

Second Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

**ENGROSSED**

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

LLS NO. 16-0589.01 Nicole Myers x4326

**SENATE BILL 16-154**

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**SENATE SPONSORSHIP**

**Lundberg,** Marble, Neville T., Baumgardner, Grantham, Scheffel, Woods

**HOUSE SPONSORSHIP**

**Ransom,**

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**Senate Committees**

Education  
Finance  
Appropriations

**House Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING THE CREATION OF INCOME TAX CREDITS FOR NONPUBLIC**  
102 **EDUCATION.**

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**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>.)*

The bill establishes a private school tuition income tax credit for income tax years commencing on or after January 1, 2017, 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 issues the taxpayer a credit certificate for either enrolling a dependent

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.*

SENATE  
2nd Reading Unamended  
April 25, 2016

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 establishes an income tax credit for income tax years commencing on or after January 1, 2017, 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.

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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.** In Colorado Revised Statutes, **add** 39-22-538 and  
5 39-22-539 as follows:

6           **39-22-538. Private school tuition income tax credit - rules -**  
7 **definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT

1 OTHERWISE REQUIRES:

2 (a) "CREDIT CERTIFICATE" MEANS A STATEMENT ISSUED BY A  
3 PRIVATE SCHOOL CERTIFYING THAT A CHILD ENROLLED IN THE PRIVATE  
4 SCHOOL IS A QUALIFIED CHILD AS DEFINED IN PARAGRAPH (d) OF THIS  
5 SUBSECTION (1) AND THAT THE TAXPAYER IS ENTITLED TO AN INCOME TAX  
6 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), C.R.S.

10 (d) (I) "QUALIFIED CHILD" MEANS A CHILD ENROLLED ON A  
11 FULL-TIME BASIS AS DESCRIBED IN THE 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, BUT DOES NOT INCLUDE:

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

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

18 (II) ONCE A CHILD IS A QUALIFIED CHILD AS SPECIFIED IN  
19 SUBPARAGRAPH (I) OF THIS PARAGRAPH (d), THE CHILD WILL REMAIN A  
20 QUALIFIED CHILD SO LONG AS HE OR SHE REMAINS ENROLLED IN A PRIVATE  
21 SCHOOL IN THE STATE IN A KINDERGARTEN THROUGH TWELFTH GRADE  
22 PROGRAM.

23 (e) "STATE AVERAGE PER PUPIL REVENUES" HAS THE SAME  
24 MEANING AS SET FORTH IN SECTION 22-54-103 (12), C.R.S.

25 (f) "TAXPAYER" MEANS A RESIDENT INDIVIDUAL OR A DOMESTIC  
26 OR FOREIGN CORPORATION SUBJECT TO THE PROVISIONS OF PART 3 OF THIS  
27 ARTICLE, A PARTNERSHIP, LIMITED LIABILITY COMPANY, S CORPORATION,

1 OR OTHER SIMILAR PASS-THROUGH ENTITY, ESTATE, OR TRUST, AND A  
2 PARTNER, MEMBER, AND SUBCHAPTER S SHAREHOLDER OF SUCH  
3 PASS-THROUGH ENTITY.

4 (2) (a) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER  
5 JANUARY 1, 2017, A PRIVATE SCHOOL SHALL ISSUE A CREDIT CERTIFICATE  
6 TO ANY TAXPAYER THAT ENROLLS A DEPENDENT QUALIFIED CHILD IN THE  
7 PRIVATE SCHOOL OR THAT PROVIDES A SCHOLARSHIP TO A QUALIFIED  
8 CHILD FOR ENROLLMENT IN THE PRIVATE SCHOOL. THE CREDIT  
9 CERTIFICATE ALLOWS THE TAXPAYER TO CLAIM AN INCOME TAX CREDIT  
10 WITH RESPECT TO THE INCOME TAXES IMPOSED BY THIS ARTICLE.

11 (II) A TAXPAYER THAT ENROLLS A DEPENDENT QUALIFIED CHILD  
12 IN A PRIVATE SCHOOL OR THAT PROVIDES A SCHOLARSHIP TO A QUALIFIED  
13 CHILD FOR ENROLLMENT IN A PRIVATE SCHOOL DURING THE 2016-17  
14 STATE FISCAL YEAR OR ANY STATE FISCAL YEAR THEREAFTER IS ELIGIBLE  
15 FOR THE INCOME TAX CREDIT SPECIFIED IN SUBPARAGRAPH (I) OF THIS  
16 PARAGRAPH (a) FOR THE INCOME TAX YEAR COMMENCING DURING THE  
17 STATE FISCAL YEAR IN WHICH THE QUALIFIED CHILD IS ENROLLED OR IN  
18 WHICH THE SCHOLARSHIP IS OFFERED; EXCEPT THAT A QUALIFIED CHILD  
19 SHALL NOT GENERATE AN INCOME TAX CREDIT IN THE SAME INCOME TAX  
20 YEAR FOR BOTH A TAXPAYER THAT ENROLLS THE QUALIFIED CHILD IN A  
21 PRIVATE SCHOOL AND A TAXPAYER THAT PROVIDES A SCHOLARSHIP TO  
22 THE QUALIFIED CHILD FOR ENROLLMENT IN A PRIVATE SCHOOL.

23 (b) A PRIVATE SCHOOL SHALL ISSUE ANY CREDIT CERTIFICATES  
24 PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) UPON APPLICATION  
25 FOR A CREDIT BY A TAXPAYER.

26 (c) (I) (A) FOR ANY QUALIFIED CHILD ATTENDING A PRIVATE  
27 SCHOOL ON A FULL-TIME BASIS AS DESCRIBED IN THE STATE BOARD OF

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

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

13 (II) THE STATE AVERAGE PER PUPIL REVENUES SHALL BE PROVIDED  
14 TO THE DEPARTMENT BY THE DEPARTMENT OF EDUCATION WITHIN THIRTY  
15 DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION AND EVERY JANUARY  
16 15 THEREAFTER.

17 (d) THE TAXPAYER SHALL SUBMIT THE CREDIT CERTIFICATE TO THE  
18 DEPARTMENT WITH THE TAXPAYER'S INCOME TAX RETURN FOR THAT TAX  
19 YEAR.

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

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

6           (a) THE TAXPAYER MAY ONLY TRANSFER SUCH PORTION OF THE  
7 TAX CREDIT AS THE TAXPAYER HAS NEITHER APPLIED AGAINST THE  
8 INCOME TAXES IMPOSED BY THIS ARTICLE NOR USED TO OBTAIN A REFUND;

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

11           (c) A TRANSFEREE MAY NOT ELECT TO HAVE ANY TRANSFERRED  
12 CREDIT REFUNDED PURSUANT TO SUBSECTION (3) OF THIS SECTION;

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

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

1 AMOUNT OF INCOME TAXES IMPOSED BY THIS ARTICLE ON THE  
2 TRANSFEREE;

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

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

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

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

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

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

17 (6) NO LATER THAN DECEMBER 15, 2017, AND NO LATER THAN  
18 DECEMBER 15 OF EACH YEAR THEREAFTER, EACH PRIVATE SCHOOL THAT  
19 ISSUES A CREDIT CERTIFICATE SHALL PROVIDE THE DEPARTMENT WITH AN  
20 ELECTRONIC REPORT OF ANY CREDIT CERTIFICATE ISSUED FOR THAT  
21 INCOME TAX YEAR THAT INCLUDES THE FOLLOWING INFORMATION:

- 22 (a) THE TAXPAYER'S NAME;
- 23 (b) THE TAXPAYER'S COLORADO ACCOUNT NUMBER OR SOCIAL  
24 SECURITY NUMBER; AND
- 25 (c) ANY ASSOCIATED TAXPAYERS' NAMES AND COLORADO  
26 ACCOUNT NUMBERS OR SOCIAL SECURITY NUMBERS IF THE CREDIT  
27 ALLOWED IN THIS SECTION IS ALLOCATED FROM A PASS-THROUGH ENTITY



1 PURSUANT TO SUBSECTION (5) OF THIS SECTION.

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

6 (8) ANY TAXPAYER THAT OFFSETS A TAX DEFICIENCY WITH A  
7 CREDIT AUTHORIZED IN THIS SECTION THAT IS DISALLOWED PURSUANT TO  
8 THIS SECTION IS LIABLE FOR SUCH TAX DEFICIENCY, INTEREST, AND  
9 PENALTIES AS MAY BE SPECIFIED IN THIS ARTICLE OR OTHERWISE  
10 PROVIDED BY LAW.

11 **39-22-539. Credit for taxpayers that use home-based**  
12 **education for a qualified child - definitions.** (1) AS USED IN THIS  
13 SECTION, UNLESS THE CONTEXT OTHERWISE 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, C.R.S., OR TAUGHT  
17 AT 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, BUT DOES NOT INCLUDE A  
22 DEPENDENT CHILD WHO IS ENROLLED IN A PRIVATE SCHOOL OR TAUGHT AT  
23 HOME IN THE STATE PRIOR TO THE EFFECTIVE DATE OF THIS SECTION.

24 (II) ONCE A CHILD IS A QUALIFIED CHILD AS SPECIFIED IN  
25 SUBPARAGRAPH (I) OF THIS PARAGRAPH (c), THE CHILD WILL REMAIN A  
26 QUALIFIED CHILD SO LONG AS HE OR SHE CONTINUES TO BE TAUGHT AT  
27 HOME IN THE STATE IN A KINDERGARTEN THROUGH TWELFTH GRADE

1 PROGRAM.

2 (2) (a) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER  
3 JANUARY 1, 2017, THERE IS ALLOWED AS A CREDIT AGAINST THE INCOME  
4 TAXES IMPOSED BY THIS ARTICLE AN AMOUNT EQUAL TO ONE THOUSAND  
5 DOLLARS FOR ANY TAXPAYER WHO USES HOME-BASED EDUCATION FOR A  
6 DEPENDENT QUALIFIED CHILD WHO WAS ENROLLED ON A FULL-TIME BASIS  
7 AS DESCRIBED IN THE STATE BOARD OF EDUCATION RULES IN A PUBLIC  
8 SCHOOL IN THE STATE PRIOR TO BEING TAUGHT AT HOME.

9 (II) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY  
10 1, 2017, THERE IS ALLOWED AS A CREDIT AGAINST THE INCOME TAXES  
11 IMPOSED BY THIS ARTICLE AN AMOUNT EQUAL TO FIVE HUNDRED DOLLARS  
12 TO ANY TAXPAYER WHO USES HOME-BASED EDUCATION FOR A DEPENDENT  
13 QUALIFIED CHILD WHO WAS ENROLLED ON A HALF-TIME BASIS AS  
14 DESCRIBED IN THE STATE BOARD OF EDUCATION RULES IN A PUBLIC  
15 SCHOOL IN THE STATE PRIOR TO BEING TAUGHT AT HOME.

16 (b) FOR THE 2016-17 STATE FISCAL YEAR OR ANY STATE FISCAL  
17 YEAR THEREAFTER, A TAXPAYER WHO USES HOME-BASED EDUCATION FOR  
18 A QUALIFIED CHILD IS ELIGIBLE FOR THE INCOME TAX CREDIT SPECIFIED IN  
19 SUBPARAGRAPH (I) OR (II) OF PARAGRAPH (a) OF THIS SUBSECTION (2) FOR  
20 THE INCOME TAX YEAR COMMENCING DURING THE STATE FISCAL YEAR IN  
21 WHICH THE QUALIFIED CHILD IS TAUGHT AT HOME.

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

1 ANY CREDIT REMAINING AFTER SAID PERIOD MAY NOT BE REFUNDED OR  
2 CREDITED TO THE TAXPAYER.

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

8 (a) THE TAXPAYER MAY ONLY TRANSFER SUCH PORTION OF THE  
9 TAX CREDIT AS THE TAXPAYER HAS NEITHER APPLIED AGAINST THE  
10 INCOME TAXES IMPOSED BY THIS ARTICLE NOR USED TO OBTAIN A REFUND;

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

13 (c) A TRANSFEREE MAY NOT ELECT TO HAVE ANY TRANSFERRED  
14 CREDIT REFUNDED PURSUANT TO SUBSECTION (3) OF THIS SECTION;

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

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

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

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

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

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

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

1 STATUTE OF LIMITATIONS WITH RESPECT TO THE CREDIT AS THE  
2 TRANSFEROR OF THE CREDIT.

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

8 **SECTION 3. 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 10, 2016, if adjournment sine die is on May 11, 2016); 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 2016 and, in such case, will take effect on the date of the  
17 official declaration of the vote thereon by the governor.