

**First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 11-0002.01 Esther van Mourik

HOUSE BILL 11-1048

HOUSE SPONSORSHIP

Swalm,

SENATE SPONSORSHIP

Lundberg,

House Committees

Education
Finance
Appropriations

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 QUALIFIED CHILD
21 HAS COMPLETED THE FULL ACADEMIC YEAR IN THE PRIVATE SCHOOL AND
22 THAT THE TAXPAYER IS ENTITLED TO AN INCOME TAX CREDIT AS SPECIFIED
23 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 THAT HAS ATTENDED

1 A PUBLIC SCHOOL IN THE STATE FOR THE FULL ACADEMIC YEAR PRIOR TO
2 ENROLLMENT IN A 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 FULLY COMPLETES EACH
6 ACADEMIC YEAR IN A PRIVATE SCHOOL IN THE STATE THROUGH THE
7 TWELFTH GRADE.

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
17 (2) (a) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
18 JANUARY 1, 2012, THERE SHALL BE ALLOWED A PRIVATE SCHOOL TUITION
19 INCOME TAX CREDIT AGAINST THE INCOME TAX IMPOSED IN THIS ARTICLE
20 IN AN AMOUNT AND MANNER AS SPECIFIED IN THIS SECTION. THE CREDIT
21 SHALL BE ALLOWED TO ANY TAXPAYER TO WHOM A CREDIT CERTIFICATE
22 HAS BEEN ISSUED AS SPECIFIED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH
23 (a). THE CREDIT CERTIFICATE SHALL BE INCLUDED WITH THE RETURN
24 FILED FOR THE TAX YEAR.

25 (II) (A) FOR EACH ACADEMIC YEAR COMMENCING ON OR AFTER
26 JANUARY 1, 2012, A PRIVATE SCHOOL SHALL ISSUE A CREDIT CERTIFICATE
27 TO ANY TAXPAYER THAT ENROLLS A DEPENDENT QUALIFIED CHILD IN THE

1 PRIVATE SCHOOL OR THAT AWARDS A SCHOLARSHIP TO A QUALIFIED CHILD
2 FOR ENROLLMENT IN THE PRIVATE SCHOOL. ONLY ONE CREDIT
3 CERTIFICATE SHALL BE ISSUED FOR EACH QUALIFIED CHILD. A PRIVATE
4 SCHOOL SHALL ISSUE A CREDIT CERTIFICATE PURSUANT TO THIS SECTION
5 UPON APPLICATION FOR A CREDIT CERTIFICATE BY A TAXPAYER. IN THE
6 EVENT MORE THAN ONE TAXPAYER APPLIES FOR A CREDIT CERTIFICATE,
7 THE PRIVATE SCHOOL SHALL DETERMINE TO WHOM THE CREDIT
8 CERTIFICATE IS ISSUED ON THE BASIS OF THE GREATEST CONTRIBUTION
9 TOWARD A QUALIFIED CHILD'S ENROLLMENT AT THE PRIVATE SCHOOL. A
10 CREDIT CERTIFICATE SHALL ONLY BE ISSUED TO A TAXPAYER AFTER THE
11 QUALIFIED CHILD COMPLETES THE FULL ACADEMIC YEAR.

12 (B) A TAXPAYER THAT ENROLLS A DEPENDENT QUALIFIED CHILD
13 IN A PRIVATE SCHOOL OR THAT AWARDS A SCHOLARSHIP TO A QUALIFIED
14 CHILD FOR ENROLLMENT IN A PRIVATE SCHOOL DURING THE 2011-12
15 ACADEMIC YEAR, OR ANY ACADEMIC YEAR THEREAFTER, SHALL BE FIRST
16 ELIGIBLE FOR THE INCOME TAX CREDIT SPECIFIED IN THIS SECTION FOR THE
17 INCOME TAX YEAR THAT INCLUDES THE MOST RECENTLY COMPLETED
18 PUBLIC SCHOOL ACADEMIC YEAR. THE TAXPAYER SHALL BE ELIGIBLE FOR
19 THE INCOME TAX CREDIT FOR ANY INCOME TAX YEAR THEREAFTER
20 PROVIDED THE CHILD REMAINS QUALIFIED AS SPECIFIED IN SUBPARAGRAPH
21 (II) OF PARAGRAPH (d) OF SUBSECTION (1) OF THIS SECTION.

22 (b) (I) (A) FOR ANY QUALIFIED CHILD THAT COMPLETES A FULL
23 ACADEMIC YEAR IN A PRIVATE SCHOOL ON A FULL-TIME BASIS, THE
24 AMOUNT OF THE CREDIT AUTHORIZED IN THIS SECTION FOR A TAXPAYER
25 THAT ENROLLED A DEPENDENT QUALIFIED CHILD IN PRIVATE SCHOOL
26 SHALL EQUAL THE TOTAL OF FIFTY PERCENT OF THE PREVIOUS YEAR'S
27 STATE AVERAGE PER PUPIL REVENUE MINUS TWO HUNDRED FIFTY

1 DOLLARS. FOR ANY QUALIFIED CHILD THAT COMPLETES A FULL ACADEMIC
2 YEAR IN A PRIVATE SCHOOL ON A FULL-TIME BASIS, THE AMOUNT OF THE
3 CREDIT AUTHORIZED IN THIS SECTION FOR A TAXPAYER THAT AWARDED A
4 SCHOLARSHIP TO A QUALIFIED CHILD FOR ENROLLMENT IN A PRIVATE
5 SCHOOL SHALL EQUAL THE TOTAL OF THE SCHOLARSHIP AWARDED TO THE
6 QUALIFIED CHILD OR FIFTY PERCENT OF THE PREVIOUS YEAR'S STATE
7 AVERAGE PER PUPIL REVENUE, WHICHEVER IS LESS, MINUS TWO HUNDRED
8 FIFTY DOLLARS.

9 (B) FOR ANY QUALIFIED CHILD THAT COMPLETES A FULL
10 ACADEMIC YEAR IN A PRIVATE SCHOOL ON A HALF-TIME BASIS, THE
11 AMOUNT OF THE CREDIT AUTHORIZED IN THIS SECTION FOR A TAXPAYER
12 THAT ENROLLED A DEPENDENT QUALIFIED CHILD IN PRIVATE SCHOOL
13 SHALL EQUAL THE TOTAL OF TWENTY-FIVE PERCENT OF THE PREVIOUS
14 YEAR'S STATE AVERAGE PER PUPIL REVENUE MINUS TWO HUNDRED FIFTY
15 DOLLARS. FOR ANY QUALIFIED CHILD THAT COMPLETES A FULL ACADEMIC
16 YEAR IN A PRIVATE SCHOOL ON A HALF-TIME BASIS, THE AMOUNT OF THE
17 CREDIT AUTHORIZED IN THIS SECTION FOR A TAXPAYER THAT AWARDED A
18 SCHOLARSHIP TO A QUALIFIED CHILD FOR ENROLLMENT IN A PRIVATE
19 SCHOOL SHALL EQUAL THE TOTAL OF THE SCHOLARSHIP AWARDED TO THE
20 QUALIFIED CHILD OR TWENTY-FIVE PERCENT OF THE PREVIOUS YEAR'S
21 STATE AVERAGE PER PUPIL REVENUE, WHICHEVER IS LESS, MINUS TWO
22 HUNDRED FIFTY DOLLARS.

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

27 (3) (a) ANY PUBLIC SCHOOL DISTRICT THAT LOSES A QUALIFIED

1 CHILD FOR WHICH AN INCOME TAX CREDIT IS CLAIMED PURSUANT TO THIS
2 SECTION SHALL RECEIVE A FIVE HUNDRED DOLLAR GRANT PER QUALIFIED
3 CHILD FOR EVERY ACADEMIC YEAR THE QUALIFIED CHILD REMAINS
4 ENROLLED IN PRIVATE SCHOOL THROUGH TWELFTH GRADE.

5 (b) THE DEPARTMENT SHALL NOTIFY THE JOINT BUDGET
6 COMMITTEE ON MAY 1, 2013, AND EACH MAY 1 THEREAFTER, OF THE
7 NUMBER OF TAXPAYERS THAT SUBMITTED CREDIT CERTIFICATES TO CLAIM
8 THE CREDIT SPECIFIED IN THIS SECTION FOR THE PREVIOUS INCOME TAX
9 YEAR. ON MAY 5, 2013, AND EACH MAY 5 THEREAFTER, THE GENERAL
10 ASSEMBLY SHALL THEN APPROPRIATE FIVE HUNDRED DOLLARS FROM THE
11 GENERAL FUND FOR EACH TAXPAYER THAT CLAIMED THE CREDIT TO THE
12 DEPARTMENT OF EDUCATION FOR DISTRIBUTION TO SCHOOL DISTRICTS AS
13 SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (3).

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

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

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

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

12 (a) THE TAXPAYER'S NAME;

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

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

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

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

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

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

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

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

11 (c) (I) "QUALIFIED CHILD" MEANS A DEPENDENT CHILD WHO
12 COMPLETED A FULL ACADEMIC YEAR IN A PUBLIC SCHOOL IN THE STATE
13 FOR THE ACADEMIC YEAR EITHER ON A FULL-TIME OR HALF-TIME BASIS
14 PRIOR TO BEING HOME-SCHOOLED.

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

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

27 (II) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY

1 1, 2012, THERE SHALL BE ALLOWED AS A CREDIT AGAINST THE INCOME
2 TAXES IMPOSED BY THIS ARTICLE AN AMOUNT EQUAL TO FIVE HUNDRED
3 DOLLARS TO ANY TAXPAYER WHO HOME-SCHOOLS A QUALIFIED CHILD
4 WHO COMPLETED A FULL ACADEMIC YEAR IN A PUBLIC SCHOOL IN THE
5 STATE ON A HALF-TIME BASIS PRIOR TO BEING HOME-SCHOOLED.

6 (b) A TAXPAYER WHO HOME-SCHOOLS A QUALIFIED CHILD DURING
7 THE 2011-12 ACADEMIC YEAR, OR ANY ACADEMIC YEAR THEREAFTER,
8 SHALL BE FIRST ELIGIBLE FOR THE INCOME TAX CREDIT SPECIFIED IN THIS
9 SECTION FOR THE INCOME TAX YEAR THAT INCLUDES THE MOST RECENTLY
10 COMPLETED PUBLIC SCHOOL ACADEMIC YEAR. THE TAXPAYER SHALL BE
11 ELIGIBLE FOR THE INCOME TAX CREDIT FOR ANY INCOME TAX YEAR
12 THEREAFTER PROVIDED THE CHILD REMAINS QUALIFIED AS SPECIFIED IN
13 SUBPARAGRAPH (II) OF PARAGRAPH (c) OF SUBSECTION (1) OF THIS
14 SECTION.

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

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