE DROPOUT RATE CONCERNS THIS STATE AND IT IS IN THE
4 INTEREST OF ALL COLORADANS FOR THE STATE TO TAKE STEPS TO REDUCE
5 THE DROPOUT RATE; AND

6 (d) THE CREDIT AGAINST STATE INCOME TAX AUTHORIZED BY THIS
7 SECTION FOR CONTRIBUTIONS THAT WILL HELP FUND SCHOLARSHIPS
8 PROVIDED BY NONPROFIT EDUCATIONAL ASSISTANCE ORGANIZATIONS WILL
9 EXPAND THE NUMBER AND DIVERSITY OF EDUCATIONAL OPPORTUNITIES
10 AVAILABLE TO CHILDREN OF FAMILIES THAT HAVE LIMITED FINANCIAL
11 RESOURCES AND INCREASE THE ACADEMIC ACHIEVEMENTS OF THE
12 CHILDREN OF COLORADO.

13 (2) **Definitions.** FOR PURPOSES OF THIS SECTION:

14 (a) "CERTIFIED NONPROFIT EDUCATIONAL ASSISTANCE
15 ORGANIZATION" MEANS A NONPROFIT EDUCATIONAL ASSISTANCE
16 ORGANIZATION THAT IS CERTIFIED PURSUANT TO SUBSECTION (5) OF THIS
17 SECTION.

18 (b) "DESIGNATED NONPROFIT ORGANIZATION" MEANS THE
19 NONPROFIT ORGANIZATION CONTRACTED WITH BY THE DEPARTMENT OF
20 REVENUE PURSUANT TO SUBSECTION (4) OF THIS SECTION.

21 (c) "ELIGIBLE SCHOOL" MEANS A NONPUBLIC KINDERGARTEN,
22 ELEMENTARY SCHOOL, OR SECONDARY SCHOOL, OR A CERTIFIED
23 EDUCATIONAL CLINIC, AS DEFINED IN SECTION 22-27-102 (2), C.R.S., THAT
24 IS LOCATED WITHIN COLORADO.

25 (d) "INCOME-QUALIFIED STUDENT" MEANS A KINDERGARTEN,
26 ELEMENTARY SCHOOL, OR SECONDARY SCHOOL STUDENT WHO:

27 (I) IS A MEMBER OF A HOUSEHOLD WHOSE ANNUAL HOUSEHOLD

1 INCOME FOR THE CALENDAR YEAR PRECEDING ANY YEAR IN WHICH A
2 SCHOLARSHIP IS TO BE AWARDED TO THE STUDENT BY A CERTIFIED
3 NONPROFIT EDUCATIONAL ASSISTANCE ORGANIZATION DOES NOT EXCEED
4 TWO HUNDRED PERCENT OF THE FEDERAL POVERTY LEVEL; OR

5 (II) IS A MEMBER OF A HOUSEHOLD:

6 (A) WHOSE ANNUAL HOUSEHOLD INCOME FOR THE CALENDAR YEAR
7 THAT PRECEDED THE FIRST YEAR IN WHICH THE STUDENT WAS AWARDED A
8 SCHOLARSHIP BY A CERTIFIED NONPROFIT EDUCATIONAL ASSISTANCE
9 ORGANIZATION DID NOT EXCEED TWO HUNDRED PERCENT OF THE FEDERAL
10 POVERTY LEVEL; AND

11 (B) WHOSE ANNUAL HOUSEHOLD INCOME WHILE THE STUDENT HAS
12 BEEN RECEIVING SCHOLARSHIPS FROM A CERTIFIED NONPROFIT
13 EDUCATIONAL ASSISTANCE ORGANIZATION HAS SUBSEQUENTLY EXCEEDED
14 TWO HUNDRED PERCENT OF THE FEDERAL POVERTY LEVEL FOR A PERIOD OF
15 NOT MORE THAN TWO CONSECUTIVE CALENDAR YEARS.

16 (e) "NONPROFIT EDUCATIONAL ASSISTANCE ORGANIZATION" MEANS
17 AN ORGANIZATION THAT IS DEDICATED TO PROVIDING FINANCIAL
18 ASSISTANCE TO DEFRAY EDUCATIONAL EXPENSES OF KINDERGARTEN,
19 ELEMENTARY SCHOOL, AND SECONDARY SCHOOL STUDENTS.

20 (f) "PUBLICLY FUNDED STUDENT" MEANS AN INCOME-QUALIFIED
21 STUDENT ATTENDING AN ELIGIBLE SCHOOL WHO:

22 (I) WAS COUNTED IN PUPIL ENROLLMENT, AS DEFINED IN SECTION
23 22-54-103 (10), C.R.S., DURING THE STATE FISCAL YEAR THAT
24 IMMEDIATELY PRECEDED ANY STATE FISCAL YEAR IN WHICH A CERTIFIED
25 NONPROFIT EDUCATIONAL ASSISTANCE ORGANIZATION PROVIDES A
26 SCHOLARSHIP TO THE STUDENT; OR

27 (II) IF THE STUDENT HAS RECEIVED SCHOLARSHIPS FROM A

1 CERTIFIED NONPROFIT EDUCATIONAL ASSISTANCE ORGANIZATION IN TWO
2 OR MORE CONSECUTIVE STATE FISCAL YEARS, WAS COUNTED IN PUPIL
3 ENROLLMENT AS DEFINED IN SECTION 22-54-103 (10), C.R.S., DURING THE
4 STATE FISCAL YEAR THAT IMMEDIATELY PRECEDED THE FIRST STATE FISCAL
5 YEAR IN WHICH THE STUDENT RECEIVED A SCHOLARSHIP.

6 (g) "QUALIFYING CONTRIBUTION" MEANS A DONATION OF MONEY
7 OF TWO THOUSAND DOLLARS OR MORE AND DOES NOT INCLUDE A PAYMENT
8 FOR TUITION, ACTIVITY FEES, OR OTHER EDUCATIONAL EXPENSES OF THE
9 TAXPAYER MAKING THE PAYMENT, A SPOUSE OR DEPENDENT OF SUCH
10 TAXPAYER, OR ANY INDIVIDUAL STUDENT IDENTIFIED BY NAME BY SUCH
11 TAXPAYER AS THE INTENDED BENEFICIARY OF THE PAYMENT.

12 (3) **Income tax credit.** (a) SUBJECT TO THE PROVISIONS OF
13 PARAGRAPH (b) OF THIS SUBSECTION (3) AND SUBSECTION (9) OF THIS
14 SECTION, FOR ANY INCOME TAX YEAR COMMENCING ON OR AFTER JANUARY
15 1, 2001, BUT PRIOR TO JANUARY 1, 2006, IF, BASED ON THE FINANCIAL
16 REPORT PREPARED BY THE CONTROLLER IN ACCORDANCE WITH SECTION
17 24-77-106.5, C.R.S., THE CONTROLLER CERTIFIES THAT THE AMOUNT OF
18 STATE REVENUES FOR THE STATE FISCAL YEAR ENDING IN THAT INCOME TAX
19 YEAR EXCEEDS THE LIMITATION ON STATE FISCAL YEAR SPENDING IMPOSED
20 BY SECTION 20 (7) (a) OF ARTICLE X OF THE STATE CONSTITUTION AND THE
21 VOTERS STATEWIDE EITHER HAVE NOT AUTHORIZED THE STATE TO RETAIN
22 AND SPEND ALL OF THE EXCESS STATE REVENUES OR HAVE AUTHORIZED
23 THE STATE TO RETAIN AND SPEND ONLY A PORTION OF THE EXCESS STATE
24 REVENUES FOR THAT FISCAL YEAR, THERE SHALL BE ALLOWED TO ANY
25 TAXPAYER WHO MAKES A QUALIFYING CONTRIBUTION TO THE DESIGNATED
26 NONPROFIT ORGANIZATION AND OBTAINS APPROVAL OF AN APPLICATION
27 FOR A TAX CREDIT FROM THE DESIGNATED NONPROFIT ORGANIZATION IN

1 ACCORDANCE WITH THE PROVISIONS OF SUBSECTION (4) OF THIS SECTION
2 A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE.

3 (b) (I) THE CREDIT ALLOWED BY THIS SECTION SHALL BE IN AN
4 AMOUNT EQUAL TO THE LESSER OF FIFTY PERCENT OF THE TOTAL AMOUNT
5 OF THE TAXPAYER'S QUALIFYING CONTRIBUTIONS MADE DURING THE
6 INCOME TAX YEAR FOR WHICH THE CREDIT IS CLAIMED OR THE AMOUNT OF
7 THE TAXPAYER'S INCOME TAX LIABILITY FOR THAT INCOME TAX YEAR.
8 HOWEVER, THE TOTAL AMOUNT OF CREDITS APPROVED BY THE DESIGNATED
9 NONPROFIT ORGANIZATION SHALL NOT EXCEED:

10 (A) FIVE MILLION DOLLARS FOR THE CALENDAR YEAR
11 COMMENCING JANUARY 1, 2001;

12 (B) FIVE MILLION DOLLARS FOR THE CALENDAR YEAR
13 COMMENCING JANUARY 1, 2002;

14 (C) TEN MILLION DOLLARS FOR THE CALENDAR YEAR COMMENCING
15 JANUARY 1, 2003;

16 (D) TEN MILLION DOLLARS FOR THE CALENDAR YEAR COMMENCING
17 JANUARY 1, 2004;

18 (E) FIFTEEN MILLION DOLLARS FOR THE CALENDAR YEAR
19 COMMENCING JANUARY 1, 2005.

20 (II) THE DESIGNATED NONPROFIT ORGANIZATION SHALL APPROVE
21 APPLICATIONS FOR TAX CREDITS IN THE ORDER FOR WHICH THEY WERE
22 APPLIED AND SHALL NOT APPROVE CREDITS IN EXCESS OF THE MAXIMUM
23 AMOUNT OF CREDITS THAT MAY BE CLAIMED BY ALL TAXPAYERS IN ANY
24 CALENDAR YEAR PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (b).

25 (4) **Designated nonprofit organization.** THE DEPARTMENT OF
26 REVENUE SHALL ENTER INTO A CONTRACT WITH A NONPROFIT
27 ORGANIZATION UNDER WHICH THE NONPROFIT ORGANIZATION SHALL BE

1 DESIGNATED TO CERTIFY NONPROFIT EDUCATIONAL ASSISTANCE
2 ORGANIZATIONS, ACCEPT QUALIFYING CONTRIBUTIONS, APPROVE CREDIT
3 APPLICATIONS, DISTRIBUTE QUALIFYING CONTRIBUTIONS TO NONPROFIT
4 EDUCATIONAL ASSISTANCE ORGANIZATIONS, AND COORDINATE WITH THE
5 DEPARTMENT IN ADMINISTERING THE CREDIT ALLOWED BY THIS SECTION.

6 TO QUALIFY FOR DESIGNATION, A NONPROFIT ORGANIZATION SHALL:

7 (a) BE EXEMPT FROM TAXATION UNDER SECTION 501 (c) (3) OF THE
8 INTERNAL REVENUE CODE;

9 (b) HAVE A HISTORY OF FINANCIAL STABILITY VERIFIED THROUGH
10 INDEPENDENT, ANNUAL AUDITS;

11 (c) HAVE FUND-RAISING EXPERIENCE; [REDACTED]

12 (d) HAVE THE ADMINISTRATIVE CAPABILITY TO PROMOTE THE
13 SUCCESS OF THE CREDIT ALLOWED BY THIS SECTION BY RECRUITING AND
14 COORDINATING ACTIVITIES WITH ALL INTERESTED NONPROFIT
15 EDUCATIONAL ASSISTANCE ORGANIZATIONS IN COLORADO AND CERTIFYING
16 THOSE NONPROFIT EDUCATIONAL ASSISTANCE ORGANIZATIONS THAT MEET
17 THE CERTIFICATION CRITERIA SET FORTH IN SUBSECTION (5) OF THIS
18 SECTION; AND

19 (e) EXPEND NO MORE THAN FOUR PERCENT OF ITS GROSS ANNUAL
20 REVENUES ON ADMINISTRATIVE EXPENSES.

21 (5) **Certification of nonprofit educational assistance**

22 **organizations.** (a) THE DESIGNATED NONPROFIT ORGANIZATION SHALL
23 CERTIFY ANY NONPROFIT EDUCATIONAL ASSISTANCE ORGANIZATION THAT
24 APPLIES FOR CERTIFICATION AND MEETS THE REQUIREMENTS OF THIS
25 SUBSECTION (5). INITIAL CERTIFICATION SHALL LAST FOR A PERIOD OF TWO
26 YEARS AND SHALL BE RENEWED FOR ADDITIONAL TWO-YEAR PERIODS
27 UNLESS A CERTIFIED NONPROFIT EDUCATIONAL ASSISTANCE ORGANIZATION

1 FAILS TO REMAIN IN COMPLIANCE WITH THE REQUIREMENTS OF THIS
2 SUBSECTION (5). EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPHS (b)
3 AND (c) OF THIS SUBSECTION (5), A NONPROFIT EDUCATIONAL ASSISTANCE
4 ORGANIZATION SEEKING CERTIFICATION MUST DEMONSTRATE THAT IT:

5 (I) OPERATES IN COLORADO;

6 (II) IS EXEMPT FROM FEDERAL INCOME TAXES PURSUANT TO
7 SECTION 501 (c) (3) OF THE INTERNAL REVENUE CODE;

8 (III) WORKS WITH LOW-INCOME POPULATIONS LIKELY TO BENEFIT
9 FROM QUALIFYING CONTRIBUTIONS MADE BECAUSE OF THE CREDIT
10 ALLOWED BY THIS SECTION;

11 (IV) ALLOCATES ALL QUALIFYING CONTRIBUTIONS IT RECEIVES
12 FROM THE DESIGNATED NONPROFIT ORGANIZATION PURSUANT TO THIS
13 SECTION FOR THE PURPOSE OF PROVIDING SCHOLARSHIPS TO
14 INCOME-QUALIFIED STUDENTS WHO ATTEND ELIGIBLE SCHOOLS; EXCEPT AS
15 OTHERWISE PROVIDED IN [REDACTED]
16 SUBPARAGRAPH (VI) OF THIS PARAGRAPH (a);

17 (V) ALLOCATES TO PUBLICLY FUNDED STUDENTS AT LEAST FIFTY
18 PERCENT OF BOTH THE NUMBER AND TOTAL VALUE OF ALL SCHOLARSHIPS
19 IT PROVIDES;

20 (VI) ALLOCATES AT LEAST TWENTY-FIVE PERCENT OF ALL
21 QUALIFYING CONTRIBUTIONS IT RECEIVES TO DIRECTLY ASSIST
22 INCOME-QUALIFIED STUDENTS WHO ATTEND PUBLIC OR PRIVATE
23 PRESCHOOLS, PUBLIC ELEMENTARY SCHOOLS, OR PUBLIC SECONDARY
24 SCHOOLS IN COLORADO IN DEFRAYING EDUCATION-RELATED COSTS,
25 INCLUDING, BUT NOT LIMITED TO, THE COSTS OF:

26 (A) INDIVIDUAL OR GROUP TUTORING SERVICES PROVIDED APART
27 FROM THE REGULAR INSTRUCTIONAL PROGRAM OF A PUBLIC OR PRIVATE

1 PRESCHOOL, A PUBLIC ELEMENTARY SCHOOL, OR A PUBLIC SECONDARY
2 SCHOOL BY ANY FOR PROFIT, NONPROFIT, OR PUBLIC SCHOOL BASED
3 ENTITY;

4 (B) EDUCATIONAL SUPPLIES AND MATERIALS USED IN CONNECTION
5 WITH SUCH INDIVIDUAL OR GROUP TUTORING SERVICES;

6 (C) INTER-SCHOOL DISTRICT TRANSPORTATION TO AND FROM ANY
7 SCHOOL TO THE EXTENT THAT A SCHOOL DISTRICT OR THE STATE DOES NOT
8 PAY FOR THE TRANSPORTATION;

9 (VII) DEMONSTRATES A PATTERN OF GIVING PRIORITY IN
10 AWARDING SCHOLARSHIPS TO THOSE INCOME-QUALIFIED STUDENTS WHO
11 DEMONSTRATE THE GREATEST NEED FOR SCHOLARSHIPS; AND

12 (VIII) (A) DOES NOT PROVIDE ANY SCHOLARSHIP TO ANY STUDENT
13 FOR A SINGLE SCHOOL YEAR THAT EXCEEDS EIGHTY PERCENT OF THE
14 STATE'S SHARE OF THE TOTAL PROGRAM OF ALL SCHOOL DISTRICTS IN THE
15 STATE DETERMINED PURSUANT TO SECTION 22-54-106, C.R.S., DIVIDED BY
16 THE TOTAL FUNDED PUPIL COUNT, AS DEFINED IN SECTION 22-54-103 (7),
17 C.R.S., FOR ALL SCHOOL DISTRICTS IN THE STATE FOR THE SCHOOL YEAR
18 IN WHICH THE SCHOLARSHIP IS AWARDED; EXCEPT THAT CHILDREN WITH
19 DISABILITIES, AS DEFINED IN SECTION 22-20-103 (1.5), C.R.S., MAY BE
20 AWARDED SCHOLARSHIPS IN ANY AMOUNT THAT DOES NOT EXCEED THREE
21 HUNDRED PERCENT OF THE STATE'S SHARE OF THE TOTAL PROGRAM OF ALL
22 SCHOOL DISTRICTS IN THE STATE DETERMINED PURSUANT TO SECTION
23 22-54-106, C.R.S., DIVIDED BY THE FUNDED PUPIL COUNT, AS DEFINED IN
24 SECTION 22-54-103 (7), C.R.S., FOR ALL SCHOOL DISTRICTS IN THE STATE
25 FOR THE SCHOOL YEAR IN WHICH THE SCHOLARSHIP IS AWARDED.

26 (B) THE MAXIMUM AMOUNT OF A SCHOLARSHIP THAT MAY BE
27 AWARDED TO A STUDENT ENROLLED IN KINDERGARTEN IS FIFTY PERCENT

1 OF THE MAXIMUM AMOUNT SPECIFIED IN SUB-SUBPARAGRAPH (A) OF THIS
2 SUBPARAGRAPH (VIII).

3 (b) (I) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF
4 THIS SUBSECTION (5), SO LONG AS A CERTIFIED OR UNCERTIFIED NONPROFIT
5 EDUCATIONAL ASSISTANCE ORGANIZATION ALLOCATES TO PUBLICLY
6 FUNDED STUDENTS AT LEAST FIFTY PERCENT OF BOTH THE NUMBER AND
7 TOTAL VALUE OF ALL SCHOLARSHIPS IT PROVIDES AS REQUIRED BY
8 SUBPARAGRAPH (V) OF PARAGRAPH (a) OF THIS SUBSECTION (5), THE
9 NONPROFIT EDUCATIONAL ASSISTANCE ORGANIZATION MAY, WITHOUT
10 LOSING ITS CERTIFICATION OR BEING DISQUALIFIED FROM FUTURE
11 CERTIFICATION, USE CONTRIBUTIONS TO PROVIDE SCHOLARSHIPS IN
12 AMOUNTS GREATER THAN THE MAXIMUM AMOUNTS SPECIFIED IN
13 SUBPARAGRAPH (VIII) OF PARAGRAPH (a) OF THIS SUBSECTION (5) TO
14 THOSE INCOME-QUALIFIED STUDENTS ATTENDING ELIGIBLE SCHOOLS WHO
15 DEMONSTRATE THE GREATEST NEED FOR SCHOLARSHIPS IN AMOUNTS
16 GREATER THAN SAID MAXIMUM AMOUNTS.

17 [REDACTED]
18 (II) NOTHING IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) SHALL
19 EXEMPT A NONPROFIT EDUCATIONAL ASSISTANCE ORGANIZATION FROM THE
20 REQUIREMENTS SPECIFIED IN SUBPARAGRAPHS (V) AND (VI) OF PARAGRAPH
21 (a) OF THIS SUBSECTION (5).

22 (c) THE DESIGNATED NONPROFIT ORGANIZATION MAY GRANT
23 INITIAL CERTIFICATION TO A NONPROFIT EDUCATIONAL ASSISTANCE
24 ORGANIZATION THAT OPERATES IN COLORADO AND IS EXEMPT FROM
25 FEDERAL INCOME TAXES PURSUANT TO SECTION 501 (c) (3) OF THE
26 INTERNAL REVENUE CODE, BUT THAT DOES NOT MEET ALL OF THE OTHER
27 REQUIREMENTS OF PARAGRAPHS (a) AND (b) OF THIS SUBSECTION (5) SO

1 LONG AS THE NONPROFIT EDUCATIONAL ASSISTANCE ORGANIZATION
2 AGREES IN WRITING TO CONDUCT ITS FUTURE ACTIVITIES IN ACCORDANCE
3 WITH THOSE REQUIREMENTS.

4 (d) AN UNCERTIFIED OR CERTIFIED NONPROFIT EDUCATIONAL
5 ASSISTANCE ORGANIZATION APPLYING FOR INITIAL CERTIFICATION OR
6 RENEWAL OF CERTIFICATION SHALL ALLOW THE DESIGNATED NONPROFIT
7 ORGANIZATION ACCESS TO ANY DOCUMENTS THAT THE DESIGNATED
8 NONPROFIT ORGANIZATION REASONABLY REQUIRES TO MAKE A
9 CERTIFICATION DETERMINATION.

10 (6) **Contribution and credit approval process - distribution of**

11 **contributions.** (a) A TAXPAYER SHALL APPLY TO THE DESIGNATED
12 NONPROFIT ORGANIZATION FOR APPROVAL OF THE CREDIT ALLOWED BY
13 THIS SECTION BY MAKING A QUALIFYING CONTRIBUTION TO THE
14 DESIGNATED NONPROFIT ORGANIZATION, IDENTIFYING A CERTIFIED
15 NONPROFIT EDUCATIONAL ASSISTANCE ORGANIZATION TO WHICH THE
16 DESIGNATED NONPROFIT ORGANIZATION SHALL FORWARD THE
17 CONTRIBUTION, AND SUBMITTING AN APPLICATION FOR APPROVAL OF THE
18 CREDIT IN ACCORDANCE WITH ANY RULES PROMULGATED BY THE
19 EXECUTIVE DIRECTOR PURSUANT TO SUBSECTION (8) OF THIS SECTION.

20 (b) BEFORE ACCEPTING ANY CONTRIBUTION AND ACCOMPANYING
21 CREDIT APPLICATION, THE DESIGNATED NONPROFIT ORGANIZATION SHALL
22 INFORM THE CONTRIBUTOR IF:

23 (I) THE DESIGNATED NONPROFIT ORGANIZATION WILL BE UNABLE
24 TO APPROVE THE CREDIT APPLICATION BECAUSE THE DESIGNATED
25 NONPROFIT ORGANIZATION HAS ALREADY APPROVED CREDITS IN THE
26 MAXIMUM AMOUNT ALLOWED PURSUANT TO PARAGRAPH (b) OF
27 SUBSECTION (3) OF THIS SECTION FOR THE CALENDAR YEAR IN WHICH THE

1 CONTRIBUTION IS TO BE MADE; OR

2 (II) REGARDLESS OF WHETHER A CREDIT APPLICATION IS APPROVED,
3 THE CREDIT WILL NOT BE ALLOWED FOR THE INCOME TAX YEAR IN WHICH
4 THE CONTRIBUTION IS TO BE MADE, BUT MIGHT INSTEAD BE ALLOWED IN A
5 SUBSEQUENT INCOME TAX YEAR PURSUANT TO SUBSECTION (9) OF THIS
6 SECTION; OR

7 (III) REGARDLESS OF WHETHER A CREDIT APPLICATION IS
8 APPROVED, THE CREDIT MIGHT NOT BE ALLOWED FOR THE INCOME TAX
9 YEAR IN WHICH THE CONTRIBUTION IS TO BE MADE, BUT MIGHT INSTEAD BE
10 ALLOWED IN A SUBSEQUENT INCOME TAX YEAR PURSUANT TO SUBSECTION
11 (9) OF THIS SECTION.

12 (c) UPON RECEIVING A QUALIFYING CONTRIBUTION AND APPROVING
13 A CREDIT APPLICATION, THE DESIGNATED NONPROFIT ORGANIZATION SHALL
14 PROVIDE THE CONTRIBUTOR WITH A RECEIPT ON A STANDARDIZED FORM
15 PROVIDED TO THE DESIGNATED NONPROFIT ORGANIZATION BY THE
16 DEPARTMENT. THE RECEIPT SHALL INCLUDE THE NAME OF THE CERTIFIED
17 NONPROFIT EDUCATIONAL ASSISTANCE ORGANIZATION, THE NAME OF THE
18 TAXPAYER, THE AMOUNT OF THE CONTRIBUTION, THE DATE THE
19 CONTRIBUTION WAS MADE, AND ANY ADDITIONAL INFORMATION THAT THE
20 DEPARTMENT MAY REQUIRE. TO CLAIM THE CREDIT ALLOWED BY THIS
21 SECTION, A TAXPAYER SHALL SUBMIT A COPY OF THE RECEIPT TO THE
22 DEPARTMENT WITH THE TAXPAYER'S INCOME TAX FORM.

23 (d) THE DESIGNATED NONPROFIT ORGANIZATION SHALL FORWARD
24 A QUALIFYING CONTRIBUTION TO THE CERTIFIED NONPROFIT EDUCATIONAL
25 ASSISTANCE ORGANIZATION PROMPTLY UPON RECEIPT. THE DESIGNATED
26 NONPROFIT ORGANIZATION MAY DEDUCT AN ADMINISTRATIVE FEE IN AN
27 AMOUNT CALCULATED TO DEFRAY THE REASONABLE AND NECESSARY

1 EXPENSES INCURRED BY THE ORGANIZATION IN ADMINISTERING THE CREDIT
2 BEFORE FORWARDING THE NET AMOUNT OF A QUALIFYING CONTRIBUTION
3 IF THE EXECUTIVE DIRECTOR AUTHORIZES THE ORGANIZATION TO COLLECT
4 A FEE AND SPECIFIES THE AMOUNT OF THE FEE TO BE COLLECTED. THE
5 AMOUNT OF SAID FEE SHALL NOT EXCEED ONE PERCENT OF THE AMOUNT OF
6 THE QUALIFYING CONTRIBUTION FROM WHICH IT IS DEDUCTED.

7 (7) **Reporting requirements.** (a) (I) NO LATER THAN FEBRUARY
8 1, 2002, AND EACH FEBRUARY 1 THEREAFTER, THE DESIGNATED NONPROFIT
9 ORGANIZATION SHALL SUBMIT TO THE STATE AUDITOR AND THE
10 LEGISLATIVE AUDIT COMMITTEE AN ANNUAL REPORT THAT EVALUATES THE
11 IMPLEMENTATION OF THE INCOME TAX CREDIT ALLOWED BY THIS SECTION
12 AND PROVIDES INFORMATION CONCERNING THE AMOUNTS OF TAX CREDITS
13 CLAIMED AND ALLOWED UNDER THIS SECTION. EACH CERTIFIED NONPROFIT
14 EDUCATIONAL ASSISTANCE ORGANIZATION SHALL PROVIDE THE
15 DESIGNATED NONPROFIT ORGANIZATION ACCESS TO ANY RECORDS AND
16 DOCUMENTS THAT THE DESIGNATED NONPROFIT ORGANIZATION
17 REASONABLY REQUIRES TO PREPARE THE REPORT.

18 (II) THE STATE AUDITOR MAY AUDIT THE REPORT SUBMITTED BY
19 THE DESIGNATED NONPROFIT ORGANIZATION PURSUANT TO SUBPARAGRAPH
20 (I) OF THIS PARAGRAPH (a) TO VERIFY THE ACCURACY OF THE CREDITS
21 CLAIMED, AND BOTH THE DESIGNATED NONPROFIT ORGANIZATION AND
22 EACH CERTIFIED NONPROFIT EDUCATIONAL ASSISTANCE ORGANIZATION
23 SHALL PROVIDE THE STATE AUDITOR ACCESS TO ANY RECORDS OR
24 DOCUMENTS THAT THE STATE AUDITOR REASONABLY REQUIRES TO ENSURE
25 THE ACCURACY OF THE AUDIT.

26 (b) NO LATER THAN FEBRUARY 1, 2005, THE STATE AUDITOR SHALL
27 SUBMIT A REPORT ON THE IMPLEMENTATION AND EFFECTS OF THE CREDIT

1 ALLOWED BY THIS SECTION TO THE HOUSE AND SENATE EDUCATION
2 COMMITTEES OF THE GENERAL ASSEMBLY. THE STATE AUDITOR SHALL
3 CONSULT WITH THE DEPARTMENT OF EDUCATION IN PREPARING THE
4 REPORT. THE REPORT MAY CONTAIN ANY RECOMMENDATION OF THE STATE
5 AUDITOR OR THE DEPARTMENT OF EDUCATION AS TO WHETHER THE CREDIT
6 SHOULD BE ALLOWED FOR INCOME TAX YEARS COMMENCING ON OR AFTER
7 JANUARY 1, 2006, AND SHALL INCLUDE INFORMATION REGARDING:

8 (I) THE FISCAL IMPACT OF THE CREDIT, INCLUDING THE AMOUNT OF
9 CREDITS ALLOWED;

10 (II) THE AMOUNT OF CONTRIBUTIONS MADE TO CERTIFIED
11 NONPROFIT EDUCATIONAL ASSISTANCE ORGANIZATIONS;

12 (III) THE ESTIMATED NUMBER AND AMOUNT OF SCHOLARSHIPS
13 AWARDED TO QUALIFYING STUDENTS AS A RESULT OF THE CREDIT;

14 (IV) THE IMPACT OF THE CREDIT ON COLORADO PUBLIC
15 ELEMENTARY AND SECONDARY SCHOOLS; AND

16 (V) ANY OTHER INFORMATION THAT THE STATE AUDITOR BELIEVES
17 WILL HELP THE COMMITTEES EVALUATE THE SUCCESS OF THE CREDIT.

18 (8) **Rule-making authority.** AFTER CONSULTATION WITH THE
19 DESIGNATED NONPROFIT ORGANIZATION, THE EXECUTIVE DIRECTOR SHALL
20 PROMULGATE RULES NECESSARY FOR THE ADMINISTRATION OF THE INCOME
21 TAX CREDIT ALLOWED BY THIS SECTION IN ACCORDANCE WITH ARTICLE 4
22 OF TITLE 24, C.R.S.

23 (9) **Mechanism to refund excess state revenues.** (a) IF, BASED
24 ON THE FINANCIAL REPORT PREPARED BY THE CONTROLLER IN
25 ACCORDANCE WITH SECTION 24-77-106.5, C.R.S., THE CONTROLLER
26 CERTIFIES THAT THE AMOUNT OF STATE REVENUES FOR THE STATE FISCAL
27 YEAR COMMENCING ON JULY 1, 2000, EXCEEDS THE LIMITATION ON STATE

1 FISCAL YEAR SPENDING IMPOSED BY SECTION 20 (7) (a) OF ARTICLE X OF
2 THE STATE CONSTITUTION FOR THAT FISCAL YEAR BY LESS THAN FIVE
3 HUNDRED MILLION DOLLARS, THEN THE CREDIT AUTHORIZED BY
4 SUBSECTION (3) OF THIS SECTION SHALL NOT BE ALLOWED FOR THE INCOME
5 TAX YEAR COMMENCING ON JANUARY 1, 2001.

6 (b) IF, BASED ON THE FINANCIAL REPORT PREPARED BY THE
7 CONTROLLER IN ACCORDANCE WITH SECTION 24-77-106.5, C.R.S., THE
8 CONTROLLER CERTIFIES THAT THE AMOUNT OF STATE REVENUES FOR ANY
9 STATE FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2001, EXCEEDS
10 THE LIMITATION ON STATE FISCAL YEAR SPENDING IMPOSED BY SECTION 20
11 (7) (a) OF ARTICLE X OF THE STATE CONSTITUTION FOR THAT FISCAL YEAR
12 BY LESS THAN FIVE HUNDRED MILLION DOLLARS, AS ADJUSTED PURSUANT
13 TO PARAGRAPH (d) OF THIS SUBSECTION (9), THEN THE CREDIT AUTHORIZED
14 BY SUBSECTION (3) OF THIS SECTION SHALL NOT BE ALLOWED FOR THE
15 INCOME TAX YEAR IN WHICH SAID STATE FISCAL YEAR ENDED.

16 (c) (I) IF PARAGRAPHS (a) AND (b) OF THIS SUBSECTION (9)
17 PRECLUDE A CREDIT FROM BEING ALLOWED FOR ANY INCOME TAX YEAR IN
18 WHICH A TAXPAYER MADE A QUALIFYING CONTRIBUTION AND RECEIVED
19 APPROVAL OF A CREDIT APPLICATION FROM THE DESIGNATED NONPROFIT
20 ORGANIZATION PURSUANT TO SUBSECTION (6) OF THIS SECTION, THE
21 TAXPAYER MAY CLAIM A CREDIT FOR THE CONTRIBUTION DURING THE FIRST
22 SUBSEQUENT INCOME TAX YEAR FOR WHICH SAID PARAGRAPHS (a) AND (b)
23 DO NOT PRECLUDE THE CREDIT FROM BEING ALLOWED.

24 (II) A CREDIT ALLOWED PURSUANT TO SUBPARAGRAPH (I) OF THIS
25 PARAGRAPH (c) SHALL BE IN AN AMOUNT EQUAL TO THE LESSER OF FIFTY
26 PERCENT OF THE TOTAL AMOUNT OF ANY OF THE TAXPAYER'S QUALIFYING
27 CONTRIBUTIONS FOR WHICH A CREDIT APPLICATION WAS APPROVED DURING

1 ANY INCOME TAX YEAR FOR WHICH PARAGRAPHS (a) AND (b) OF THIS
2 SUBSECTION (9) PRECLUDED A CREDIT FROM BEING ALLOWED OR THE
3 AMOUNT OF THE TAXPAYER'S INCOME TAX LIABILITY FOR THE INCOME TAX
4 YEAR FOR WHICH THE CREDIT IS ALLOWED. THE AMOUNT OF ANY CREDIT
5 ALLOWED PURSUANT TO THIS PARAGRAPH (c) SHALL BE CONSIDERED A
6 REFUND OF EXCESS STATE REVENUES FOR THE STATE FISCAL YEAR ENDING
7 IN THE INCOME TAX YEAR FOR WHICH THE CREDIT IS ALLOWED AND SHALL
8 NOT BE CONSIDERED A REFUND OF EXCESS STATE REVENUES FOR ANY PRIOR
9 STATE FISCAL YEAR.

10 (d) (I) NO LATER THAN OCTOBER 1 OF ANY GIVEN CALENDAR YEAR
11 COMMENCING ON OR AFTER JANUARY 1, 2002, THE EXECUTIVE DIRECTOR
12 SHALL ANNUALLY ADJUST THE DOLLAR AMOUNT SPECIFIED IN PARAGRAPH
13 (b) OF THIS SUBSECTION (9) TO REFLECT THE RATE OF GROWTH OF
14 COLORADO PERSONAL INCOME FOR THE CALENDAR YEAR IMMEDIATELY
15 PRECEDING THE CALENDAR YEAR IN WHICH SUCH ADJUSTMENT IS MADE.
16 FOR PURPOSES OF THIS SUBPARAGRAPH (I), "THE RATE OF GROWTH OF
17 COLORADO PERSONAL INCOME" MEANS THE PERCENTAGE CHANGE
18 BETWEEN THE MOST RECENT PUBLISHED ANNUAL ESTIMATE OF TOTAL
19 PERSONAL INCOME FOR COLORADO, AS DEFINED AND OFFICIALLY
20 REPORTED BY THE BUREAU OF ECONOMIC ANALYSIS IN THE UNITED STATES
21 DEPARTMENT OF COMMERCE FOR THE CALENDAR YEAR IMMEDIATELY
22 PRECEDING THE CALENDAR YEAR IN WHICH THE ADJUSTMENT IS MADE, AND
23 THE MOST RECENT PUBLISHED ANNUAL ESTIMATE OF TOTAL PERSONAL
24 INCOME FOR COLORADO, AS DEFINED AND OFFICIALLY REPORTED BY THE
25 BUREAU OF ECONOMIC ANALYSIS IN THE UNITED STATES DEPARTMENT OF
26 COMMERCE FOR THE CALENDAR YEAR PRIOR TO THE CALENDAR YEAR
27 IMMEDIATELY PRECEDING THE CALENDAR YEAR IN WHICH THE ADJUSTMENT

1 IS MADE.

2 (II) UPON CALCULATING THE ADJUSTMENT OF SAID DOLLAR
3 AMOUNT IN ACCORDANCE WITH SUBPARAGRAPH (I) OF THIS PARAGRAPH (d),
4 THE EXECUTIVE DIRECTOR SHALL NOTIFY IN WRITING THE EXECUTIVE
5 COMMITTEE OF THE LEGISLATIVE COUNCIL CREATED PURSUANT TO SECTION
6 2-3-301 (1), C.R.S., OF THE ADJUSTED DOLLAR AMOUNT AND THE BASIS
7 FOR THE ADJUSTMENT. SUCH WRITTEN NOTIFICATION SHALL BE GIVEN
8 WITHIN FIVE WORKING DAYS AFTER SUCH CALCULATION IS COMPLETED,
9 BUT SUCH WRITTEN NOTIFICATION SHALL BE GIVEN NO LATER THAN
10 OCTOBER 1 OF THE CALENDAR YEAR.

11 (III) IT IS THE FUNCTION OF THE EXECUTIVE COMMITTEE OF THE
12 LEGISLATIVE COUNCIL TO REVIEW AND APPROVE OR DISAPPROVE SUCH
13 ADJUSTMENT OF SAID DOLLAR AMOUNT WITHIN TWENTY DAYS AFTER
14 RECEIPT OF SUCH WRITTEN NOTIFICATION FROM THE EXECUTIVE DIRECTOR.
15 ANY ADJUSTMENT THAT IS NOT APPROVED OR DISAPPROVED BY THE
16 EXECUTIVE COMMITTEE WITHIN SAID TWENTY DAYS SHALL BE
17 AUTOMATICALLY APPROVED; EXCEPT THAT, IF WITHIN SAID TWENTY DAYS
18 THE EXECUTIVE COMMITTEE SCHEDULES A HEARING ON SUCH ADJUSTMENT,
19 SUCH AUTOMATIC APPROVAL SHALL NOT OCCUR UNLESS THE EXECUTIVE
20 COMMITTEE DOES NOT APPROVE OR DISAPPROVE SUCH ADJUSTMENT AFTER
21 THE CONCLUSION OF SUCH HEARING. ANY HEARING CONDUCTED BY THE
22 EXECUTIVE COMMITTEE PURSUANT TO THIS SUBPARAGRAPH (III) SHALL BE
23 CONCLUDED NO LATER THAN TWENTY-FIVE DAYS AFTER RECEIPT OF SUCH
24 WRITTEN NOTIFICATION FROM THE EXECUTIVE DIRECTOR.

25 (IV) (A) IF THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE
26 COUNCIL DISAPPROVES ANY ADJUSTMENT OF SAID DOLLAR AMOUNT
27 CALCULATED BY THE EXECUTIVE DIRECTOR PURSUANT TO THIS PARAGRAPH

1 (d), THE EXECUTIVE COMMITTEE SHALL SPECIFY SUCH ADJUSTED DOLLAR
2 AMOUNT TO BE UTILIZED BY THE EXECUTIVE DIRECTOR. ANY ADJUSTED
3 DOLLAR AMOUNT SPECIFIED BY THE EXECUTIVE COMMITTEE PURSUANT TO
4 THIS SUB-SUBPARAGRAPH (A) SHALL BE CALCULATED IN ACCORDANCE
5 WITH THE PROVISIONS OF THIS PARAGRAPH (d).

6 (B) FOR THE PURPOSE OF DETERMINING WHETHER THE CREDIT
7 AUTHORIZED BY SUBSECTION (3) OF THIS SECTION IS TO BE ALLOWED FOR
8 ANY GIVEN INCOME TAX YEAR, THE EXECUTIVE DIRECTOR SHALL NOT
9 UTILIZE ANY ADJUSTED DOLLAR AMOUNT THAT HAS NOT BEEN APPROVED
10 PURSUANT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH (d) OR OTHERWISE
11 SPECIFIED PURSUANT TO SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH
12 (IV).

13 (V) IF ONE OR MORE BALLOT QUESTIONS ARE SUBMITTED TO THE
14 VOTERS AT A STATEWIDE ELECTION TO BE HELD IN NOVEMBER OF ANY
15 CALENDAR YEAR COMMENCING ON OR AFTER JANUARY 1, 2001, THAT SEEK
16 AUTHORIZATION FOR THE STATE TO RETAIN AND SPEND ALL OR ANY
17 PORTION OF THE AMOUNT OF EXCESS STATE REVENUES FOR THE STATE
18 FISCAL YEAR ENDING DURING SAID CALENDAR YEAR, THE EXECUTIVE
19 DIRECTOR SHALL NOT DETERMINE WHETHER THE CREDIT AUTHORIZED BY
20 SUBSECTION (3) OF THIS SECTION SHALL BE ALLOWED AND SHALL NOT
21 PROMULGATE RULES CONTAINING SAID CREDIT UNTIL THE IMPACT OF THE
22 RESULTS OF SAID ELECTION ON THE AMOUNT OF THE EXCESS STATE
23 REVENUES TO BE REFUNDED IS ASCERTAINED.

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