

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

REENGROSSED

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

LLS NO. 16-0589.01 Nicole Myers x4326

SENATE BILL 16-154

SENATE SPONSORSHIP

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

HOUSE SPONSORSHIP

Ransom,

Senate Committees

Education
Finance
Appropriations

House 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>.)

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
3rd Reading Unamended
April 26, 2016

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.

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.