

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 17-0480.01 Nicole Myers x4326

SENATE BILL 17-039

SENATE SPONSORSHIP

Lundberg, Holbert, Lambert, Marble, Neville T.

HOUSE SPONSORSHIP

(None),

Senate Committees

Finance
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF INCOME TAX CREDITS FOR NONPUBLIC**
102 **EDUCATION, AND, IN CONNECTION THEREWITH, REDUCING AN**
103 **APPROPRIATION.**

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://leg.colorado.gov>.)

The bill establishes a private school tuition income tax credit for income tax years commencing on or after January 1, 2018, 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

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.*

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 may not be refunded, and the department of revenue is granted rule-making authority. In addition, the credit may be transferred, subject to certain limitations.

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 also establishes an income tax credit for income tax years commencing on or after January 1, 2018, 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
- ! \$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 may not be refunded. In addition, the credit may be transferred, subject to certain limitations.

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

2 **SECTION 1. Short title.** The short title of this act is the "Quality
3 Education and Budget Reduction Act".

4 **SECTION 2. Legislative declaration.** (1) The general assembly
5 finds, determines, and declares that:

6 (a) Every student in the state of Colorado should have as much

1 access as possible to the educational formats that best fit their needs and
2 learning styles;

3 (b) Private schools and home-schools can often best meet those
4 needs for many Colorado students;

5 (c) Public funds for education are limited and should be directed
6 to the most cost-efficient means of delivering educational opportunities
7 for all Colorado students; and

8 (d) Parents have the fundamental right and responsibility to direct
9 the education of their children.

10 (2) The general assembly further finds, determines, and declares
11 that the intent of the "Quality Education and Budget Reduction Act" is to
12 give parents and students more educational choices while optimizing the
13 use of public funds designated for educational purposes.

14 **SECTION 3.** In Colorado Revised Statutes, **add** 39-22-539 and
15 39-22-540 as follows:

16 **39-22-539. 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 BY A
20 PRIVATE SCHOOL CERTIFYING THAT A CHILD ENROLLED IN THE PRIVATE
21 SCHOOL IS A QUALIFIED CHILD AS DEFINED IN SUBSECTION (1)(d) OF THIS
22 SECTION AND THAT THE TAXPAYER IS ENTITLED TO AN INCOME TAX CREDIT
23 AS SPECIFIED IN THIS SECTION.

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

25 (c) "PRIVATE SCHOOL" HAS THE SAME MEANING AS SET FORTH IN
26 SECTION 22-30.5-103 (6.5).

27 (d) (I) "QUALIFIED CHILD" MEANS A CHILD ENROLLED ON A

1 FULL-TIME BASIS AS DESCRIBED IN THE STATE BOARD OF EDUCATION
2 RULES IN A PUBLIC SCHOOL IN THE STATE FOR THE SCHOOL YEAR PRIOR TO
3 ENROLLMENT IN A PRIVATE SCHOOL OR A DEPENDENT CHILD WHO WAS NOT
4 OLD ENOUGH TO ENROLL IN A KINDERGARTEN THROUGH TWELFTH GRADE
5 PROGRAM IN THE SCHOOL YEAR PRIOR TO ENROLLMENT IN A PRIVATE
6 SCHOOL, BUT DOES NOT INCLUDE:

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

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

11 (II) ONCE A CHILD IS A QUALIFIED CHILD AS SPECIFIED IN
12 SUBSECTION (1)(d)(I) OF THIS SECTION, THE CHILD WILL REMAIN A
13 QUALIFIED CHILD SO LONG AS HE OR SHE REMAINS ENROLLED IN A PRIVATE
14 SCHOOL IN THE STATE IN A KINDERGARTEN THROUGH TWELFTH GRADE
15 PROGRAM.

16 (e) "STATE AVERAGE PER PUPIL REVENUES" HAS THE SAME
17 MEANING AS SET FORTH IN SECTION 22-54-103 (12).

18 (f) "TAXPAYER" MEANS A RESIDENT INDIVIDUAL OR A DOMESTIC
19 OR FOREIGN CORPORATION SUBJECT TO THE PROVISIONS OF PART 3 OF THIS
20 ARTICLE 22, A PARTNERSHIP, LIMITED LIABILITY COMPANY, S
21 CORPORATION, OR OTHER SIMILAR PASS-THROUGH ENTITY, ESTATE, OR
22 TRUST, AND A PARTNER, MEMBER, AND SUBCHAPTER S SHAREHOLDER OF
23 SUCH PASS-THROUGH ENTITY.

24 (2) (a) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
25 JANUARY 1, 2018, A PRIVATE SCHOOL SHALL ISSUE A CREDIT CERTIFICATE
26 TO ANY TAXPAYER THAT ENROLLS A DEPENDENT QUALIFIED CHILD IN THE
27 PRIVATE SCHOOL OR THAT PROVIDES A SCHOLARSHIP TO A QUALIFIED

1 CHILD FOR ENROLLMENT IN THE PRIVATE SCHOOL. THE CREDIT
2 CERTIFICATE ALLOWS THE TAXPAYER TO CLAIM AN INCOME TAX CREDIT
3 WITH RESPECT TO THE INCOME TAXES IMPOSED BY THIS ARTICLE 22.

4 (II) A TAXPAYER THAT ENROLLS A DEPENDENT QUALIFIED CHILD
5 IN A PRIVATE SCHOOL OR THAT PROVIDES A SCHOLARSHIP TO A QUALIFIED
6 CHILD FOR ENROLLMENT IN A PRIVATE SCHOOL DURING THE 2017-18
7 STATE FISCAL YEAR OR ANY STATE FISCAL YEAR THEREAFTER IS ELIGIBLE
8 FOR THE INCOME TAX CREDIT SPECIFIED IN SUBSECTION (2)(a)(I) OF THIS
9 SECTION FOR THE INCOME TAX YEAR COMMENCING DURING THE STATE
10 FISCAL YEAR IN WHICH THE QUALIFIED CHILD IS ENROLLED OR IN WHICH
11 THE SCHOLARSHIP IS OFFERED; EXCEPT THAT A QUALIFIED CHILD SHALL
12 NOT GENERATE AN INCOME TAX CREDIT IN THE SAME INCOME TAX YEAR
13 FOR BOTH A TAXPAYER THAT ENROLLS THE QUALIFIED CHILD IN A PRIVATE
14 SCHOOL AND A TAXPAYER THAT PROVIDES A SCHOLARSHIP TO THE
15 QUALIFIED CHILD FOR ENROLLMENT IN A PRIVATE SCHOOL.

16 (b) A PRIVATE SCHOOL SHALL ISSUE ANY CREDIT CERTIFICATES
17 PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION UPON APPLICATION FOR
18 A CREDIT BY A TAXPAYER.

19 (c) (I) (A) FOR ANY QUALIFIED CHILD ATTENDING A PRIVATE
20 SCHOOL ON A FULL-TIME BASIS AS DESCRIBED IN THE STATE BOARD OF
21 EDUCATION RULES, THE AMOUNT OF THE CREDIT AUTHORIZED IN THIS
22 SECTION EQUALS EITHER THE AMOUNT OF TUITION PAID FOR THE
23 QUALIFIED CHILD OR THE AMOUNT OF THE SCHOLARSHIP PROVIDED TO A
24 QUALIFIED CHILD, AS APPLICABLE, OR FIFTY PERCENT OF THE PREVIOUS
25 FISCAL YEAR'S STATE AVERAGE PER PUPIL REVENUES, WHICHEVER IS LESS.

26 (B) FOR ANY QUALIFIED CHILD ATTENDING PRIVATE SCHOOL ON A
27 HALF-TIME BASIS AS DESCRIBED IN THE STATE BOARD OF EDUCATION

1 RULES, THE AMOUNT OF THE CREDIT AUTHORIZED IN THIS SECTION EQUALS
2 EITHER THE AMOUNT OF TUITION PAID FOR THE QUALIFIED CHILD OR THE
3 AMOUNT OF THE SCHOLARSHIP PROVIDED TO A QUALIFIED CHILD, AS
4 APPLICABLE, OR TWENTY-FIVE PERCENT OF THE PREVIOUS FISCAL YEAR'S
5 STATE AVERAGE PER PUPIL REVENUES, WHICHEVER IS LESS.

6 (II) THE STATE AVERAGE PER PUPIL REVENUES SHALL BE PROVIDED
7 TO THE DEPARTMENT BY THE DEPARTMENT OF EDUCATION WITHIN THIRTY
8 DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION AND EVERY JANUARY
9 15 THEREAFTER.

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

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 MAY NOT BE REFUNDED OR CREDITED TO THE
20 TAXPAYER.

21 (4) A TAXPAYER MAY TRANSFER ALL OR A PORTION OF A TAX
22 CREDIT GRANTED PURSUANT TO SUBSECTION (2) OF THIS SECTION TO
23 ANOTHER TAXPAYER FOR SUCH OTHER TAXPAYER, AS TRANSFEREE, TO
24 APPLY AS A CREDIT AGAINST THE TAXES IMPOSED BY THIS ARTICLE 22
25 SUBJECT TO THE FOLLOWING LIMITATIONS:

26 (a) THE TAXPAYER MAY ONLY TRANSFER SUCH PORTION OF THE
27 TAX CREDIT AS THE TAXPAYER HAS NOT APPLIED AGAINST THE INCOME

1 TAXES IMPOSED BY THIS ARTICLE 22;

2 (b) THE TAXPAYER MAY NOT TRANSFER A PRORATED PORTION OF
3 THE TAX CREDIT TO MORE THAN ONE TRANSFEREE;

4 (c) A TRANSFEREE MAY NOT ELECT TO HAVE ANY TRANSFERRED
5 CREDIT REFUNDED;

6 (d) FOR ANY TAX YEAR IN WHICH A TAX CREDIT IS TRANSFERRED
7 PURSUANT TO THIS SUBSECTION (4), BOTH THE TAXPAYER AND THE
8 TRANSFEREE SHALL FILE WRITTEN STATEMENTS WITH THEIR INCOME TAX
9 RETURNS SPECIFYING THE AMOUNT OF THE TAX CREDIT THAT HAS BEEN
10 TRANSFERRED. A TRANSFEREE MAY NOT CLAIM A CREDIT TRANSFERRED
11 PURSUANT TO THIS SUBSECTION (4) UNLESS THE TAXPAYER'S WRITTEN
12 STATEMENT VERIFIES THE AMOUNT OF THE TAX CREDIT CLAIMED BY THE
13 TRANSFEREE.

14 (e) TO THE EXTENT THAT A TRANSFEREE PAID VALUE FOR THE
15 TRANSFER OF A CREDIT ALLOWED PURSUANT TO THIS SECTION TO SUCH
16 TRANSFEREE, THE TRANSFEREE SHALL BE DEEMED TO HAVE USED THE
17 CREDIT TO PAY, IN WHOLE OR IN PART, THE INCOME TAX OBLIGATION
18 IMPOSED ON THE TRANSFEREE UNDER THIS ARTICLE 22, AND TO SUCH
19 EXTENT THE TRANSFEREE'S USE OF A TAX CREDIT FROM A TRANSFEROR
20 UNDER THIS SECTION TO PAY TAXES OWED SHALL NOT BE DEEMED A
21 REDUCTION IN THE AMOUNT OF INCOME TAXES IMPOSED BY THIS ARTICLE
22 22 ON THE TRANSFEREE;

23 (f) THE TRANSFEREE AND THE TRANSFEROR SHALL BOTH SUBMIT
24 TO THE DEPARTMENT, IN A FORM AND MANNER TO BE DETERMINED BY THE
25 DEPARTMENT, A STATEMENT THAT THE TRANSFEREE PURCHASED THE TAX
26 CREDIT FROM THE TRANSFEROR;

27 (g) A TRANSFEREE OF A TAX CREDIT SHALL PURCHASE THE CREDIT

1 PRIOR TO THE DUE DATE IMPOSED BY THIS ARTICLE 22, NOT INCLUDING
2 ANY EXTENSIONS, FOR FILING THE TRANSFEREE'S INCOME TAX RETURN;

3 (h) A TAX CREDIT HELD BY AN INDIVIDUAL EITHER DIRECTLY OR
4 AS A RESULT OF A DONATION BY A PASS-THROUGH ENTITY, BUT NOT A TAX
5 CREDIT HELD BY A TRANSFEREE UNLESS USED BY THE TRANSFEREE'S
6 ESTATE FOR TAXES OWED BY THE ESTATE, SHALL SURVIVE THE DEATH OF
7 THE INDIVIDUAL AND MAY BE CLAIMED OR TRANSFERRED BY THE
8 DECEDENT'S ESTATE;

9 (i) THE TAXPAYER WHO CLAIMED A TAX CREDIT PURSUANT TO
10 SUBSECTION (2) OF THIS SECTION AND TRANSFERRED THE CREDIT
11 PURSUANT TO THIS SUBSECTION (4) SHALL BE THE TAX MATTERS
12 REPRESENTATIVE IN ALL MATTERS WITH RESPECT TO THE CREDIT. THE TAX
13 MATTERS REPRESENTATIVE SHALL BE RESPONSIBLE FOR REPRESENTING
14 AND BINDING THE TRANSFEREES WITH RESPECT TO ALL ISSUES AFFECTING
15 THE CREDIT, INCLUDING, BUT NOT LIMITED TO, NOTIFICATIONS AND
16 CORRESPONDENCE FROM AND WITH THE DEPARTMENT, AUDIT
17 EXAMINATIONS, REFUNDS, SETTLEMENT AGREEMENTS, AND THE STATUTE
18 OF LIMITATIONS. THE TRANSFEREE SHALL BE SUBJECT TO THE SAME
19 STATUTE OF LIMITATIONS WITH RESPECT TO THE CREDIT AS THE
20 TRANSFEROR OF THE CREDIT.

21 (j) FINAL RESOLUTION OF DISPUTES REGARDING THE TAX CREDIT
22 BETWEEN THE DEPARTMENT AND THE TAX MATTERS REPRESENTATIVE,
23 INCLUDING FINAL DETERMINATIONS, COMPROMISES, PAYMENT OF
24 ADDITIONAL TAXES OR REFUNDS DUE, AND ADMINISTRATIVE AND JUDICIAL
25 DECISIONS, SHALL BE BINDING ON TRANSFEREES.

26 (5) IF A TAXPAYER RECEIVING A CREDIT ALLOWED IN THIS SECTION
27 IS A PARTNERSHIP, LIMITED LIABILITY COMPANY, S CORPORATION, OR

1 SIMILAR PASS-THROUGH ENTITY, THE TAXPAYER MAY ALLOCATE THE
2 CREDIT AMONG ITS PARTNERS, SHAREHOLDERS, MEMBERS, OR OTHER
3 CONSTITUENT TAXPAYERS IN ANY MANNER AGREED TO BY THE PARTNERS,
4 SHAREHOLDERS, MEMBERS, OR OTHER CONSTITUENT TAXPAYERS. THE
5 TAXPAYER SHALL CERTIFY TO THE DEPARTMENT THE AMOUNT OF THE
6 CREDIT ALLOCATED TO EACH PARTNER, SHAREHOLDER, MEMBER, OR
7 OTHER CONSTITUENT TAXPAYER. EACH PARTNER, SHAREHOLDER,
8 MEMBER, OR OTHER CONSTITUENT TAXPAYER MAY CLAIM THE AMOUNT
9 SUBJECT TO ANY RESTRICTIONS SET FORTH IN THIS SECTION.

10 (6) NO LATER THAN DECEMBER 15, 2018, AND NO LATER THAN
11 DECEMBER 15 OF EACH YEAR THEREAFTER, EACH PRIVATE SCHOOL THAT
12 ISSUES A CREDIT CERTIFICATE SHALL PROVIDE THE DEPARTMENT WITH AN
13 ELECTRONIC REPORT OF ANY CREDIT CERTIFICATE ISSUED FOR THAT
14 INCOME TAX YEAR THAT INCLUDES THE FOLLOWING INFORMATION:

15 (a) THE TAXPAYER'S NAME;

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

18 (c) ANY ASSOCIATED TAXPAYERS' NAMES AND COLORADO
19 ACCOUNT NUMBERS OR SOCIAL SECURITY NUMBERS IF THE CREDIT
20 ALLOWED IN THIS SECTION IS ALLOCATED FROM A PASS-THROUGH ENTITY
21 PURSUANT TO SUBSECTION (5) OF THIS SECTION.

22 (7) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT MAY
23 PROMULGATE RULES AS NECESSARY TO ADMINISTER AND ENFORCE ANY
24 PROVISION OF THIS SECTION. THE RULES SHALL BE PROMULGATED IN
25 ACCORDANCE WITH ARTICLE 4 OF TITLE 24.

26 (8) ANY TAXPAYER THAT OFFSETS A TAX DEFICIENCY WITH A
27 CREDIT AUTHORIZED IN THIS SECTION THAT IS DISALLOWED PURSUANT TO

1 THIS SECTION IS LIABLE FOR SUCH TAX DEFICIENCY, INTEREST, AND
2 PENALTIES AS MAY BE SPECIFIED IN THIS ARTICLE 22 OR OTHERWISE
3 PROVIDED BY LAW.

4 **39-22-540. Credit for taxpayers that use home-based**
5 **education for a qualified child - definitions.** (1) AS USED IN THIS
6 SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

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

8 (b) "HOME-BASED EDUCATION" MEANS THE EDUCATION OF A
9 QUALIFIED CHILD PURSUANT TO SECTION 22-33-104.5 OR TAUGHT AT
10 HOME UNDER THE SUPERVISION OF A PRIVATE SCHOOL.

11 (c) (I) "QUALIFIED CHILD" MEANS A DEPENDENT CHILD ENROLLED
12 ON A FULL-TIME OR HALF-TIME BASIS AS DESCRIBED IN THE STATE BOARD
13 OF EDUCATION RULES IN A PUBLIC SCHOOL IN THE STATE FOR THE SCHOOL
14 YEAR PRIOR TO BEING TAUGHT AT HOME OR A DEPENDENT CHILD WHO WAS
15 NOT OLD ENOUGH TO ENROLL IN A KINDERGARTEN THROUGH TWELFTH
16 GRADE PROGRAM IN THE SCHOOL YEAR PRIOR TO BEING TAUGHT AT HOME,
17 BUT DOES NOT INCLUDE A DEPENDENT CHILD WHO IS ENROLLED IN A
18 PRIVATE SCHOOL OR TAUGHT AT HOME IN THE STATE PRIOR TO THE
19 EFFECTIVE DATE OF THIS SECTION.

20 (II) ONCE A CHILD IS A QUALIFIED CHILD AS SPECIFIED IN
21 SUBSECTION (1)(c)(I) OF THIS SECTION, THE CHILD WILL REMAIN A
22 QUALIFIED CHILD SO LONG AS HE OR SHE CONTINUES TO BE TAUGHT AT
23 HOME IN THE STATE IN A KINDERGARTEN THROUGH TWELFTH GRADE
24 PROGRAM.

25 (2) (a) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
26 JANUARY 1, 2018, THERE IS ALLOWED AS A CREDIT AGAINST THE INCOME
27 TAXES IMPOSED BY THIS ARTICLE 22 AN AMOUNT EQUAL TO ONE

1 THOUSAND DOLLARS FOR ANY TAXPAYER WHO USES HOME-BASED
2 EDUCATION FOR A DEPENDENT QUALIFIED CHILD WHO WAS ENROLLED ON
3 A FULL-TIME BASIS AS DESCRIBED IN THE STATE BOARD OF EDUCATION
4 RULES IN A PUBLIC SCHOOL IN THE STATE PRIOR TO BEING TAUGHT AT
5 HOME OR WHO WAS NOT OLD ENOUGH TO ENROLL IN A KINDERGARTEN
6 THROUGH TWELFTH GRADE PROGRAM IN THE SCHOOL YEAR PRIOR TO
7 BEING TAUGHT AT HOME.

8 (II) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
9 1, 2018, THERE IS ALLOWED AS A CREDIT AGAINST THE INCOME TAXES
10 IMPOSED BY THIS ARTICLE 22 AN AMOUNT EQUAL TO FIVE HUNDRED
11 DOLLARS TO ANY TAXPAYER WHO USES HOME-BASED EDUCATION FOR A
12 DEPENDENT QUALIFIED CHILD WHO WAS ENROLLED ON A HALF-TIME BASIS
13 AS DESCRIBED IN THE STATE BOARD OF EDUCATION RULES IN A PUBLIC
14 SCHOOL IN THE STATE PRIOR TO BEING TAUGHT AT HOME OR WHO WAS NOT
15 OLD ENOUGH TO ENROLL IN A KINDERGARTEN THROUGH TWELFTH GRADE
16 PROGRAM IN THE SCHOOL YEAR PRIOR TO BEING TAUGHT AT HOME.

17 (b) A TAXPAYER WHO USES HOME-BASED EDUCATION FOR A
18 QUALIFIED CHILD DURING THE 2017-18 STATE FISCAL YEAR OR ANY STATE
19 FISCAL YEAR THEREAFTER, IS ELIGIBLE FOR THE INCOME TAX CREDIT
20 SPECIFIED IN SUBSECTION (2)(a) OF THIS SECTION FOR THE INCOME TAX
21 YEAR COMMENCING DURING THE STATE FISCAL YEAR IN WHICH THE
22 QUALIFIED CHILD IS TAUGHT AT HOME.

23 (3) IF THE CREDIT ALLOWED UNDER THIS SECTION EXCEEDS THE
24 INCOME TAXES OTHERWISE DUE ON THE TAXPAYER'S INCOME, THE
25 AMOUNT OF THE CREDIT NOT USED AS AN OFFSET AGAINST INCOME TAXES
26 MAY BE CARRIED FORWARD AS A TAX CREDIT AGAINST SUBSEQUENT
27 YEARS' INCOME TAX LIABILITY FOR A PERIOD NOT EXCEEDING THREE

1 YEARS AND SHALL BE APPLIED FIRST TO THE EARLIEST YEARS POSSIBLE.
2 ANY CREDIT REMAINING AFTER SAID PERIOD MAY NOT BE REFUNDED OR
3 CREDITED TO THE TAXPAYER.

4 (4) A TAXPAYER MAY TRANSFER ALL OR A PORTION OF A TAX
5 CREDIT GRANTED PURSUANT TO SUBSECTION (2) OF THIS SECTION TO
6 ANOTHER TAXPAYER FOR SUCH OTHER TAXPAYER, AS TRANSFEREE, TO
7 APPLY AS A CREDIT AGAINST THE TAXES IMPOSED BY THIS ARTICLE 22
8 SUBJECT TO THE FOLLOWING LIMITATIONS:

9 (a) THE TAXPAYER MAY ONLY TRANSFER SUCH PORTION OF THE
10 TAX CREDIT AS THE TAXPAYER HAS NOT APPLIED AGAINST THE INCOME
11 TAXES IMPOSED BY THIS ARTICLE 22;

12 (b) THE TAXPAYER MAY NOT TRANSFER A PRORATED PORTION OF
13 THE TAX CREDIT TO MORE THAN ONE TRANSFEREE;

14 (c) A TRANSFEREE MAY NOT ELECT TO HAVE ANY TRANSFERRED
15 CREDIT REFUNDED;

16 (d) FOR ANY TAX YEAR IN WHICH A TAX CREDIT IS TRANSFERRED
17 PURSUANT TO THIS SUBSECTION (4), BOTH THE TAXPAYER AND THE
18 TRANSFEREE SHALL FILE WRITTEN STATEMENTS WITH THEIR INCOME TAX
19 RETURNS SPECIFYING THE AMOUNT OF THE TAX CREDIT THAT HAS BEEN
20 TRANSFERRED. A TRANSFEREE MAY NOT CLAIM A CREDIT TRANSFERRED
21 PURSUANT TO THIS SUBSECTION (4) UNLESS THE TAXPAYER'S WRITTEN
22 STATEMENT VERIFIES THE AMOUNT OF THE TAX CREDIT CLAIMED BY THE
23 TRANSFEREE.

24 (e) TO THE EXTENT THAT A TRANSFEREE PAID VALUE FOR THE
25 TRANSFER OF A CREDIT ALLOWED PURSUANT TO THIS SECTION TO SUCH
26 TRANSFEREE, THE TRANSFEREE SHALL BE DEEMED TO HAVE USED THE
27 CREDIT TO PAY, IN WHOLE OR IN PART, THE INCOME TAX OBLIGATION

1 IMPOSED ON THE TRANSFEREE UNDER THIS ARTICLE 22, AND TO SUCH
2 EXTENT THE TRANSFEREE'S USE OF A TAX CREDIT FROM A TRANSFEROR
3 UNDER THIS SECTION TO PAY TAXES OWED SHALL NOT BE DEEMED A
4 REDUCTION IN THE AMOUNT OF INCOME TAXES IMPOSED BY THIS ARTICLE
5 22 ON THE TRANSFEREE;

6 (f) THE TRANSFEREE AND THE TRANSFEROR SHALL BOTH SUBMIT
7 TO THE DEPARTMENT, IN A FORM AND MANNER TO BE DETERMINED BY THE
8 DEPARTMENT, A STATEMENT THAT THE TRANSFEREE PURCHASED THE TAX
9 CREDIT FROM THE TRANSFEROR;

10 (g) A TRANSFEREE OF A TAX CREDIT SHALL PURCHASE THE CREDIT
11 PRIOR TO THE DUE DATE IMPOSED BY THIS ARTICLE 22, NOT INCLUDING
12 ANY EXTENSIONS, FOR FILING THE TRANSFEREE'S INCOME TAX RETURN;

13 (h) A TAX CREDIT HELD BY AN INDIVIDUAL EITHER DIRECTLY OR
14 AS A RESULT OF A DONATION BY A PASS-THROUGH ENTITY, BUT NOT A TAX
15 CREDIT HELD BY A TRANSFEREE UNLESS USED BY THE TRANSFEREE'S
16 ESTATE FOR TAXES OWED BY THE ESTATE, SHALL SURVIVE THE DEATH OF
17 THE INDIVIDUAL AND MAY BE CLAIMED OR TRANSFERRED BY THE
18 DECEDENT'S ESTATE;

19 (i) THE TAXPAYER WHO CLAIMED A TAX CREDIT PURSUANT TO
20 SUBSECTION (2) OF THIS SECTION AND TRANSFERRED THE CREDIT
21 PURSUANT TO THIS SUBSECTION (4) SHALL BE THE TAX MATTERS
22 REPRESENTATIVE IN ALL MATTERS WITH RESPECT TO THE CREDIT. THE TAX
23 MATTERS REPRESENTATIVE SHALL BE RESPONSIBLE FOR REPRESENTING
24 AND BINDING THE TRANSFEREES WITH RESPECT TO ALL ISSUES AFFECTING
25 THE CREDIT, INCLUDING, BUT NOT LIMITED TO, NOTIFICATIONS AND
26 CORRESPONDENCE FROM AND WITH THE DEPARTMENT, AUDIT
27 EXAMINATIONS, REFUNDS, SETTLEMENT AGREEMENTS, AND THE STATUTE

1 OF LIMITATIONS. THE TRANSFEREE SHALL BE SUBJECT TO THE SAME
2 STATUTE OF LIMITATIONS WITH RESPECT TO THE CREDIT AS THE
3 TRANSFEROR OF THE CREDIT.

4 (j) FINAL RESOLUTION OF DISPUTES REGARDING THE TAX CREDIT
5 BETWEEN THE DEPARTMENT AND THE TAX MATTERS REPRESENTATIVE,
6 INCLUDING FINAL DETERMINATIONS, COMPROMISES, PAYMENT OF
7 ADDITIONAL TAXES OR REFUNDS DUE, AND ADMINISTRATIVE AND JUDICIAL
8 DECISIONS, SHALL BE BINDING ON TRANSFEREES.

9 **SECTION 4. Appropriation - adjustments to 2017 long bill. To**
10 **implement this act, the general fund appropriation made in the annual**
11 **general appropriation act for the 2017-18 state fiscal year to the**
12 **department of education for the state share of districts' total program**
13 **funding is decreased by \$50,000,000.**

14 **SECTION 5. Act subject to petition - effective date.** This act
15 takes effect at 12:01 a.m. on the day following the expiration of the
16 ninety-day period after final adjournment of the general assembly (August
17 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a
18 referendum petition is filed pursuant to section 1 (3) of article V of the
19 state constitution against this act or an item, section, or part of this act
20 within such period, then the act, item, section, or part will not take effect
21 unless approved by the people at the general election to be held in
22 November 2018 and, in such case, will take effect on the date of the
23 official declaration of the vote thereon by the governor.