

HB452 ENGROSSED



1 HB452
2 JP1TEYF-2
3 By Representative Pringle
4 RFD: Ways and Means Education
5 First Read: 12-Feb-26



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A BILL
TO BE ENTITLED
AN ACT

Relating to the state income tax credit for the rehabilitation of qualified historic structures; to amend Sections 40-9F-31 through 40-9F-33, and Section 40-9F-36, Code of Alabama 1975, to extend the income tax credit through 2032; to provide further for credit amounts and the definition of "qualifying structures"; and to make nonsubstantive, technical revisions to update existing code language to current style.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 40-9F-31 through 40-9F-33 and Section 40-9F-36, Code of Alabama 1975, are amended to read as follows:

"§40-9F-31

As used in this article, the following terms have the following meanings:

(1) CERTIFIED HISTORIC STRUCTURE. A property located in this state which is at least 60 years of age, unless the structure is a historic structure located within the boundaries of a National Monument or Park as declared by the United States Congress or the President of the United States, in which case the federal age provisions shall apply, and is



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29 certified by the Alabama Historical Commission as being
30 individually listed in the National Register of Historic
31 Places, eligible for listing in the National Register of
32 Historic Places, or certified by the commission as
33 contributing to the historic significance of a Registered
34 Historic District. For applications submitted after June 1,
35 2023, a property must be 75 years of age.

36 (2) CERTIFIED REHABILITATION. Repairs or alterations to
37 a certified historic structure that is certified by the
38 commission as meeting the U.S. Secretary of the Interior's
39 Standards for Rehabilitation which meet the requirements of 26
40 U.S.C. § 47.

41 (3) COMMISSION. The Alabama Historical Commission or
42 its successor.

43 (4) COMMITTEE. The Historic Tax Credit Evaluating
44 Committee established by this article.

45 (5) DEPARTMENT. The Alabama Department of Revenue or
46 its successor.

47 (6) DISQUALIFYING USE. Any use of a certified historic
48 structure that is occupied by an owner and used exclusively as
49 a primary or secondary residence.

50 (7) OWNER. Any taxpayer filing a State of Alabama
51 income tax return or any entity that is exempt from federal
52 income taxation pursuant to 26 U.S.C. § 501, that owns title
53 to a qualified structure or owns a leasehold interest in a
54 qualified structure for a term of not less than 39 years. An
55 owner as defined herein shall not be considered a private user
56 as defined in Section 40-9A-1.



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57 (8) QUALIFIED REHABILITATION EXPENDITURES. Any
58 expenditure as defined under 26 U.S.C. § 47, as amended, and
59 the related regulations thereunder, and other reasonable
60 expenses and costs expended in the rehabilitation of a
61 qualified structure. Qualified rehabilitation expenditures do
62 not include the cost of acquisition of the qualified
63 structure, the personal labor by the owner, or any cost
64 associated with the rehabilitation of an outbuilding of the
65 qualified structure, unless the outbuilding is certified by
66 the commission to contribute to the historical significance of
67 the qualified structure.

68 (9) QUALIFIED STRUCTURE. Certified historic structures
69 that are certified by the commission as meeting the
70 requirements contained in 26 U.S.C. § 47.

71 (10) REGISTERED HISTORIC DISTRICT. Any district listed
72 in the National Register of Historic Places and any district
73 that is either of the following:

74 a. Designated under Alabama or local law as containing
75 criteria that substantially achieves the purpose of preserving
76 and rehabilitating buildings of historic significance to the
77 district.

78 b. Certified by the U.S. Secretary of the Interior as
79 meeting substantially all of the requirements for the listing
80 of districts in the National Register of Historic Places.

81 (11) REHABILITATION PLAN. Construction plans and
82 specifications for the proposed rehabilitation of a qualified
83 structure in sufficient detail to enable the commission to
84 evaluate compliance with the standards developed under this



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85 article.

86 (12) RURAL COMMUNITIES. Communities located within
87 counties of this state that have less than 175,000 in
88 population based on the most recent federal decennial census.

89 ~~(12)~~ (13) SUBSTANTIAL REHABILITATION. Rehabilitation For
90 tax years 2023 through 2027, rehabilitation of a qualified
91 structure for which the qualified rehabilitation expenditures
92 exceed 50 percent of the owner's original purchase price of
93 the qualified structure or twenty-five thousand dollars
94 (\$25,000), whichever is greater. For tax years 2028 through
95 2032, rehabilitation of a qualified structure for which the
96 qualified rehabilitation expenditures exceed 50 percent of the
97 owner's original purchase price of the qualified structure or
98 twenty thousand dollars (\$20,000) for qualified structures
99 located in rural communities and twenty-five thousand dollars
100 (\$25,000) for properties located in urban communities,
101 whichever is greater.

102 (14) URBAN COMMUNITIES. Communities located within
103 counties of this state that have greater than 175,000 in
104 population based on the most recent federal decennial census."

105 "§40-9F-32

106 (a) The commission shall develop standards for the
107 approval of the substantial rehabilitation of qualified
108 structures for which a tax credit is sought. The standards
109 shall: (i) take into account whether the substantial
110 rehabilitation of a qualified structure is consistent with the
111 historic character of the structure or of the Registered
112 Historic District in which the property is located; and (ii)



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113 for tax years 2023 through ~~2027~~2032, establish a mechanism to
114 require owners to confirm that the proposed use for the
115 qualified structure is not a disqualifying use in the
116 application, and prior to the commission's issuance of the tax
117 credit certificate for the qualified structure under ~~Section~~
118 ~~40-9F-32(d)~~subsection (d).

119 (b) Prior to beginning any substantial rehabilitation
120 work on a qualified structure, the owner shall submit an
121 application and rehabilitation plan to the commission and an
122 estimate of the qualified rehabilitation expenditures under
123 the rehabilitation plan~~;~~ provided, ~~however,~~ that the owner,
124 at its own risk, may incur qualified rehabilitation
125 expenditures no earlier than six months prior to the
126 submission of the application and rehabilitation plan that are
127 limited to architectural, engineering, and land surveying fees
128 and related soft costs and any costs related to the protection
129 of the qualified structure from deterioration.

130 (c) (1) The commission shall review the application and
131 rehabilitation plan to determine that the information
132 contained therein is complete. If the commission determines
133 that the application and rehabilitation plan are complete, the
134 commission shall recommend the project to the committee for
135 the reservation of a tax credit. If the project is approved
136 for a tax credit by the committee, the commission shall
137 reserve, for the benefit of the owner, an allocation for a tax
138 credit as provided in Section 40-9F-33, and the commission
139 shall notify the owner in writing of the amount of the
140 reservation. The reservation of tax credits does not entitle



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141 the owner to an issuance of tax credits until the owner
142 complies with all other requirements of this article for the
143 issuance of the tax credits. The reservation of tax credits
144 shall be made by the commission in the order in which the
145 committee has ranked completed applications and rehabilitation
146 plans. Reservations of tax credits shall be issued by the
147 commission within a reasonable time from the filing of a
148 completed application and rehabilitation plan. Only the
149 property for which a property address, legal description, or
150 other specific location is provided in the application shall
151 be reviewed. Ownership of an entity that is the owner of
152 property contained in the application shall not be a factor in
153 the commission's review of the application and no subsequent
154 change in the ownership structure of such entity shall result
155 in the loss or rescission of a reservation of tax credits. The
156 owner shall not be permitted to request the review of another
157 property for approval in the place of the property contained
158 in the application. Any application disapproved by the
159 commission or the committee shall be removed from the review
160 process, and the commission shall notify the owner in writing
161 of the decision to remove the application. A disapproved
162 application may be resubmitted, but shall be deemed to be a
163 new submission and may be charged a new application fee. In
164 the event the reservations of tax credits equal the total
165 amount available for reservations during the tax year, all
166 owners with applications then awaiting approval or thereafter
167 submitted shall be notified by the commission that no
168 additional tax credits shall be granted during that tax year.



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169 The applications shall remain in active status from the date
170 of the original application and shall be considered for
171 recommendations of tax credits in the event that additional
172 credits become available due to rescission by the commission
173 or when a new tax year's allocation of tax credits becomes
174 available.

175 (2) Owners receiving a reservation of tax credits shall
176 commence rehabilitation, if rehabilitation has not previously
177 begun, within 18 months of the date of issuance of the written
178 notice from the commission to the owner granting the tax
179 credits. Commencement of rehabilitation shall mean that, as of
180 the date in which actual physical work contemplated by the
181 rehabilitation plan submitted with the application has begun,
182 the owner has incurred no less than 20 percent of the
183 estimated costs of rehabilitation provided in the application.
184 Within 36 months of the date of issuance of the written notice
185 from the commission to the owner granting the tax credit
186 reservation, the owner must have incurred an additional 50
187 percent of the estimated costs of rehabilitation provided in
188 the application. Within 60 months of the date of issuance of
189 the written notice from the commission to the owner granting
190 the tax credit reservation, the project must be completed.
191 Owners receiving a reservation of tax credits shall submit
192 evidence of compliance with this subsection. If the commission
193 determines that an owner has failed to comply with the
194 requirements provided under this section, the reservation of
195 tax credits for the owner may be rescinded and, if so, the
196 amount of tax credits shall then be included in the total



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197 amount of available tax credits provided for in ~~subsection (c)~~
198 ~~of~~ Section 40-9F-33 (c), from which reservations may be
199 granted. Any owner whose reservation of tax credits are
200 rescinded shall be notified of the rescission from the
201 commission and, upon receipt of the notice, may submit a new
202 application but may be charged a new application fee.

203 (d) Following the completion of a substantial
204 rehabilitation of a qualified structure, the owner shall
205 notify the commission that the substantial rehabilitation has
206 been completed and shall certify the qualified rehabilitation
207 expenditures incurred with respect to the rehabilitation plan.
208 In addition, the owner shall provide the commission with: (i)
209 a cost and expense certification, prepared by a licensed
210 certified public accountant that is not an affiliate of the
211 owner, certifying the total qualified rehabilitation
212 expenditures and the total amount of tax credits against any
213 state tax due that is specified in this article for which the
214 owner is eligible under Section 40-9F-33; and (ii) an
215 appraisal of the qualified structure prepared by an
216 independent MAI designated and licensed real estate appraiser.
217 The commission shall review the documentation of the
218 rehabilitation and verify its compliance with the
219 rehabilitation plan. ~~Within~~ For tax years 2023 through 2027,
220 within 90 days after receipt and approval of the foregoing
221 documentation from the owner, the commission shall issue a tax
222 credit certificate in an amount equivalent to the lesser of:
223 (i) the amount of the tax credit reservation issued for the
224 project under the provisions of subsection (c); or (ii) 25



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225 percent of the actual qualified rehabilitation expenditures
226 for certified historic structures. For tax years 2028 through
227 2032, within 90 days after receipt and approval of the
228 foregoing documentation from the owner, the commission shall
229 issue a tax credit certificate in an amount equivalent to the
230 lesser of: (i) the amount of the tax credit reservation issued
231 for the project under the provisions of subsection (c); (ii)
232 30 percent of the actual qualified rehabilitation expenditures
233 for certified historic structures located in rural
234 communities; or (iii) 25 percent of the actual qualified
235 rehabilitation expenditures for certified historic structures
236 located in urban communities. In the event the amount of
237 qualified rehabilitation expenditures incurred by the owner
238 would result in the issuance of an amount of tax credits in
239 excess of the amount of tax credits reserved for the owner
240 under subsection (c), the owner may apply to the commission
241 for issuance of tax credits in an amount equal to the excess.
242 Applications for issuance of tax credits in excess of the
243 amount of tax credits reserved for the owner shall be made on
244 a form prescribed by the commission and shall represent a
245 separate certificate that shall be issued, subject to all
246 provisions regarding priority provided in Section 40-9F-38.

247 (e) In order to obtain a credit against any state tax
248 due that is specified in this article, a taxpayer shall file
249 the tax credit certificate with the taxpayer's Alabama state
250 tax return.

251 (f) The department shall grant a tax credit against any
252 state tax due that is specified in this article to a taxpayer



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253 holding the tax credit certificate issued under subsection (d)
254 or, in the case of a transferee, issued by the department
255 pursuant to Section 40-9F-33 against any tax due under Chapter
256 18 in the amount stated on the tax credit certificate. The
257 department shall have the right to audit and to reassess any
258 credit improperly obtained by the owner, in accordance with
259 the Taxpayers' Bill of Rights and the Uniform Revenue
260 Procedures contained in Chapter 2A~~7~~1, provided~~, however~~ that
261 only the owner initially awarded the tax credit certificate,
262 and not any subsequent transferee of the tax credit
263 certificate or person to whom tax credits have been passed
264 through pursuant to Section 40-9F-33, shall be liable for any
265 credit improperly obtained by the owner.

266 (g) For processing the taxpayer's application for a tax
267 credit, the commission may impose the following application
268 fees:

269 (1) For qualified rehabilitation expenses of one
270 million dollars (\$1,000,000) or less, a fee equal to 1 percent
271 of the qualified rehabilitation expenditures.

272 (2) For qualified rehabilitation expenses from one
273 million and one dollars (\$1,000,001) to ten million dollars
274 (\$10,000,000), a fee equal to fifteen thousand dollars
275 (\$15,000).

276 (3) For qualified rehabilitation expenses over ten
277 million dollars (\$10,000,000), a fee equal to twenty thousand
278 dollars (\$20,000).

279 (h) Any fees collected by the commission under this
280 section shall be deposited in the State Treasury to the credit



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281 of the commission and all such funds are to be appropriated to
282 the commission to defray the expenses incurred in carrying out
283 this article.

284 (i) The commission shall report to the Legislature in
285 the third year following passage of this article, and annually
286 thereafter, on the overall economic activity, usage, and
287 impact to the state from the substantial rehabilitation of
288 qualified structures for which tax credits have been allowed.
289 The information in the reports shall be consistent with the
290 information required by the Legislature pursuant to, and shall
291 be provided by the commission to the Legislature in accordance
292 with, Section 40-1-50, and rules adopted thereunder.
293 Information provided pursuant to this section is exempt from
294 the confidentiality provisions of Section 40-2A-10."

295 "§40-9F-33

296 (a) ~~The state portion of~~ For tax years 2023 through
297 2027, any tax credit against the tax imposed by Chapter 18 for
298 the taxable year in which the reservation is allocated to a
299 project or the certified rehabilitation is placed in service
300 shall be equal to 25 percent of the qualified rehabilitation
301 expenditures for certified historic structures. For tax years
302 2028 through 2032, any tax credit against the tax imposed by
303 Chapter 18 for the taxable year in which the reservation is
304 allocated to a project or the certified rehabilitation is
305 placed in service shall be equal to: (i) 30 percent of the
306 qualified rehabilitation expenditures for certified historic
307 structures located in rural communities; or (ii) 25 percent of
308 the qualified rehabilitation expenditures for certified



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309 historic structures located in urban communities. No tax
310 credit claimed for any certified rehabilitation may exceed
311 five million dollars (\$5,000,000) for all allowable property
312 types.

313 (b) There is created within the Education Trust Fund a
314 separate account named the Historic Preservation Income Tax
315 Credit Account. The Commissioner of Revenue shall certify to
316 the Comptroller the amount of income tax credits under this
317 section and the Comptroller shall transfer into the Historic
318 Preservation Income Tax Credit Account only the amount from
319 sales tax revenues within the Education Trust Fund that is
320 sufficient for the Department of Revenue to use to cover the
321 income tax credits for the applicable tax year. The
322 Commissioner of Revenue shall distribute the funds in the
323 Historic Preservation Income Tax Credit Account pursuant to
324 this section.

325 (c) The entire tax credit must be claimed by the
326 taxpayer for the taxable year in which the reservation is
327 allocated to a project or the certified rehabilitation is
328 placed in service. Tax credits shall not be claimed prior to
329 the taxable year in which the certified rehabilitation is
330 placed in service. Where the taxes owed by the taxpayer are
331 less than the tax credit, the taxpayer shall be entitled to
332 claim a refund for the difference. In the event that any
333 additional credit is allocated to the taxpayer for a given
334 project, the additional credit must be claimed in the taxable
335 year the additional credit is allocated to the taxpayer.

336 (d) (1) For the tax years 2018 through 2022, the



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337 aggregate amount of all tax credits that may be reserved in
338 any one of such years by the commission and certification of
339 rehabilitation plans under Section 40-9F-32(c) shall not
340 exceed twenty million dollars (\$20,000,000), plus any amount
341 of previous reservations of tax credits that were rescinded
342 under Section 40-9F-32(c) during the tax year. However, if all
343 of the allowable tax credit amount for any tax year is not
344 requested and reserved, any unreserved tax credits may be
345 utilized by the commission in awarding tax credits in
346 subsequent years; provided, however, that in no event shall a
347 total of more than two hundred million dollars (\$200,000,000)
348 be reserved by the commission during the period from May 25,
349 2017, through December 31, 2022, pursuant to this article.
350 Applications shall not be received by the commission after the
351 Historic Tax Credit Evaluating Committee has ranked projects
352 with a total amount exceeding two hundred million dollars
353 (\$200,000,000).

354 (2) For the tax years 2023 through 2027, the aggregate
355 amount of all tax credits that may be reserved in any one of
356 such years by the commission and certification of
357 rehabilitation plans under Section 40-9F-32(c) shall not
358 exceed twenty million dollars (\$20,000,000), plus any amount
359 of previous reservations of tax credits that were rescinded
360 under Section 40-9F-32(c) during the tax year. However, if all
361 of the allowable tax credit amount for any tax year is not
362 requested and reserved, any unreserved tax credits may be
363 utilized by the commission in awarding tax credits in
364 subsequent years~~, provided, however,~~ that in no event shall a



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365 total of more than two hundred million dollars (\$200,000,000)
366 be reserved by the commission during the period from May 25,
367 2017, through December 31, 2027, pursuant to this article.

368 (3) For the tax years 2028 through 2032, the aggregate
369 amount of all tax credits that may be reserved in any one of
370 such years by the commission and certification of
371 rehabilitation plans under Section 40-9F-32(c) shall not
372 exceed twenty million dollars (\$20,000,000), plus any amount
373 of previous reservations of tax credits that were rescinded
374 under Section 40-9F-32(c) during the tax year. However, if all
375 of the allowable tax credit amount for any tax year is not
376 requested and reserved, any unreserved tax credits may be
377 utilized by the commission in awarding tax credits in
378 subsequent years, provided that in no event shall a total of
379 more than three hundred million dollars (\$300,000,000) be
380 reserved by the commission during the period from May 25,
381 2017, through December 31, 2032, pursuant to this article.

382 ~~(3)~~(4) For tax years 2023 through ~~2027~~2032, no tax
383 credits shall be reserved for qualified structures the end use
384 of which is proposed to be a disqualifying use.

385 ~~(4)~~(5) For purposes of this article, "tax year" shall
386 mean calendar year.

387 ~~(5)~~(6) In addition to the limits in subdivisions (2)
388 and (3), for tax years 2024 through ~~2027~~2032, the commission
389 may utilize an additional amount up to a total of five million
390 dollars (\$5,000,000) to reduce the backlog of qualified
391 applications.

392 (e) Of the annual amount of the tax credits provided



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393 for in subsection (d), 40 percent shall be reserved to
394 taxpayers with a certified rehabilitation project located in a
395 county in which the population does not exceed 175,000
396 according to the most recent federal decennial census. In the
397 event applications are not received and credits are not
398 allocated for projects in these areas by the close of the
399 third quarter of the program year, the funds may revert for
400 allocations of other project applications.

401 (f) Tax credits granted to a partnership, a limited
402 liability company, S corporations, trusts, or estates, shall
403 be claimed at the entity level and shall not pass through to
404 the partners, members, or owners.

405 (g) All or any portion of the income tax credits under
406 this section and Section 40-9F-32 shall be transferable and
407 assignable, subject to any notice and verification
408 requirements to be determined by the department, without the
409 requirement of transferring any ownership interest in the
410 qualified structure or any interest in the entity which owns
411 the qualified structure. Any tax credits transferred shall be
412 at a value of at least 85 percent of the present value of the
413 credits. However, once a credit is transferred, only the
414 transferee may utilize the credit and the credit may not be
415 transferred again. A transferee of the tax credits may use the
416 amount of tax credits transferred to offset any income tax
417 under Chapter 18. The entire tax credit must be claimed by the
418 transferee for the taxable year in which the reservation is
419 allocated to a project or the certified rehabilitation is
420 placed in service. When the taxes owed by the transferee are



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421 less than the tax credit, the transferee shall be entitled to
422 claim a refund for the difference. The department shall adopt
423 a form transfer statement to be filed by the transferor with
424 the department prior to the purported transfer of any credit
425 issued under this article. The transfer statement form shall
426 include the name and federal taxpayer identification number of
427 the transferor and each transferee listed therein along with
428 the amount of the tax credit to be transferred to each
429 transferee listed on the form. The transfer statement form
430 shall also contain any other information as the department may
431 from time to time reasonably require. For each transfer, the
432 transferor shall file: ~~(1)~~(i) a completed transfer statement
433 form; ~~(2)~~(ii) a copy of the tax credit certificate issued by
434 the commission documenting the amount of tax credits which the
435 transferor intends to transfer; ~~(3)~~(iii) a copy of the
436 proposed written transfer agreement; and ~~(4)~~(iv) a transfer
437 fee payable to the department in the amount of one thousand
438 dollars (\$1,000) per transferee listed on the transfer
439 statement form. The transferor shall file with the department
440 a fully executed copy of the written transfer agreement with
441 each transferee within 30 days after the completed transfer.
442 Filing of the written transfer agreement with the department
443 shall perfect the transfer with respect to the transferee.
444 Within 30 days after the department's receipt of the fully
445 executed written transfer agreement, the department shall
446 issue a tax credit certificate to each transferee listed in
447 the agreement in the amount of the tax credit so transferred.
448 The certificate shall be used by the transferee in claiming



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449 the tax credit pursuant to ~~subsections (e) and (f) of Section~~
450 40-9F-32(e) and (f). The department may adopt additional rules
451 as are necessary to permit verification of the ownership of
452 the tax credits, but shall not adopt any rules which unduly
453 restrict or hinder the transfer of the tax credits."

454 "§40-9F-36

455 The tax credits authorized by this article for the
456 substantial rehabilitation of qualified structures shall not
457 be available to owners of qualified structures that submit an
458 application and rehabilitation plan after December 31,
459 ~~2027~~2032. No action or inaction on the part of the Legislature
460 shall reduce or suspend the tax credits authorized by this
461 article in any past or future calendar year with respect to a
462 qualified structure if the owner thereof submits an
463 application and rehabilitation plan with the commission and
464 the commission reserves an allocation for a tax credit on or
465 prior to December 31, ~~2027~~2032, even if the qualified
466 structure is placed into service after December 31, ~~2027~~2032,
467 and shall not affect the owner of a qualified structure if the
468 commission has reserved an allocation for a tax credit on or
469 prior to December 31, ~~2027~~2032. Notwithstanding any other
470 provision of this chapter, any application received by the
471 commission, other than an application for a qualified
472 structure the end use of which is proposed to be a
473 disqualifying use, in active status on the ranking list of the
474 Historic Tax Credit Evaluating Committee or granted a tax
475 allocation reservation prior to ~~May 14, 2021~~the effective date
476 of this article, shall remain on the ranking list or in



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477 reservation status and shall receive a tax credit allocation
478 reservation or a tax credit allocation, as the case may be,
479 when additional credits become available, ~~including in any tax~~
480 ~~year commencing after 2022."~~

481 Section 2. This act shall become effective on October
482 1, 2026.



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House of Representatives

486 Read for the first time and referred12-Feb-26
487 to the House of Representatives
488 committee on Ways and Means
489 Education
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491 Read for the second time and placed19-Feb-26
492 on the calendar:
493 1 amendment
494
495 Read for the third time and passed05-Mar-26
496 as amended
497 Yeas 101
498 Nays 0
499 Abstains 4

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John Treadwell
Clerk