

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 22-0743.01 Nicole Myers x4326

HOUSE BILL 22-1203

HOUSE SPONSORSHIP

Hanks,

SENATE SPONSORSHIP

(None),

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://leg.colorado.gov>.)

The bill establishes a private school tuition income tax credit for income tax years commencing on or after January 1, 2023, but prior to January 1, 2028, that allows any taxpayer to claim a credit when the taxpayer enrolls a qualified child in a private school or the taxpayer provides a scholarship to a qualified child for enrollment in a private school. The private school issues the taxpayer a credit certificate and the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

amount of the credit is:

- For full-time attendance, 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 half-time attendance, 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, 2023, but prior to January 1, 2028, that allows any taxpayer who uses home-based education for a qualified child to claim an income tax credit in an amount equal to:

- \$1,500 for a taxpayer who uses home-based education for a qualified child who was enrolled on a full-time basis in a public school in the state prior to being taught at home; and
- \$750 for a taxpayer who uses home-based education for a qualified child who was enrolled on a half-time basis in a public school in the state prior to being taught at home.

Both credits may be carried forward for 3 years but may not be refunded. In addition, the credits 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 section is the
3 "Quality Education and Budget Reduction Act".

4 **SECTION 2.** In Colorado Revised Statutes, **add** 39-22-543 and
5 39-22-544 as follows:

6 **39-22-543. Private school tuition income tax credit - rules - tax**
7 **preference performance statement - legislative declaration -**
8 **definitions.** (1) (a) THE GENERAL ASSEMBLY HEREBY FINDS AND
9 DECLARES THAT:

10 (I) EVERY STUDENT IN THE STATE OF COLORADO SHOULD HAVE AS
11 MUCH ACCESS AS POSSIBLE TO THE EDUCATIONAL FORMATS THAT BEST FIT
12 THEIR NEEDS AND LEARNING STYLES;

13 (II) PRIVATE SCHOOLS CAN OFTEN BEST MEET THOSE NEEDS FOR

1 MANY COLORADO STUDENTS;

2 (III) PUBLIC MONEY FOR EDUCATION IS LIMITED AND SHOULD BE
3 DIRECTED TO THE MOST COST-EFFICIENT MEANS OF DELIVERING
4 EDUCATIONAL OPPORTUNITIES FOR ALL COLORADO STUDENTS; AND

5 (IV) PARENTS HAVE THE FUNDAMENTAL RIGHT AND
6 RESPONSIBILITY TO DIRECT THE EDUCATION OF THEIR CHILDREN.

7 (b) IN ACCORDANCE WITH SECTION 39-21-304 (1), WHICH
8 REQUIRES EACH BILL THAT CREATES A NEW TAX EXPENDITURE TO INCLUDE
9 A TAX PREFERENCE PERFORMANCE STATEMENT AS PART OF A STATUTORY
10 LEGISLATIVE DECLARATION, THE GENERAL ASSEMBLY HEREBY FINDS AND
11 DECLARES THAT THE PURPOSES OF THE TAX EXPENDITURE CREATED IN
12 SUBSECTION (3) OF THIS SECTION ARE TO:

13 (I) PROVIDE TAX RELIEF FOR CERTAIN BUSINESSES OR
14 INDIVIDUALS, SPECIFICALLY BUSINESSES OR INDIVIDUALS THAT ENROLL A
15 QUALIFIED CHILD IN A PRIVATE SCHOOL OR THAT PROVIDE A SCHOLARSHIP
16 TO A QUALIFIED CHILD FOR ENROLLMENT IN A PRIVATE SCHOOL; AND

17 (II) GIVE PARENTS AND STUDENTS MORE EDUCATIONAL CHOICES
18 WHILE OPTIMIZING THE USE OF PUBLIC MONEY DESIGNATED FOR
19 EDUCATIONAL PURPOSES.

20 (c) THE GENERAL ASSEMBLY AND THE STATE AUDITOR SHALL
21 MEASURE THE EFFECTIVENESS OF THE TAX CREDIT IN ACHIEVING THE
22 PURPOSES SPECIFIED IN SUBSECTION (1)(b) OF THIS SECTION BASED ON THE
23 NUMBER OF QUALIFIED CHILDREN WHO ARE ENROLLED IN A PRIVATE
24 SCHOOL FOR THE FIRST TIME IN THE APPLICABLE SCHOOL YEAR. THE
25 DEPARTMENT OF EDUCATION SHALL PROVIDE THE STATE AUDITOR WITH
26 AVAILABLE INFORMATION THAT WILL ASSIST THE STATE AUDITOR'S
27 MEASUREMENT.

1 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
2 REQUIRES:

3 (a) "CREDIT CERTIFICATE" MEANS A STATEMENT ISSUED BY A
4 PRIVATE SCHOOL CERTIFYING THAT A CHILD ENROLLED IN THE PRIVATE
5 SCHOOL IS A QUALIFIED CHILD AND THAT THE TAXPAYER IS ENTITLED TO
6 AN INCOME TAX CREDIT AS SPECIFIED IN THIS SECTION.

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

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

10 (d) (I) "QUALIFIED CHILD" MEANS A DEPENDENT CHILD ENROLLED
11 ON A FULL-TIME BASIS, AS DESCRIBED IN STATE BOARD OF EDUCATION
12 RULES, IN A PUBLIC SCHOOL IN THE STATE FOR THE SCHOOL YEAR PRIOR TO
13 ENROLLMENT IN A PRIVATE SCHOOL OR A DEPENDENT CHILD WHO WAS NOT
14 OLD ENOUGH TO ENROLL IN A KINDERGARTEN THROUGH TWELFTH GRADE
15 PROGRAM IN THE SCHOOL YEAR PRIOR TO ENROLLMENT IN A PRIVATE
16 SCHOOL, BUT DOES NOT INCLUDE:

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

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

21 (II) ONCE A CHILD IS A QUALIFIED CHILD AS SPECIFIED IN
22 SUBSECTION (2)(d)(I) OF THIS SECTION, THE CHILD REMAINS A QUALIFIED
23 CHILD SO LONG AS THE CHILD REMAINS ENROLLED IN A PRIVATE SCHOOL
24 IN THE STATE IN A KINDERGARTEN THROUGH TWELFTH GRADE PROGRAM.

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

27 (f) "TAXPAYER" MEANS A RESIDENT INDIVIDUAL OR A DOMESTIC

1 OR FOREIGN CORPORATION SUBJECT TO THE PROVISIONS OF PART 3 OF THIS
2 ARTICLE 22, A PARTNERSHIP, LIMITED LIABILITY COMPANY, S
3 CORPORATION, OR OTHER SIMILAR PASS-THROUGH ENTITY, ESTATE, OR
4 TRUST, AND A PARTNER, MEMBER, AND SUBCHAPTER S SHAREHOLDER OF
5 SUCH A PASS-THROUGH ENTITY.

6 (3) (a) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
7 JANUARY 1, 2023, BUT PRIOR TO JANUARY 1, 2028, A PRIVATE SCHOOL
8 SHALL ISSUE A CREDIT CERTIFICATE TO ANY TAXPAYER THAT ENROLLS A
9 QUALIFIED CHILD IN THE PRIVATE SCHOOL OR THAT PROVIDES A
10 SCHOLARSHIP TO A QUALIFIED CHILD FOR ENROLLMENT IN THE PRIVATE
11 SCHOOL. THE CREDIT CERTIFICATE ALLOWS THE TAXPAYER TO CLAIM AN
12 INCOME TAX CREDIT WITH RESPECT TO THE INCOME TAXES IMPOSED BY
13 THIS ARTICLE 22.

14 (II) A TAXPAYER THAT ENROLLS A QUALIFIED CHILD IN A PRIVATE
15 SCHOOL OR THAT PROVIDES A SCHOLARSHIP TO A QUALIFIED CHILD FOR
16 ENROLLMENT IN A PRIVATE SCHOOL DURING THE 2022-23 STATE FISCAL
17 YEAR OR ANY STATE FISCAL YEAR THEREAFTER THROUGH STATE FISCAL
18 YEAR 2026-27, IS ELIGIBLE FOR THE INCOME TAX CREDIT SPECIFIED IN
19 SUBSECTION (3)(a)(I) OF THIS SECTION FOR THE INCOME TAX YEAR
20 COMMENCING DURING THE STATE FISCAL YEAR IN WHICH THE QUALIFIED
21 CHILD IS ENROLLED OR IN WHICH THE SCHOLARSHIP IS OFFERED; EXCEPT
22 THAT A QUALIFIED CHILD SHALL NOT GENERATE AN INCOME TAX CREDIT
23 IN THE SAME INCOME TAX YEAR FOR BOTH A TAXPAYER THAT ENROLLS
24 THE QUALIFIED CHILD IN A PRIVATE SCHOOL AND A TAXPAYER THAT
25 PROVIDES A SCHOLARSHIP TO THE QUALIFIED CHILD FOR ENROLLMENT IN
26 A PRIVATE SCHOOL.

27 (b) A PRIVATE SCHOOL SHALL ISSUE ANY CREDIT CERTIFICATES

1 PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION UPON APPLICATION FOR
2 A CREDIT BY A TAXPAYER.

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

10 (B) FOR ANY QUALIFIED CHILD ATTENDING A PRIVATE SCHOOL ON
11 A HALF-TIME BASIS AS DESCRIBED IN THE STATE BOARD OF EDUCATION
12 RULES, THE AMOUNT OF THE CREDIT AUTHORIZED IN THIS SECTION EQUALS
13 EITHER THE AMOUNT OF TUITION PAID FOR THE QUALIFIED CHILD OR THE
14 AMOUNT OF THE SCHOLARSHIP PROVIDED TO A QUALIFIED CHILD, AS
15 APPLICABLE, OR TWENTY-FIVE PERCENT OF THE PREVIOUS FISCAL YEAR'S
16 STATE AVERAGE PER PUPIL REVENUES, WHICHEVER IS LESS.

17 (II) ON JANUARY 15, 2023, AND ON EVERY JANUARY 15
18 THEREAFTER, THE DEPARTMENT OF EDUCATION SHALL PROVIDE THE STATE
19 AVERAGE PER PUPIL REVENUES FOR THE PRIOR FISCAL YEAR TO THE
20 DEPARTMENT.

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

24 (4) IF THE CREDIT ALLOWED IN THIS SECTION EXCEEDS THE INCOME
25 TAXES OTHERWISE DUE ON THE TAXPAYER'S INCOME, THE AMOUNT OF THE
26 CREDIT NOT USED AS AN OFFSET AGAINST INCOME TAXES MAY BE CARRIED
27 FORWARD AS A TAX CREDIT AGAINST SUBSEQUENT YEARS' INCOME TAX

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

5 (5) A TAXPAYER MAY TRANSFER ALL OR A PORTION OF A TAX
6 CREDIT GRANTED PURSUANT TO SUBSECTION (3) OF THIS SECTION TO
7 ANOTHER TAXPAYER FOR SUCH OTHER TAXPAYER, AS TRANSFEREE, TO
8 APPLY AS A CREDIT AGAINST THE TAXES IMPOSED BY THIS ARTICLE 22
9 SUBJECT TO THE FOLLOWING LIMITATIONS:

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

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

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

17 (d) FOR ANY TAX YEAR IN WHICH A TAX CREDIT IS TRANSFERRED
18 PURSUANT TO THIS SUBSECTION (5), BOTH THE TAXPAYER AND THE
19 TRANSFEREE SHALL FILE WRITTEN STATEMENTS WITH THEIR INCOME TAX
20 RETURNS SPECIFYING THE AMOUNT OF THE TAX CREDIT THAT HAS BEEN
21 TRANSFERRED. A TRANSFEREE MAY NOT CLAIM A CREDIT TRANSFERRED
22 PURSUANT TO THIS SUBSECTION (5) UNLESS THE TAXPAYER'S WRITTEN
23 STATEMENT VERIFIES THE AMOUNT OF THE TAX CREDIT CLAIMED BY THE
24 TRANSFEREE.

25 (e) TO THE EXTENT THAT A TRANSFEREE PAID VALUE FOR THE
26 TRANSFER OF A CREDIT ALLOWED PURSUANT TO THIS SECTION TO SUCH
27 TRANSFEREE, THE TRANSFEREE SHALL BE DEEMED TO HAVE USED THE

1 CREDIT TO PAY, IN WHOLE OR IN PART, THE INCOME TAX OBLIGATION
2 IMPOSED ON THE TRANSFEREE UNDER THIS ARTICLE 22, AND TO SUCH
3 EXTENT THE TRANSFEREE'S USE OF A TAX CREDIT FROM A TRANSFEROR
4 UNDER THIS SECTION TO PAY TAXES OWED SHALL NOT BE DEEMED A
5 REDUCTION IN THE AMOUNT OF INCOME TAXES IMPOSED BY THIS ARTICLE
6 22 ON THE TRANSFEREE;

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

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

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

20 (i) THE TAXPAYER WHO CLAIMED A TAX CREDIT PURSUANT TO
21 SUBSECTION (3) OF THIS SECTION AND TRANSFERRED THE CREDIT
22 PURSUANT TO THIS SUBSECTION (5) IS THE TAX MATTERS REPRESENTATIVE
23 IN ALL MATTERS WITH RESPECT TO THE CREDIT. THE TAX MATTERS
24 REPRESENTATIVE IS RESPONSIBLE FOR REPRESENTING AND BINDING THE
25 TRANSFEREES WITH RESPECT TO ALL ISSUES AFFECTING THE CREDIT,
26 INCLUDING, BUT NOT LIMITED TO, NOTIFICATIONS AND CORRESPONDENCE
27 FROM AND WITH THE DEPARTMENT, AUDIT EXAMINATIONS, REFUNDS,

1 SETTLEMENT AGREEMENTS, AND THE STATUTE OF LIMITATIONS. THE
2 TRANSFEREE IS SUBJECT TO THE SAME STATUTE OF LIMITATIONS WITH
3 RESPECT TO THE CREDIT AS THE 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, IS BINDING ON TRANSFEREES.

9 (6) IF A TAXPAYER RECEIVING A CREDIT ALLOWED IN THIS SECTION
10 IS A PARTNERSHIP, LIMITED LIABILITY COMPANY, S CORPORATION, OR
11 SIMILAR PASS-THROUGH ENTITY, THE TAXPAYER MAY ALLOCATE THE
12 CREDIT AMONG ITS PARTNERS, SHAREHOLDERS, MEMBERS, OR OTHER
13 CONSTITUENT TAXPAYERS IN ANY MANNER AGREED TO BY THE PARTNERS,
14 SHAREHOLDERS, MEMBERS, OR OTHER CONSTITUENT TAXPAYERS. THE
15 TAXPAYER SHALL CERTIFY TO THE DEPARTMENT THE AMOUNT OF THE
16 CREDIT ALLOCATED TO EACH PARTNER, SHAREHOLDER, MEMBER, OR
17 OTHER CONSTITUENT TAXPAYER. EACH PARTNER, SHAREHOLDER,
18 MEMBER, OR OTHER CONSTITUENT TAXPAYER MAY CLAIM THE AMOUNT
19 SUBJECT TO ANY RESTRICTIONS SET FORTH IN THIS SECTION.

20 (7) NO LATER THAN DECEMBER 15, 2023, AND NO LATER THAN
21 DECEMBER 15 OF EACH YEAR THEREAFTER, EACH PRIVATE SCHOOL THAT
22 ISSUES A CREDIT CERTIFICATE SHALL PROVIDE THE DEPARTMENT WITH AN
23 ELECTRONIC REPORT OF ANY CREDIT CERTIFICATE ISSUED FOR THAT
24 INCOME TAX YEAR THAT INCLUDES THE FOLLOWING INFORMATION:

25 (a) THE TAXPAYER'S NAME;

26 (b) THE TAXPAYER'S COLORADO ACCOUNT NUMBER OR SOCIAL
27 SECURITY NUMBER; AND

1 (c) ANY ASSOCIATED TAXPAYERS' NAMES AND COLORADO
2 ACCOUNT NUMBERS OR SOCIAL SECURITY NUMBERS IF THE CREDIT
3 ALLOWED IN THIS SECTION IS ALLOCATED FROM A PASS-THROUGH ENTITY
4 PURSUANT TO SUBSECTION (6) OF THIS SECTION.

5 **39-22-544. Credit for taxpayers that use home-based**
6 **education for a qualified child - rules - tax preference performance**
7 **statement - legislative declaration - definitions.** (1) (a) THE GENERAL
8 ASSEMBLY HEREBY FINDS AND DECLARES THAT:

9 (I) EVERY STUDENT IN THE STATE OF COLORADO SHOULD HAVE AS
10 MUCH ACCESS AS POSSIBLE TO THE EDUCATIONAL FORMATS THAT BEST FIT
11 THEIR NEEDS AND LEARNING STYLES;

12 (II) HOME-BASED EDUCATION CAN BEST MEET THOSE NEEDS FOR
13 MANY COLORADO STUDENTS;

14 (III) PUBLIC MONEY FOR EDUCATION IS LIMITED AND SHOULD BE
15 DIRECTED TO THE MOST COST-EFFICIENT MEANS OF DELIVERING
16 EDUCATIONAL OPPORTUNITIES FOR ALL COLORADO STUDENTS; AND

17 (IV) PARENTS HAVE THE FUNDAMENTAL RIGHT AND
18 RESPONSIBILITY TO DIRECT THE EDUCATION OF THEIR CHILDREN.

19 (b) IN ACCORDANCE WITH SECTION 39-21-304 (1), WHICH
20 REQUIRES EACH BILL THAT CREATES A NEW TAX EXPENDITURE TO INCLUDE
21 A TAX PREFERENCE PERFORMANCE STATEMENT AS PART OF A STATUTORY
22 LEGISLATIVE DECLARATION, THE GENERAL ASSEMBLY HEREBY FINDS AND
23 DECLARES THAT THE PURPOSES OF THE TAX EXPENDITURE CREATED IN
24 SUBSECTION (3) OF THIS SECTION ARE TO:

25 (I) PROVIDE TAX RELIEF FOR CERTAIN INDIVIDUALS, SPECIFICALLY
26 INDIVIDUALS THAT USE HOME-BASED EDUCATION FOR A QUALIFIED CHILD;
27 AND

1 (II) GIVE PARENTS AND STUDENTS MORE EDUCATIONAL CHOICES
2 WHILE OPTIMIZING THE USE OF PUBLIC MONEY DESIGNATED FOR
3 EDUCATIONAL PURPOSES.

4 (c) THE GENERAL ASSEMBLY AND THE STATE AUDITOR SHALL
5 MEASURE THE EFFECTIVENESS OF THE TAX CREDIT IN ACHIEVING THE
6 PURPOSES SPECIFIED IN SUBSECTION (1)(b) OF THIS SECTION BASED ON THE
7 NUMBER OF QUALIFIED CHILDREN WHO ARE TAUGHT THROUGH
8 HOME-BASED EDUCATION FOR THE FIRST TIME IN THE APPLICABLE SCHOOL
9 YEAR. THE DEPARTMENT OF EDUCATION SHALL PROVIDE THE STATE
10 AUDITOR WITH AVAILABLE INFORMATION THAT WILL ASSIST THE STATE
11 AUDITOR'S MEASUREMENT.

12 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
13 REQUIRES:

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

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

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

27 (II) ONCE A CHILD IS A QUALIFIED CHILD AS SPECIFIED IN

1 SUBSECTION (2)(c)(I) OF THIS SECTION, THE CHILD REMAINS A QUALIFIED
2 CHILD SO LONG AS HE OR SHE CONTINUES TO BE TAUGHT AT HOME IN THE
3 STATE IN A KINDERGARTEN THROUGH TWELFTH GRADE PROGRAM.

4 (d) "TAXPAYER" MEANS A RESIDENT INDIVIDUAL OR A DOMESTIC
5 OR FOREIGN CORPORATION SUBJECT TO THE PROVISIONS OF PART 3 OF THIS
6 ARTICLE 22, A PARTNERSHIP, LIMITED LIABILITY COMPANY, S
7 CORPORATION, OR OTHER SIMILAR PASS-THROUGH ENTITY, ESTATE, OR
8 TRUST, AND A PARTNER, MEMBER, AND SUBCHAPTER S SHAREHOLDER OF
9 SUCH PASS-THROUGH ENTITY.

10 (3) (a) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
11 JANUARY 1, 2023, BUT PRIOR TO JANUARY 1, 2028, THERE IS ALLOWED AS
12 A CREDIT AGAINST THE INCOME TAXES IMPOSED BY THIS ARTICLE 22 AN
13 AMOUNT EQUAL TO ONE THOUSAND FIVE HUNDRED DOLLARS FOR ANY
14 TAXPAYER WHO USES HOME-BASED EDUCATION FOR A QUALIFIED CHILD
15 WHO WAS ENROLLED ON A FULL-TIME BASIS IN A PUBLIC SCHOOL IN THE
16 STATE PRIOR TO BEING TAUGHT AT HOME OR WHO WAS NOT OLD ENOUGH
17 TO ENROLL IN A KINDERGARTEN THROUGH TWELFTH GRADE PROGRAM IN
18 THE SCHOOL YEAR PRIOR TO BEING TAUGHT AT HOME.

19 (II) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
20 1, 2023, BUT PRIOR TO JANUARY 1, 2028, THERE IS ALLOWED AS A CREDIT
21 AGAINST THE INCOME TAXES IMPOSED BY THIS ARTICLE 22 AN AMOUNT
22 EQUAL TO SEVEN HUNDRED FIFTY DOLLARS TO ANY TAXPAYER WHO USES
23 HOME-BASED EDUCATION FOR A QUALIFIED CHILD WHO WAS ENROLLED ON
24 A HALF-TIME BASIS IN A PUBLIC SCHOOL IN THE STATE PRIOR TO BEING
25 TAUGHT AT HOME OR WHO WAS NOT OLD ENOUGH TO ENROLL IN A
26 KINDERGARTEN THROUGH TWELFTH GRADE PROGRAM IN THE SCHOOL
27 YEAR PRIOR TO BEING TAUGHT AT HOME.

1 (b) A TAXPAYER WHO USES HOME-BASED EDUCATION FOR A
2 QUALIFIED CHILD DURING THE 2022-23 STATE FISCAL YEAR OR ANY STATE
3 FISCAL YEAR THEREAFTER, THROUGH THE 2026-27 FISCAL YEAR, IS
4 ELIGIBLE FOR THE INCOME TAX CREDIT SPECIFIED IN SUBSECTION (3)(a) OF
5 THIS SECTION FOR THE INCOME TAX YEAR COMMENCING DURING THE
6 STATE FISCAL YEAR IN WHICH THE QUALIFIED CHILD IS TAUGHT AT HOME.

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

15 (5) A TAXPAYER MAY TRANSFER ALL OR A PORTION OF A TAX
16 CREDIT GRANTED PURSUANT TO SUBSECTION (3) OF THIS SECTION TO
17 ANOTHER TAXPAYER FOR SUCH OTHER TAXPAYER, AS TRANSFEREE, TO
18 APPLY AS A CREDIT AGAINST THE TAXES IMPOSED BY THIS ARTICLE 22
19 SUBJECT TO THE FOLLOWING LIMITATIONS:

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

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

25 (c) A TRANSFEREE MAY NOT ELECT TO HAVE ANY TRANSFERRED
26 CREDIT REFUNDED;

27 (d) FOR ANY TAX YEAR IN WHICH A TAX CREDIT IS TRANSFERRED

1 PURSUANT TO THIS SUBSECTION (5), BOTH THE TAXPAYER AND THE
2 TRANSFEREE SHALL FILE WRITTEN STATEMENTS WITH THEIR INCOME TAX
3 RETURNS SPECIFYING THE AMOUNT OF THE TAX CREDIT THAT HAS BEEN
4 TRANSFERRED. A TRANSFEREE MAY NOT CLAIM A CREDIT TRANSFERRED
5 PURSUANT TO THIS SUBSECTION (5) UNLESS THE TAXPAYER'S WRITTEN
6 STATEMENT VERIFIES THE AMOUNT OF THE TAX CREDIT CLAIMED BY THE
7 TRANSFEREE.

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

17 (f) THE TRANSFEREE AND THE TRANSFEROR SHALL BOTH SUBMIT
18 TO THE DEPARTMENT, IN A FORM AND MANNER TO BE DETERMINED BY THE
19 DEPARTMENT, A STATEMENT THAT THE TRANSFEREE PURCHASED THE TAX
20 CREDIT FROM THE TRANSFEROR;

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

24 (h) A TAX CREDIT HELD BY AN INDIVIDUAL EITHER DIRECTLY OR
25 AS A RESULT OF A DONATION BY A PASS-THROUGH ENTITY, BUT NOT A TAX
26 CREDIT HELD BY A TRANSFEREE UNLESS USED BY THE TRANSFEREE'S
27 ESTATE FOR TAXES OWED BY THE ESTATE, SURVIVES THE DEATH OF THE

1 INDIVIDUAL AND MAY BE CLAIMED OR TRANSFERRED BY THE DECEDENT'S
2 ESTATE;

3 (i) THE TAXPAYER WHO CLAIMED A TAX CREDIT PURSUANT TO
4 SUBSECTION (3) OF THIS SECTION AND TRANSFERRED THE CREDIT
5 PURSUANT TO THIS SUBSECTION (5) IS THE TAX MATTERS REPRESENTATIVE
6 IN ALL MATTERS WITH RESPECT TO THE CREDIT. THE TAX MATTERS
7 REPRESENTATIVE IS RESPONSIBLE FOR REPRESENTING AND BINDING THE
8 TRANSFEREES WITH RESPECT TO ALL ISSUES AFFECTING THE CREDIT,
9 INCLUDING, BUT NOT LIMITED TO, NOTIFICATIONS AND CORRESPONDENCE
10 FROM AND WITH THE DEPARTMENT, AUDIT EXAMINATIONS, REFUNDS,
11 SETTLEMENT AGREEMENTS, AND THE STATUTE OF LIMITATIONS. THE
12 TRANSFEREE IS SUBJECT TO THE SAME STATUTE OF LIMITATIONS WITH
13 RESPECT TO THE CREDIT AS THE TRANSFEROR OF THE CREDIT.

14 (j) FINAL RESOLUTION OF DISPUTES REGARDING THE TAX CREDIT
15 BETWEEN THE DEPARTMENT AND THE TAX MATTERS REPRESENTATIVE,
16 INCLUDING FINAL DETERMINATIONS, COMPROMISES, PAYMENT OF
17 ADDITIONAL TAXES OR REFUNDS DUE, AND ADMINISTRATIVE AND JUDICIAL
18 DECISIONS, IS BINDING ON TRANSFEREES.

19 **SECTION 3. Act subject to petition - effective date.** This act
20 takes effect at 12:01 a.m. on the day following the expiration of the
21 ninety-day period after final adjournment of the general assembly; except
22 that, if a referendum petition is filed pursuant to section 1 (3) of article V
23 of the state constitution against this act or an item, section, or part of this
24 act within such period, then the act, item, section, or part will not take
25 effect unless approved by the people at the general election to be held in
26 November 2022 and, in such case, will take effect on the date of the
27 official declaration of the vote thereon by the governor.