

**First Regular Session  
Seventy-fourth General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 23-0606.01 Nicole Myers x4326

**HOUSE BILL 23-1079**

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**HOUSE SPONSORSHIP**

**DeGraaf**, Bradley, Winter T.

**SENATE SPONSORSHIP**

**(None)**,

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**House Committees**  
Education

**Senate 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://leg.colorado.gov>.)*

The bill establishes a private school tuition income tax credit for income tax years commencing on or after January 1, 2024, 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 amount of the credit is:

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

- For full-time attendance, an amount equal to either the tuition paid or the scholarship provided to a qualified child, as applicable, or 60% 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 30% 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, 2024, that allows any taxpayer who uses home-based education for a qualified child to claim an income tax credit in an amount equal to:

- 40% of the previous year's state average per pupil revenues 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
- 20% of the previous year's state average per pupil revenues 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 "Educational Autonomy and Budget Reduction Act".

4           **SECTION 2.** In Colorado Revised Statutes, **add** 39-22-549 and  
5 39-22-550 as follows:

6           **39-22-549. 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;

1 (II) PRIVATE SCHOOLS CAN OFTEN BEST MEET THOSE NEEDS FOR  
2 MANY COLORADO STUDENTS;

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

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

8 (V) TRANSPORTATION TIME, SYSTEMS, AND INFRASTRUCTURE CAN  
9 BE RELIEVED BY INCREASED EDUCATIONAL FLEXIBILITY;

10 (VI) DISASSOCIATING FAILING SCHOOLS WITH PARTICULAR  
11 HOUSING AREAS WILL INCREASE THE DESIRABILITY OF NEIGHBORHOODS  
12 THROUGHOUT THE STATE AND REINVIGORATE DECAYING SCHOOL  
13 DISTRICTS;

14 (VII) SCHOOL CROWDING AND ASSOCIATED ISSUES CAN BE  
15 RELIEVED CREATIVELY INSTEAD OF WITH COSTLY NEW STRUCTURES; AND

16 (VIII) CURRENT SCHOOL FINANCING IS LINEAR AND DOES NOT  
17 PROVIDE A MECHANISM FOR ECONOMIES OF SCALE, MAKING IT COST  
18 PROHIBITIVE TO CONTINUE TO EXPAND SCHOOL INFRASTRUCTURE.  
19 PRIVATE SCHOOLS OFFER ONE OF THE ONLY MECHANISMS TO REDUCE  
20 SCHOOL CROWDING AND EXPENDITURES WHILE NOT PENALIZING THE  
21 CHILDREN CURRENTLY ENROLLED IN THE SCHOOLS.

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

1 (I) PROVIDE TAX RELIEF FOR CERTAIN BUSINESSES OR  
2 INDIVIDUALS, SPECIFICALLY BUSINESSES OR INDIVIDUALS THAT ENROLL A  
3 QUALIFIED CHILD IN A PRIVATE SCHOOL OR THAT PROVIDE A SCHOLARSHIP  
4 TO A QUALIFIED CHILD FOR ENROLLMENT IN A PRIVATE SCHOOL; AND

5 (II) GIVE PARENTS AND STUDENTS MORE EDUCATIONAL CHOICES  
6 WHILE OPTIMIZING THE USE OF PUBLIC MONEY DESIGNATED FOR  
7 EDUCATIONAL PURPOSES.

8 (c) THE GENERAL ASSEMBLY AND THE STATE AUDITOR SHALL  
9 MEASURE THE EFFECTIVENESS OF THE TAX CREDIT IN ACHIEVING THE  
10 PURPOSES SPECIFIED IN SUBSECTION (1)(b) OF THIS SECTION BASED ON THE  
11 NUMBER OF QUALIFIED CHILDREN WHO ARE ENROLLED IN A PRIVATE  
12 SCHOOL FOR THE FIRST TIME IN THE APPLICABLE SCHOOL YEAR. THE  
13 DEPARTMENT OF REVENUE SHALL PROVIDE THE STATE AUDITOR WITH THE  
14 NUMBER OF QUALIFIED CHILDREN WHO GENERATED A TAX CREDIT  
15 CERTIFICATE TO ASSIST THE STATE AUDITOR'S MEASUREMENT.

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

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

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

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

25 (d) (I) "QUALIFIED CHILD" MEANS A DEPENDENT CHILD ENROLLED  
26 ON A FULL-TIME OR HALF-TIME BASIS, AS DESCRIBED IN STATE BOARD OF  
27 EDUCATION RULES, IN A PUBLIC SCHOOL IN THE STATE FOR THE SCHOOL

1 YEAR PRIOR TO ENROLLMENT IN A PRIVATE SCHOOL OR A DEPENDENT  
2 CHILD WHO WAS NOT OLD ENOUGH TO ENROLL IN A PUBLIC KINDERGARTEN  
3 THROUGH TWELFTH GRADE PROGRAM IN THE SCHOOL YEAR PRIOR TO  
4 ENROLLMENT IN A PRIVATE SCHOOL, AND DOES NOT INCLUDE:

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

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

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

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

15 (f) "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 A PASS-THROUGH ENTITY.

21 (3) (a) (I) NOTWITHSTANDING THE PROVISIONS OF SECTION  
22 39-21-304 (4), FOR INCOME TAX YEARS COMMENCING ON OR AFTER  
23 JANUARY 1, 2024, A PRIVATE SCHOOL SHALL ISSUE A CREDIT CERTIFICATE  
24 TO ANY TAXPAYER THAT ENROLLS A QUALIFIED CHILD IN THE PRIVATE  
25 SCHOOL OR THAT PROVIDES A SCHOLARSHIP TO A QUALIFIED CHILD FOR  
26 ENROLLMENT IN THE PRIVATE SCHOOL. THE CREDIT CERTIFICATE ALLOWS  
27 THE TAXPAYER TO CLAIM AN INCOME TAX CREDIT WITH RESPECT TO THE

1 INCOME TAXES IMPOSED BY THIS ARTICLE 22.

2 (II) A TAXPAYER THAT ENROLLS A QUALIFIED CHILD IN A PRIVATE  
3 SCHOOL OR THAT PROVIDES A SCHOLARSHIP TO A QUALIFIED CHILD FOR  
4 ENROLLMENT IN A PRIVATE SCHOOL DURING THE 2023-24 STATE FISCAL  
5 YEAR IS ELIGIBLE FOR THE INCOME TAX CREDIT SPECIFIED IN SUBSECTION  
6 (3)(a)(I) OF THIS SECTION FOR THE INCOME TAX YEAR COMMENCING  
7 DURING THE STATE FISCAL YEAR IN WHICH THE QUALIFIED CHILD IS  
8 ENROLLED OR IN WHICH THE SCHOLARSHIP IS PROVIDED; EXCEPT THAT A  
9 QUALIFIED CHILD SHALL NOT GENERATE AN INCOME TAX CREDIT IN THE  
10 SAME INCOME TAX YEAR FOR BOTH A TAXPAYER THAT ENROLLS THE  
11 QUALIFIED CHILD IN A PRIVATE SCHOOL AND A TAXPAYER THAT PROVIDES  
12 A SCHOLARSHIP TO THE QUALIFIED CHILD FOR ENROLLMENT IN A PRIVATE  
13 SCHOOL.

14 (b) A PRIVATE SCHOOL SHALL ISSUE ANY CREDIT CERTIFICATES  
15 PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION UPON APPLICATION FOR  
16 A CREDIT BY A TAXPAYER.

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

24 (B) FOR ANY QUALIFIED CHILD ATTENDING A PRIVATE SCHOOL ON  
25 A HALF-TIME BASIS AS DESCRIBED IN STATE BOARD OF EDUCATION RULES,  
26 THE AMOUNT OF THE CREDIT AUTHORIZED IN THIS SECTION EQUALS EITHER  
27 THE AMOUNT OF TUITION PAID FOR THE QUALIFIED CHILD OR THE AMOUNT

1 OF THE SCHOLARSHIP PROVIDED TO A QUALIFIED CHILD, AS APPLICABLE, OR  
2 THIRTY PERCENT OF THE PREVIOUS FISCAL YEAR'S STATE AVERAGE PER  
3 PUPIL REVENUES, WHICHEVER IS LESS.

4 (II) ON JANUARY 15, 2024, AND ON EVERY JANUARY 15  
5 THEREAFTER, THE DEPARTMENT OF EDUCATION SHALL PROVIDE THE STATE  
6 AVERAGE PER PUPIL REVENUES FOR THE PREVIOUS FISCAL YEAR TO THE  
7 DEPARTMENT.

8 (d) THE TAXPAYER SHALL SUBMIT THE CREDIT CERTIFICATE TO THE  
9 DEPARTMENT WITH THE TAXPAYER'S INCOME TAX RETURN FOR THE TAX  
10 YEAR FOR WHICH A CREDIT IS CLAIMED.

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

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

23 (a) THE TAXPAYER MAY ONLY TRANSFER A PORTION OF THE TAX  
24 CREDIT THAT THE TAXPAYER HAS NOT APPLIED AGAINST THE INCOME  
25 TAXES IMPOSED BY THIS ARTICLE 22;

26 (b) THE TAXPAYER MAY NOT TRANSFER PORTIONS OF THE TAX  
27 CREDIT TO MORE THAN ONE TRANSFEREE;

1 (c) A TRANSFEREE MAY NOT ELECT TO HAVE ANY TRANSFERRED  
2 CREDIT REFUNDED;

3 (d) FOR ANY TAX YEAR IN WHICH A TAX CREDIT IS TRANSFERRED  
4 PURSUANT TO THIS SUBSECTION (5), BOTH THE TAXPAYER AND THE  
5 TRANSFEREE SHALL FILE WRITTEN STATEMENTS WITH THEIR INCOME TAX  
6 RETURNS SPECIFYING THE AMOUNT OF THE TAX CREDIT THAT HAS BEEN  
7 TRANSFERRED. A TRANSFEREE MAY NOT CLAIM A CREDIT TRANSFERRED  
8 PURSUANT TO THIS SUBSECTION (5) UNLESS THE TAXPAYER'S WRITTEN  
9 STATEMENT VERIFIES THE AMOUNT OF THE TAX CREDIT CLAIMED BY THE  
10 TRANSFEREE.

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

20 (f) IF A TRANSFEREE PAID VALUE FOR THE TRANSFER OF A CREDIT  
21 ALLOWED PURSUANT TO THIS SECTION TO THE TRANSFEREE, THE  
22 TRANSFEREE AND THE TRANSFEROR SHALL BOTH SUBMIT TO THE  
23 DEPARTMENT, IN A FORM AND MANNER TO BE DETERMINED BY THE  
24 DEPARTMENT, A STATEMENT, INCLUDING THE PURCHASE PRICE, THAT THE  
25 TRANSFEREE PURCHASED THE TAX CREDIT FROM THE TRANSFEROR;

26 (g) A TRANSFEREE OF A TAX CREDIT MUST PURCHASE THE CREDIT  
27 PRIOR TO THE DUE DATE IMPOSED BY THIS ARTICLE 22, NOT INCLUDING

1 ANY EXTENSIONS, FOR FILING THE TRANSFEREE'S INCOME TAX RETURN;

2 (h) A TAX CREDIT HELD BY AN INDIVIDUAL EITHER DIRECTLY OR  
3 AS A RESULT OF A DONATION BY A PASS-THROUGH ENTITY, BUT NOT A TAX  
4 CREDIT HELD BY A TRANSFEREE UNLESS USED BY THE TRANSFEREE'S  
5 ESTATE FOR TAXES OWED BY THE ESTATE, SURVIVES THE DEATH OF THE  
6 INDIVIDUAL AND MAY BE CLAIMED OR TRANSFERRED BY THE DECEDENT'S  
7 ESTATE;

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

19 (j) FINAL RESOLUTION OF DISPUTES REGARDING A TAX CREDIT  
20 BETWEEN THE DEPARTMENT AND THE TAX MATTERS REPRESENTATIVE,  
21 INCLUDING FINAL DETERMINATIONS, COMPROMISES, PAYMENT OF  
22 ADDITIONAL TAXES OR REFUNDS DUE, AND ADMINISTRATIVE AND JUDICIAL  
23 DECISIONS, IS BINDING ON TRANSFEREES.

24 (6) IF A TAXPAYER RECEIVING A CREDIT ALLOWED IN THIS SECTION  
25 IS A PARTNERSHIP, LIMITED LIABILITY COMPANY, S CORPORATION, OR  
26 SIMILAR PASS-THROUGH ENTITY, THE TAXPAYER MAY ALLOCATE THE  
27 CREDIT AMONG ITS PARTNERS, SHAREHOLDERS, MEMBERS, OR OTHER

1       CONSTITUENT TAXPAYERS IN ANY MANNER AGREED TO BY THE PARTNERS,  
2       SHAREHOLDERS, MEMBERS, OR OTHER CONSTITUENT TAXPAYERS. THE  
3       TAXPAYER SHALL CERTIFY TO THE DEPARTMENT THE AMOUNT OF THE  
4       CREDIT ALLOCATED TO EACH PARTNER, SHAREHOLDER, MEMBER, OR  
5       OTHER CONSTITUENT TAXPAYER. EACH PARTNER, SHAREHOLDER,  
6       MEMBER, OR OTHER CONSTITUENT TAXPAYER MAY CLAIM THE AMOUNT  
7       SUBJECT TO ANY RESTRICTIONS SET FORTH IN THIS SECTION.

8               (7) NO LATER THAN DECEMBER 15, 2024, AND NO LATER THAN  
9       DECEMBER 15 OF EACH YEAR THEREAFTER, EACH PRIVATE SCHOOL THAT  
10       ISSUES A CREDIT CERTIFICATE SHALL PROVIDE THE DEPARTMENT WITH AN  
11       ELECTRONIC REPORT OF ANY CREDIT CERTIFICATE ISSUED FOR THAT  
12       INCOME TAX YEAR THAT INCLUDES THE FOLLOWING INFORMATION:

13               (a) THE TAXPAYER'S NAME;

14               (b) THE TAXPAYER'S COLORADO ACCOUNT NUMBER OR SOCIAL  
15       SECURITY NUMBER; AND

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

20               **39-22-550. Credit for taxpayers that use home-based**  
21       **education for a qualified child - rules - tax preference performance**  
22       **statement - legislative declaration - definitions.** (1) (a) THE GENERAL  
23       ASSEMBLY HEREBY FINDS AND DECLARES THAT:

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

27               (II) HOME-BASED EDUCATION CAN 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;

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

7 (V) TRANSPORTATION TIME, SYSTEMS, AND INFRASTRUCTURE CAN  
8 BE RELIEVED BY INCREASED EDUCATIONAL FLEXIBILITY;

9 (VI) DISASSOCIATING FAILING SCHOOLS WITH PARTICULAR  
10 HOUSING AREAS WILL INCREASE THE DESIRABILITY OF NEIGHBORHOODS  
11 THROUGHOUT THE STATE AND REINVIGORATE DECAYING SCHOOL  
12 DISTRICTS;

13 (VII) SCHOOL CROWDING AND ASSOCIATED ISSUES CAN BE  
14 RELIEVED CREATIVELY INSTEAD OF WITH COSTLY NEW STRUCTURES; AND

15 (VIII) CURRENT SCHOOL FINANCING IS LINEAR AND DOES NOT  
16 PROVIDE A MECHANISM FOR ECONOMIES OF SCALE, MAKING IT COST  
17 PROHIBITIVE TO CONTINUE TO EXPAND SCHOOL INFRASTRUCTURE.  
18 HOME-BASED EDUCATION OFFERS ONE OF THE ONLY MECHANISMS TO  
19 REDUCE SCHOOL CROWDING AND EXPENDITURES WHILE NOT PENALIZING  
20 THE CHILDREN CURRENTLY ENROLLED IN THE SCHOOLS.

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

27 (I) PROVIDE TAX RELIEF FOR CERTAIN INDIVIDUALS, SPECIFICALLY

1 INDIVIDUALS THAT USE HOME-BASED EDUCATION FOR A QUALIFIED CHILD;  
2 AND

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

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

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

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

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

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

1 SCHOOL OR TAUGHT THROUGH HOME-BASED EDUCATION IN THE STATE  
2 PRIOR TO THE EFFECTIVE DATE OF THIS SECTION.

3 (II) ONCE A CHILD IS A QUALIFIED CHILD AS SPECIFIED IN  
4 SUBSECTION (2)(c)(I) OF THIS SECTION, THE CHILD REMAINS A QUALIFIED  
5 CHILD SO LONG AS THE CHILD CONTINUES TO BE TAUGHT THROUGH  
6 HOME-BASED EDUCATION IN THE STATE IN A KINDERGARTEN THROUGH  
7 TWELFTH GRADE PROGRAM.

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

14 (3) (a) (I) NOTWITHSTANDING THE PROVISIONS OF SECTION  
15 39-21-304 (4), FOR INCOME TAX YEARS COMMENCING ON OR AFTER  
16 JANUARY 1, 2024, THERE IS ALLOWED A CREDIT AGAINST THE INCOME  
17 TAXES IMPOSED BY THIS ARTICLE 22, IN AN AMOUNT EQUAL TO FORTY  
18 PERCENT OF THE PREVIOUS YEAR'S STATE AVERAGE PER PUPIL REVENUES,  
19 FOR ANY TAXPAYER WHO USES HOME-BASED EDUCATION FOR A QUALIFIED  
20 CHILD WHO WAS ENROLLED IN A PUBLIC SCHOOL IN THE STATE PRIOR TO  
21 BEING TAUGHT THROUGH HOME-BASED EDUCATION OR WHO WAS NOT OLD  
22 ENOUGH TO ENROLL IN A PUBLIC KINDERGARTEN THROUGH TWELFTH  
23 GRADE PROGRAM IN THE SCHOOL YEAR PRIOR TO BEING TAUGHT THROUGH  
24 HOME-BASED EDUCATION.

25 (II) NOTWITHSTANDING THE PROVISIONS OF SECTION 39-21-304  
26 (4), FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2024,  
27 THERE IS ALLOWED AS A CREDIT AGAINST THE INCOME TAXES IMPOSED BY

1 THIS ARTICLE 22 AN AMOUNT EQUAL TO TWENTY PERCENT OF THE  
2 PREVIOUS YEAR'S STATE AVERAGE PER PUPIL REVENUES, FOR ANY  
3 TAXPAYER WHO USES HOME-BASED EDUCATION FOR A QUALIFIED CHILD  
4 WHO WAS ENROLLED ON A HALF-TIME BASIS IN A PUBLIC SCHOOL IN THE  
5 STATE PRIOR TO BEING TAUGHT THROUGH HOME-BASED EDUCATION OR  
6 WHO WAS NOT OLD ENOUGH TO ENROLL IN A PUBLIC KINDERGARTEN  
7 THROUGH TWELFTH GRADE PROGRAM IN THE SCHOOL YEAR PRIOR TO  
8 BEING TAUGHT THROUGH HOME-BASED EDUCATION.

9 (b) A TAXPAYER WHO USES HOME-BASED EDUCATION FOR A  
10 QUALIFIED CHILD DURING THE 2023-24 STATE FISCAL YEAR OR ANY STATE  
11 FISCAL YEAR THEREAFTER, IS ELIGIBLE FOR THE INCOME TAX CREDIT  
12 SPECIFIED IN SUBSECTION (3)(a) OF THIS SECTION FOR THE INCOME TAX  
13 YEAR COMMENCING DURING THE STATE FISCAL YEAR IN WHICH THE  
14 QUALIFIED CHILD IS TAUGHT THROUGH HOME-BASED EDUCATION.

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

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

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

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

6           (c) A TRANSFEREE MAY NOT ELECT TO HAVE ANY TRANSFERRED  
7 CREDIT REFUNDED;

8           (d) FOR ANY TAX YEAR IN WHICH A TAX CREDIT IS TRANSFERRED  
9 PURSUANT TO THIS SUBSECTION (5), BOTH THE TAXPAYER AND THE  
10 TRANSFEREE SHALL FILE WRITTEN STATEMENTS WITH THEIR INCOME TAX  
11 RETURNS SPECIFYING THE AMOUNT OF THE TAX CREDIT THAT HAS BEEN  
12 TRANSFERRED. A TRANSFEREE MAY NOT CLAIM A CREDIT TRANSFERRED  
13 PURSUANT TO THIS SUBSECTION (5) UNLESS THE TAXPAYER'S WRITTEN  
14 STATEMENT VERIFIES THE AMOUNT OF THE TAX CREDIT CLAIMED BY THE  
15 TRANSFEREE.

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

25           (f) IF A TRANSFEREE PAID VALUE FOR THE TRANSFER OF A CREDIT  
26 ALLOWED PURSUANT TO THIS SECTION TO THE TRANSFEREE, THE  
27 TRANSFEREE AND THE TRANSFEROR SHALL BOTH SUBMIT TO THE

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

4 (g) A TRANSFEREE OF A TAX CREDIT MUST 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, SURVIVES THE DEATH OF THE  
11 INDIVIDUAL AND MAY BE CLAIMED OR TRANSFERRED BY THE DECEDENT'S  
12 ESTATE;

13 (i) A TAXPAYER WHO CLAIMS A TAX CREDIT PURSUANT TO  
14 SUBSECTION (3) OF THIS SECTION AND TRANSFERS THE CREDIT PURSUANT  
15 TO THIS SUBSECTION (5) IS THE TAX MATTERS REPRESENTATIVE IN ALL  
16 MATTERS WITH RESPECT TO THE CREDIT. THE TAX MATTERS  
17 REPRESENTATIVE IS RESPONSIBLE FOR REPRESENTING AND BINDING THE  
18 TRANSFEREES WITH RESPECT TO ALL ISSUES AFFECTING THE CREDIT,  
19 INCLUDING, BUT NOT LIMITED TO, NOTIFICATIONS AND CORRESPONDENCE  
20 FROM AND WITH THE DEPARTMENT, AUDIT EXAMINATIONS, REFUNDS,  
21 SETTLEMENT AGREEMENTS, AND THE STATUTE OF LIMITATIONS. THE  
22 TRANSFEREE IS SUBJECT TO THE SAME STATUTE OF LIMITATIONS WITH  
23 RESPECT TO THE CREDIT AS THE TRANSFEROR OF THE CREDIT.

24 (j) FINAL RESOLUTION OF DISPUTES REGARDING A TAX CREDIT  
25 BETWEEN THE DEPARTMENT AND THE TAX MATTERS REPRESENTATIVE,  
26 INCLUDING FINAL DETERMINATIONS, COMPROMISES, PAYMENT OF  
27 ADDITIONAL TAXES OR REFUNDS DUE, AND ADMINISTRATIVE AND JUDICIAL

1 DECISIONS, IS BINDING ON TRANSFEREES.

2           **SECTION 3. Act subject to petition - effective date.** This act  
3 takes effect at 12:01 a.m. on the day following the expiration of the  
4 ninety-day period after final adjournment of the general assembly; except  
5 that, if a referendum petition is filed pursuant to section 1 (3) of article V  
6 of the state constitution against this act or an item, section, or part of this  
7 act within such period, then the act, item, section, or part will not take  
8 effect unless approved by the people at the general election to be held in  
9 November 2024 and, in such case, will take effect on the date of the  
10 official declaration of the vote thereon by the governor.