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Seventy-first General Assembly

STATE OF COLORADO

INTRODUCED

LLS NO. 18-0406.01 Nicole Myers x4326

SENATE BILL 18-083

SENATE SPONSORSHIP

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A BILL FOR AN ACT

CONCERNING THE CREATION OF INCOME TAX CREDITS FOR NONPUBLIC EDUCATION.

Bill Summary

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 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.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Short title. The short title of this act is the "Quality Education and Budget Reduction Act".

SECTION 2. Legislative declaration. (1) The general assembly finds, determines, and declares that:

(a) Every student in the state of Colorado should have as much access as possible to the educational formats that best fit their needs and learning styles;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(II) A TAXPAYER THAT ENROLLS A QUALIFIED CHILD IN A PRIVATE SCHOOL OR THAT PROVIDES A SCHOLARSHIP TO A QUALIFIED CHILD FOR ENROLLMENT IN A PRIVATE SCHOOL DURING THE 2018-19 STATE FISCAL YEAR OR ANY STATE FISCAL YEAR THEREAFTER IS ELIGIBLE FOR THE INCOME TAX CREDIT SPECIFIED IN SUBSECTION (2)(a)(I) OF THIS SECTION FOR THE INCOME TAX YEAR COMMENCING DURING THE STATE FISCAL YEAR IN WHICH THE QUALIFIED CHILD IS ENROLLED OR IN WHICH THE SCHOLARSHIP IS OFFERED; EXCEPT THAT A QUALIFIED CHILD SHALL NOT GENERATE AN INCOME TAX CREDIT IN THE SAME INCOME TAX YEAR FOR BOTH A TAXPAYER THAT ENROLLS THE QUALIFIED CHILD IN A PRIVATE SCHOOL AND A TAXPAYER THAT PROVIDES A SCHOLARSHIP TO THE QUALIFIED CHILD FOR ENROLLMENT IN A PRIVATE SCHOOL.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) THE TAXPAYER'S NAME;

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

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

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

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

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

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

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

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

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

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

(2) (a) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2019, THERE IS ALLOWED AS A CREDIT AGAINST THE INCOME TAXES IMPOSED BY THIS ARTICLE 22 AN AMOUNT EQUAL TO ONE THOUSAND DOLLARS FOR ANY 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 OR WHO WAS NOT OLD ENOUGH TO ENROLL IN A KINDERGARTEN THROUGH TWELFTH GRADE PROGRAM IN THE SCHOOL YEAR PRIOR TO BEING TAUGHT AT HOME.

(II) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2019, THERE IS ALLOWED AS A CREDIT AGAINST THE INCOME TAXES IMPOSED BY THIS ARTICLE 22 AN AMOUNT EQUAL TO FIVE HUNDRED DOLLARS TO ANY 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 OR WHO WAS NOT OLD ENOUGH TO ENROLL IN A KINDERGARTEN THROUGH TWELFTH GRADE PROGRAM IN THE SCHOOL YEAR PRIOR TO BEING TAUGHT AT HOME.

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 4. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.