

First Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 21-0174.01 Nicole Myers x4326

HOUSE BILL 21-1080

HOUSE SPONSORSHIP

Baisley, Soper, Bockenfeld, Carver, Catlin, Larson, McKean, Pelton, Pico, Ransom, Rich,
Van Beber, Woog

SENATE SPONSORSHIP

(None),

House Committees
Education

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A BILL FOR AN ACT

101 CONCERNING THE CREATION OF INCOME TAX CREDITS FOR COSTS
102 INCURRED FOR NONPUBLIC EDUCATION, INCLUDING COSTS
103 INCURRED AS A RESULT OF THE COVID-19 PANDEMIC.

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, 2021, 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.

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 a home-based education income tax credit commencing on or after January 1, 2021, 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
3 "Nonpublic Education and COVID-19 Relief Act".

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

6 (a) Due to the COVID-19 pandemic and government-mandated
7 suspension of in-person learning at public schools, many parents have
8 chosen to enroll their children in private schools or to home-school their
9 children to best meet their needs;

10 (b) Parents have the fundamental right and responsibility to direct
11 the education of their children;

12 (c) Every student in the state of Colorado should have as much
13 access as possible to the educational formats that best fit their needs and

1 learning styles;

2 (d) Private schools and home schools can often best meet those
3 needs for many Colorado students; and

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

7 (2) The general assembly further finds, determines, and declares
8 that:

9 (a) The intent of the "Nonpublic Education and COVID-19 Relief
10 Act" is to give parents and students more educational choices while
11 optimizing the use of public funds designated for educational purposes;
12 and

13 (b) The income tax credits created in the "Nonpublic Education
14 and COVID-19 Relief Act" are a fraction of the cost that public schools
15 receive to educate each student for the school year, thus creating a cost
16 savings to the state for children who are enrolled in private school or who
17 are educated through home-based education as a result of the Act.

18 **SECTION 3.** In Colorado Revised Statutes, **add** 39-22-543 and
19 39-22-544 as follows:

20 **39-22-543. Private school tuition income tax credit - rules -**
21 **definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
22 OTHERWISE REQUIRES:

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

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

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

3 (d) (I) "QUALIFIED CHILD" MEANS A DEPENDENT CHILD ENROLLED
4 ON A FULL-TIME BASIS, AS DESCRIBED IN THE STATE BOARD OF EDUCATION
5 RULES, IN A PUBLIC SCHOOL IN THE STATE FOR THE SCHOOL YEAR PRIOR TO
6 ENROLLMENT IN A PRIVATE SCHOOL OR A DEPENDENT CHILD WHO WAS NOT
7 OLD ENOUGH TO ENROLL IN A KINDERGARTEN THROUGH TWELFTH GRADE
8 PROGRAM IN THE SCHOOL YEAR PRIOR TO ENROLLMENT IN A PRIVATE
9 SCHOOL, BUT DOES NOT INCLUDE:

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

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

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

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

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

26 (2) (a) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
27 JANUARY 1, 2021, A PRIVATE SCHOOL SHALL ISSUE A CREDIT CERTIFICATE

1 TO ANY TAXPAYER THAT ENROLLS A QUALIFIED CHILD IN THE PRIVATE
2 SCHOOL OR THAT PROVIDES A SCHOLARSHIP TO A QUALIFIED CHILD FOR
3 ENROLLMENT IN THE PRIVATE SCHOOL. THE CREDIT CERTIFICATE ALLOWS
4 THE TAXPAYER TO CLAIM AN INCOME TAX CREDIT WITH RESPECT TO THE
5 INCOME TAXES IMPOSED BY THIS ARTICLE 22.

6 (II) A TAXPAYER THAT ENROLLS A QUALIFIED CHILD IN A PRIVATE
7 SCHOOL OR THAT PROVIDES A SCHOLARSHIP TO A QUALIFIED CHILD FOR
8 ENROLLMENT IN A PRIVATE SCHOOL DURING THE 2020-21 STATE FISCAL
9 YEAR OR ANY STATE FISCAL YEAR THEREAFTER IS ELIGIBLE FOR THE
10 INCOME TAX CREDIT SPECIFIED IN SUBSECTION (2)(a)(I) OF THIS SECTION
11 FOR THE INCOME TAX YEAR COMMENCING DURING THE STATE FISCAL YEAR
12 IN WHICH THE QUALIFIED CHILD IS ENROLLED OR IN WHICH THE
13 SCHOLARSHIP IS OFFERED; EXCEPT THAT A QUALIFIED CHILD SHALL NOT
14 GENERATE AN INCOME TAX CREDIT IN THE SAME INCOME TAX YEAR FOR
15 BOTH A TAXPAYER THAT ENROLLS THE QUALIFIED CHILD IN A PRIVATE
16 SCHOOL AND A TAXPAYER THAT PROVIDES A SCHOLARSHIP TO THE
17 QUALIFIED CHILD FOR ENROLLMENT IN A PRIVATE SCHOOL.

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

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

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

8 (II) BY SEPTEMBER 1, 2021, THE DEPARTMENT OF EDUCATION
9 SHALL PROVIDE THE STATE AVERAGE PER PUPIL REVENUES FOR THE
10 2019-20 STATE FISCAL YEAR TO THE DEPARTMENT. BY JANUARY 15, 2022,
11 AND BY EVERY JANUARY 15 THEREAFTER, THE DEPARTMENT OF
12 EDUCATION SHALL PROVIDE THE STATE AVERAGE PER PUPIL REVENUES FOR
13 THE PRIOR FISCAL YEAR TO THE DEPARTMENT.

14 (d) THE TAXPAYER SHALL SUBMIT THE CREDIT CERTIFICATE TO THE
15 DEPARTMENT WITH THE TAXPAYER'S INCOME TAX RETURN FOR THAT TAX
16 YEAR.

17 (3) IF THE CREDIT ALLOWED IN THIS SECTION EXCEEDS THE INCOME
18 TAXES OTHERWISE DUE ON THE TAXPAYER'S INCOME, THE AMOUNT OF THE
19 CREDIT NOT USED AS AN OFFSET AGAINST INCOME TAXES MAY BE CARRIED
20 FORWARD AS A TAX CREDIT AGAINST SUBSEQUENT YEARS' INCOME TAX
21 LIABILITY FOR A PERIOD NOT EXCEEDING THREE YEARS AND SHALL BE
22 APPLIED FIRST TO THE EARLIEST YEARS POSSIBLE. ANY CREDIT REMAINING
23 AFTER SAID PERIOD MAY NOT BE REFUNDED OR CREDITED TO THE
24 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 (5) IF A TAXPAYER RECEIVING A CREDIT ALLOWED IN THIS SECTION
4 IS A PARTNERSHIP, LIMITED LIABILITY COMPANY, S CORPORATION, OR
5 SIMILAR PASS-THROUGH ENTITY, THE TAXPAYER MAY ALLOCATE THE
6 CREDIT AMONG ITS PARTNERS, SHAREHOLDERS, MEMBERS, OR OTHER
7 CONSTITUENT TAXPAYERS IN ANY MANNER AGREED TO BY THE PARTNERS,
8 SHAREHOLDERS, MEMBERS, OR OTHER CONSTITUENT TAXPAYERS. THE
9 TAXPAYER SHALL CERTIFY TO THE DEPARTMENT THE AMOUNT OF THE
10 CREDIT ALLOCATED TO EACH PARTNER, SHAREHOLDER, MEMBER, OR
11 OTHER CONSTITUENT TAXPAYER. EACH PARTNER, SHAREHOLDER,
12 MEMBER, OR OTHER CONSTITUENT TAXPAYER MAY CLAIM THE AMOUNT
13 SUBJECT TO ANY RESTRICTIONS SET FORTH IN THIS SECTION.

14 (6) NO LATER THAN DECEMBER 15, 2021, AND NO LATER THAN
15 DECEMBER 15 OF EACH YEAR THEREAFTER, EACH PRIVATE SCHOOL THAT
16 ISSUES A CREDIT CERTIFICATE SHALL PROVIDE THE DEPARTMENT WITH AN
17 ELECTRONIC REPORT OF ANY CREDIT CERTIFICATE ISSUED FOR THAT
18 INCOME TAX YEAR THAT INCLUDES THE FOLLOWING INFORMATION:

19 (a) THE TAXPAYER'S NAME;

20 (b) THE TAXPAYER'S COLORADO ACCOUNT NUMBER OR SOCIAL
21 SECURITY NUMBER; AND

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

26 (7) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT MAY
27 PROMULGATE RULES AS NECESSARY TO ADMINISTER AND ENFORCE ANY

1 PROVISION OF THIS SECTION. THE RULES SHALL BE PROMULGATED IN
2 ACCORDANCE WITH ARTICLE 4 OF TITLE 24.

3 (8) ANY TAXPAYER THAT OFFSETS A TAX DEFICIENCY WITH A
4 CREDIT AUTHORIZED IN THIS SECTION THAT IS DISALLOWED PURSUANT TO
5 THIS SECTION IS LIABLE FOR SUCH TAX DEFICIENCY, INTEREST, AND
6 PENALTIES AS MAY BE SPECIFIED IN THIS ARTICLE 22 OR OTHERWISE
7 PROVIDED BY LAW.

8 **39-22-544. Credit for taxpayers that use home-based**
9 **education for a qualified child - definitions.** (1) AS USED IN THIS
10 SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

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

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

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

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

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

7 (2) (a) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
8 JANUARY 1, 2021, THERE IS ALLOWED AS A CREDIT AGAINST THE INCOME
9 TAXES IMPOSED BY THIS ARTICLE 22 AN AMOUNT EQUAL TO ONE
10 THOUSAND DOLLARS FOR ANY TAXPAYER WHO USES HOME-BASED
11 EDUCATION FOR A QUALIFIED CHILD WHO WAS ENROLLED ON A FULL-TIME
12 BASIS IN A PUBLIC SCHOOL IN THE STATE PRIOR TO BEING TAUGHT AT HOME
13 OR WHO WAS NOT OLD ENOUGH TO ENROLL IN A KINDERGARTEN THROUGH
14 TWELFTH GRADE PROGRAM IN THE SCHOOL YEAR PRIOR TO BEING TAUGHT
15 AT HOME.

16 (II) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
17 1, 2021, THERE IS ALLOWED AS A CREDIT AGAINST THE INCOME TAXES
18 IMPOSED BY THIS ARTICLE 22 AN AMOUNT EQUAL TO FIVE HUNDRED
19 DOLLARS TO ANY TAXPAYER WHO USES HOME-BASED EDUCATION FOR A
20 QUALIFIED CHILD WHO WAS ENROLLED ON A HALF-TIME BASIS IN A PUBLIC
21 SCHOOL IN THE STATE PRIOR TO BEING TAUGHT AT HOME OR WHO WAS NOT
22 OLD ENOUGH TO ENROLL IN A KINDERGARTEN THROUGH TWELFTH GRADE
23 PROGRAM IN THE SCHOOL YEAR PRIOR TO BEING TAUGHT AT HOME.

24 (b) A TAXPAYER WHO USES HOME-BASED EDUCATION FOR A
25 QUALIFIED CHILD DURING THE 2020-21 STATE FISCAL YEAR OR ANY STATE
26 FISCAL YEAR THEREAFTER IS ELIGIBLE FOR THE INCOME TAX CREDIT
27 SPECIFIED IN SUBSECTION (2)(a) OF THIS SECTION FOR THE INCOME TAX

1 YEAR COMMENCING DURING THE STATE FISCAL YEAR IN WHICH THE
2 QUALIFIED CHILD IS TAUGHT AT HOME.

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

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

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

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

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

23 (d) FOR ANY TAX YEAR IN WHICH A TAX CREDIT IS TRANSFERRED
24 PURSUANT TO THIS SUBSECTION (4), BOTH THE TAXPAYER AND THE
25 TRANSFEREE SHALL FILE WRITTEN STATEMENTS WITH THEIR INCOME TAX
26 RETURNS SPECIFYING THE AMOUNT OF THE TAX CREDIT THAT HAS BEEN
27 TRANSFERRED. A TRANSFEREE MAY NOT CLAIM A CREDIT TRANSFERRED

1 PURSUANT TO THIS SUBSECTION (4) UNLESS THE TAXPAYER'S WRITTEN
2 STATEMENT VERIFIES THE AMOUNT OF THE TAX CREDIT CLAIMED BY THE
3 TRANSFEREE.

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

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

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

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

26 (i) THE TAXPAYER WHO CLAIMED A TAX CREDIT PURSUANT TO
27 SUBSECTION (2) OF THIS SECTION AND TRANSFERRED THE CREDIT

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

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

16 **SECTION 4. Safety clause.** The general assembly hereby finds,
17 determines, and declares that this act is necessary for the immediate
18 preservation of the public peace, health, or safety.