

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

ENGROSSED

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

LLS NO. 18-0406.01 Nicole Myers x4326

SENATE BILL 18-083

SENATE SPONSORSHIP

Lundberg, Neville T., Marble, Gardner, Baumgardner, Cooke, Crowder, Hill, Lambert,
Grantham

HOUSE SPONSORSHIP

Ransom, Everett, Leonard, Saine

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 commencing on or after January 1, 2019, 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

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.

SENATE
Amended 2nd Reading
April 16, 2018

credit certificate and the 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 commencing on or after January 1, 2019, 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 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 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 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
7 access as possible to the educational formats that best fit their needs and
8 learning styles;

9 (b) Private schools and home schools can often best meet those
10 needs for many Colorado students;

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

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

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

7 **SECTION 3.** In Colorado Revised Statutes, **add** 39-22-539 and
8 39-22-540 as follows:

9 **39-22-539. Private school tuition income tax credit - rules -**
10 **definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
11 OTHERWISE REQUIRES:

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

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

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

19 (d) (I) "QUALIFIED CHILD" MEANS A DEPENDENT CHILD ENROLLED
20 ON A FULL-TIME BASIS, AS DESCRIBED IN THE STATE BOARD OF EDUCATION
21 RULES, IN A PUBLIC SCHOOL IN THE STATE FOR THE SCHOOL YEAR PRIOR TO
22 ENROLLMENT IN A PRIVATE SCHOOL OR A DEPENDENT CHILD WHO WAS NOT
23 OLD ENOUGH TO ENROLL IN A KINDERGARTEN THROUGH TWELFTH GRADE
24 PROGRAM IN THE SCHOOL YEAR PRIOR TO ENROLLMENT IN A PRIVATE
25 SCHOOL, BUT DOES NOT INCLUDE:

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

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

3 (II) ONCE A CHILD IS A QUALIFIED CHILD AS SPECIFIED IN
4 SUBSECTION (1)(d)(I) OF THIS SECTION, THE CHILD REMAINS A QUALIFIED
5 CHILD SO LONG AS HE OR SHE REMAINS ENROLLED IN A PRIVATE SCHOOL
6 IN THE STATE IN A KINDERGARTEN THROUGH TWELFTH GRADE PROGRAM.

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

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

15 (2) (a) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
16 JANUARY 1, 2019, A PRIVATE SCHOOL SHALL ISSUE A CREDIT CERTIFICATE
17 TO ANY TAXPAYER THAT ENROLLS A QUALIFIED CHILD IN THE PRIVATE
18 SCHOOL OR THAT PROVIDES A SCHOLARSHIP TO A QUALIFIED CHILD FOR
19 ENROLLMENT IN THE PRIVATE SCHOOL. THE CREDIT CERTIFICATE ALLOWS
20 THE TAXPAYER TO CLAIM AN INCOME TAX CREDIT WITH RESPECT TO THE
21 INCOME TAXES IMPOSED BY THIS ARTICLE 22.

22 (II) A TAXPAYER THAT ENROLLS A QUALIFIED CHILD IN A PRIVATE
23 SCHOOL OR THAT PROVIDES A SCHOLARSHIP TO A QUALIFIED CHILD FOR
24 ENROLLMENT IN A PRIVATE SCHOOL DURING THE 2018-19 STATE FISCAL
25 YEAR OR ANY STATE FISCAL YEAR THEREAFTER IS ELIGIBLE FOR THE
26 INCOME TAX CREDIT SPECIFIED IN SUBSECTION (2)(a)(I) OF THIS SECTION
27 FOR THE INCOME TAX YEAR COMMENCING DURING THE STATE FISCAL YEAR

1 IN WHICH THE QUALIFIED CHILD IS ENROLLED OR IN WHICH THE
2 SCHOLARSHIP IS OFFERED; EXCEPT THAT A QUALIFIED CHILD SHALL NOT
3 GENERATE AN INCOME TAX CREDIT IN THE SAME INCOME TAX YEAR FOR
4 BOTH A TAXPAYER THAT ENROLLS THE QUALIFIED CHILD IN A PRIVATE
5 SCHOOL AND A TAXPAYER THAT PROVIDES A SCHOLARSHIP TO THE
6 QUALIFIED CHILD FOR ENROLLMENT IN A PRIVATE SCHOOL.

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

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

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

24 (II) ON JANUARY 15, 2019, AND ON EVERY JANUARY 15
25 THEREAFTER, THE DEPARTMENT OF EDUCATION SHALL PROVIDE THE STATE
26 AVERAGE PER PUPIL REVENUES FOR THE PRIOR FISCAL YEAR TO THE
27 DEPARTMENT.

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

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

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

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

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

22 (c) A TRANSFEREE MAY NOT ELECT TO HAVE ANY TRANSFERRED
23 CREDIT REFUNDED;

24 (d) FOR ANY TAX YEAR IN WHICH A TAX CREDIT IS TRANSFERRED
25 PURSUANT TO THIS SUBSECTION (4), BOTH THE TAXPAYER AND THE
26 TRANSFEREE SHALL FILE WRITTEN STATEMENTS WITH THEIR INCOME TAX
27 RETURNS SPECIFYING THE AMOUNT OF THE TAX CREDIT THAT HAS BEEN

1 TRANSFERRED. A TRANSFEREE MAY NOT CLAIM A CREDIT TRANSFERRED
2 PURSUANT TO THIS SUBSECTION (4) UNLESS THE TAXPAYER'S WRITTEN
3 STATEMENT VERIFIES THE AMOUNT OF THE TAX CREDIT CLAIMED BY THE
4 TRANSFEREE.

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

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

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

21 (h) A TAX CREDIT HELD BY AN INDIVIDUAL EITHER DIRECTLY OR
22 AS A RESULT OF A DONATION BY A PASS-THROUGH ENTITY, BUT NOT A TAX
23 CREDIT HELD BY A TRANSFEREE UNLESS USED BY THE TRANSFEREE'S
24 ESTATE FOR TAXES OWED BY THE ESTATE, SHALL SURVIVE THE DEATH OF
25 THE INDIVIDUAL AND MAY BE CLAIMED OR TRANSFERRED BY THE
26 DECEDENT'S ESTATE;

27 (i) THE TAXPAYER WHO CLAIMED A TAX CREDIT PURSUANT TO

1 SUBSECTION (2) OF THIS SECTION AND TRANSFERRED THE CREDIT
2 PURSUANT TO THIS SUBSECTION (4) SHALL BE THE TAX MATTERS
3 REPRESENTATIVE IN ALL MATTERS WITH RESPECT TO THE CREDIT. THE TAX
4 MATTERS REPRESENTATIVE SHALL BE RESPONSIBLE FOR REPRESENTING
5 AND BINDING THE TRANSFEREES WITH RESPECT TO ALL ISSUES AFFECTING
6 THE CREDIT, INCLUDING, BUT NOT LIMITED TO, NOTIFICATIONS AND
7 CORRESPONDENCE FROM AND WITH THE DEPARTMENT, AUDIT
8 EXAMINATIONS, REFUNDS, SETTLEMENT AGREEMENTS, AND THE STATUTE
9 OF LIMITATIONS. THE TRANSFEREE SHALL BE SUBJECT TO THE SAME
10 STATUTE OF LIMITATIONS WITH RESPECT TO THE CREDIT AS THE
11 TRANSFEROR OF THE CREDIT.

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

17 (5) IF A TAXPAYER RECEIVING A CREDIT ALLOWED IN THIS SECTION
18 IS A PARTNERSHIP, LIMITED LIABILITY COMPANY, S CORPORATION, OR
19 SIMILAR PASS-THROUGH ENTITY, THE TAXPAYER MAY ALLOCATE THE
20 CREDIT AMONG ITS PARTNERS, SHAREHOLDERS, MEMBERS, OR OTHER
21 CONSTITUENT TAXPAYERS IN ANY MANNER AGREED TO BY THE PARTNERS,
22 SHAREHOLDERS, MEMBERS, OR OTHER CONSTITUENT TAXPAYERS. THE
23 TAXPAYER SHALL CERTIFY TO THE DEPARTMENT THE AMOUNT OF THE
24 CREDIT ALLOCATED TO EACH PARTNER, SHAREHOLDER, MEMBER, OR
25 OTHER CONSTITUENT TAXPAYER. EACH PARTNER, SHAREHOLDER,
26 MEMBER, OR OTHER CONSTITUENT TAXPAYER MAY CLAIM THE AMOUNT
27 SUBJECT TO ANY RESTRICTIONS SET FORTH IN THIS SECTION.

1 (6) NO LATER THAN DECEMBER 15, 2019, AND NO LATER THAN
2 DECEMBER 15 OF EACH YEAR THEREAFTER, EACH PRIVATE SCHOOL THAT
3 ISSUES A CREDIT CERTIFICATE SHALL PROVIDE THE DEPARTMENT WITH AN
4 ELECTRONIC REPORT OF ANY CREDIT CERTIFICATE ISSUED FOR THAT
5 INCOME TAX YEAR THAT INCLUDES THE FOLLOWING INFORMATION:

6 (a) THE TAXPAYER'S NAME;

7 (b) THE TAXPAYER'S COLORADO ACCOUNT NUMBER OR SOCIAL
8 SECURITY NUMBER; AND

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

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

17 (8) ANY TAXPAYER THAT OFFSETS A TAX DEFICIENCY WITH A
18 CREDIT AUTHORIZED IN THIS SECTION THAT IS DISALLOWED PURSUANT TO
19 THIS SECTION IS LIABLE FOR SUCH TAX DEFICIENCY, INTEREST, AND
20 PENALTIES AS MAY BE SPECIFIED IN THIS ARTICLE 22 OR OTHERWISE
21 PROVIDED BY LAW.

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

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

26 (b) "HOME-BASED EDUCATION" MEANS THE EDUCATION OF A
27 QUALIFIED CHILD PURSUANT TO SECTION 22-33-104.5 OR TAUGHT AT

1 HOME UNDER THE SUPERVISION OF A PRIVATE SCHOOL.

2 (c) (I) "QUALIFIED CHILD" MEANS A DEPENDENT CHILD ENROLLED
3 ON A FULL-TIME OR HALF-TIME BASIS, AS DESCRIBED IN THE STATE BOARD
4 OF EDUCATION RULES, IN A PUBLIC SCHOOL IN THE STATE FOR THE SCHOOL
5 YEAR PRIOR TO BEING TAUGHT AT HOME OR A DEPENDENT CHILD WHO WAS
6 NOT OLD ENOUGH TO ENROLL IN A KINDERGARTEN THROUGH TWELFTH
7 GRADE PROGRAM IN THE SCHOOL YEAR PRIOR TO BEING TAUGHT AT HOME,
8 BUT DOES NOT INCLUDE A DEPENDENT CHILD WHO IS ENROLLED IN A
9 PRIVATE SCHOOL OR TAUGHT AT HOME IN THE STATE PRIOR TO THE
10 EFFECTIVE DATE OF THIS SECTION.

11 (II) ONCE A CHILD IS A QUALIFIED CHILD AS SPECIFIED IN
12 SUBSECTION (1)(c)(I) OF THIS SECTION, THE CHILD REMAINS A QUALIFIED
13 CHILD SO LONG AS HE OR SHE CONTINUES TO BE TAUGHT AT HOME IN THE
14 STATE IN A KINDERGARTEN THROUGH TWELFTH GRADE PROGRAM.

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

21 (2) (a) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
22 JANUARY 1, 2019, THERE IS ALLOWED AS A CREDIT AGAINST THE INCOME
23 TAXES IMPOSED BY THIS ARTICLE 22 AN AMOUNT EQUAL TO ONE
24 THOUSAND DOLLARS FOR ANY TAXPAYER WHO USES HOME-BASED
25 EDUCATION FOR A QUALIFIED CHILD WHO WAS ENROLLED ON A FULL-TIME
26 BASIS IN A PUBLIC SCHOOL IN THE STATE PRIOR TO BEING TAUGHT AT HOME
27 OR WHO WAS NOT OLD ENOUGH TO ENROLL IN A KINDERGARTEN THROUGH

1 TWELFTH GRADE PROGRAM IN THE SCHOOL YEAR PRIOR TO BEING TAUGHT
2 AT HOME.

3 (II) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
4 1, 2019, THERE IS ALLOWED AS A CREDIT AGAINST THE INCOME TAXES
5 IMPOSED BY THIS ARTICLE 22 AN AMOUNT EQUAL TO FIVE HUNDRED
6 DOLLARS TO ANY TAXPAYER WHO USES HOME-BASED EDUCATION FOR A
7 QUALIFIED CHILD WHO WAS ENROLLED ON A HALF-TIME BASIS IN A PUBLIC
8 SCHOOL IN THE STATE PRIOR TO BEING TAUGHT AT HOME OR WHO WAS NOT
9 OLD ENOUGH TO ENROLL IN A KINDERGARTEN THROUGH TWELFTH GRADE
10 PROGRAM IN THE SCHOOL YEAR PRIOR TO BEING TAUGHT AT HOME.

11 (b) A TAXPAYER WHO USES HOME-BASED EDUCATION FOR A
12 QUALIFIED CHILD DURING THE 2018-19 STATE FISCAL YEAR OR ANY STATE
13 FISCAL YEAR THEREAFTER, IS ELIGIBLE FOR THE INCOME TAX CREDIT
14 SPECIFIED IN SUBSECTION (2)(a) OF THIS SECTION FOR THE INCOME TAX
15 YEAR COMMENCING DURING THE STATE FISCAL YEAR IN WHICH THE
16 QUALIFIED CHILD IS TAUGHT AT HOME.

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

25 (4) A TAXPAYER MAY TRANSFER ALL OR A PORTION OF A TAX
26 CREDIT GRANTED PURSUANT TO SUBSECTION (2) OF THIS SECTION TO
27 ANOTHER TAXPAYER FOR SUCH OTHER TAXPAYER, AS TRANSFEREE, TO

1 APPLY AS A CREDIT AGAINST THE TAXES IMPOSED BY THIS ARTICLE 22
2 SUBJECT TO THE FOLLOWING LIMITATIONS:

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

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

8 (c) A TRANSFEREE MAY NOT ELECT TO HAVE ANY TRANSFERRED
9 CREDIT REFUNDED;

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

18 (e) TO THE EXTENT THAT A TRANSFEREE PAID VALUE FOR THE
19 TRANSFER OF A CREDIT ALLOWED PURSUANT TO THIS SECTION TO SUCH
20 TRANSFEREE, THE TRANSFEREE SHALL BE DEEMED TO HAVE USED THE
21 CREDIT TO PAY, IN WHOLE OR IN PART, THE INCOME TAX OBLIGATION
22 IMPOSED ON THE TRANSFEREE UNDER THIS ARTICLE 22, AND TO SUCH
23 EXTENT THE TRANSFEREE'S USE OF A TAX CREDIT FROM A TRANSFEROR
24 UNDER THIS SECTION TO PAY TAXES OWED SHALL NOT BE DEEMED A
25 REDUCTION IN THE AMOUNT OF INCOME TAXES IMPOSED BY THIS ARTICLE
26 22 ON THE TRANSFEREE;

27 (f) THE TRANSFEREE AND THE TRANSFEROR SHALL BOTH SUBMIT

1 TO THE DEPARTMENT, IN A FORM AND MANNER TO BE DETERMINED BY THE
2 DEPARTMENT, A STATEMENT THAT THE TRANSFEREE PURCHASED THE TAX
3 CREDIT FROM THE TRANSFEROR;

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

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

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

25 (j) FINAL RESOLUTION OF DISPUTES REGARDING THE TAX CREDIT
26 BETWEEN THE DEPARTMENT AND THE TAX MATTERS REPRESENTATIVE,
27 INCLUDING FINAL DETERMINATIONS, COMPROMISES, PAYMENT OF

1 ADDITIONAL TAXES OR REFUNDS DUE, AND ADMINISTRATIVE AND JUDICIAL
2 DECISIONS, SHALL BE BINDING ON TRANSFEREES.

3 **SECTION 4. Appropriation - adjustments to 2018 long bill. To**
4 **implement this act, the general fund appropriation made in the annual**
5 **general appropriation act for the 2018-19 state fiscal year to the**
6 **department of education for the state share of districts' total program**
7 **funding is decreased by \$51,800,000.**

8 **SECTION 5. Act subject to petition - effective date.** This act
9 takes effect at 12:01 a.m. on the day following the expiration of the
10 ninety-day period after final adjournment of the general assembly (August
11 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
12 referendum petition is filed pursuant to section 1 (3) of article V of the
13 state constitution against this act or an item, section, or part of this act
14 within such period, then the act, item, section, or part will not take effect
15 unless approved by the people at the general election to be held in
16 November 2018 and, in such case, will take effect on the date of the
17 official declaration of the vote thereon by the governor.