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SENATE BILL NO. 1085

Offered January 8, 2025

Prefiled January 7, 2025

A BILL to amend the Code of Virginia by adding in Article 3 of Chapter 3 of Title 58.1 sections numbered 58.1-339.15 and 58.1-339.16, relating to income tax; alternative schooling and public school tax credits.

Patron—Craig

Referred to Committee on Finance and Appropriations

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 3 of Chapter 3 of Title 58.1 sections numbered 58.1-339.15 and 58.1-339.16 as follows:

§ 58.1-339.15. Alternative schooling tax credit.

A. For purposes of this section:

"Eligible student" means a student who is (i) exempt from the compulsory attendance law for the purpose of home education or enrollment in a private educational institution in accordance with the provisions of § 22.1-254, (ii) a resident of the Commonwealth of Virginia at the time any qualifying expense is incurred, (iii) under the age of 18 at the close of the school year for which a credit under this section is sought, and (iv) either receiving home instruction as authorized under § 22.1-254.1 or enrolled full time in a kindergarten through twelfth grade education program at any private school in the Commonwealth during the school year for which a credit is sought.

"Household" means an individual, or in the case of married individuals, an individual and his spouse, regardless of whether the individual and his spouse file combined or separate Virginia individual income tax returns.

"Poverty guidelines" means the poverty guidelines for the 48 contiguous states and the District of Columbia updated annually in the Federal Register by the U.S. Department of Health and Human Services under the authority of § 673(2) of the Omnibus Budget Reconciliation Act of 1981.

"Qualifying expense" means any expense incurred during the taxable year for (i) instruction-related materials, including textbooks, workbooks, and supplies; (ii) courses or programs used in home instruction; or (iii) private school tuition.

B. 1. For taxable years beginning on and after January 1, 2025, but before January 1, 2030, a taxpayer shall be allowed a refundable credit against the tax levied pursuant to § 58.1-320 for up to \$5,000 of qualifying expenses incurred by a parent or legal guardian for his eligible student. Any credits claimed pursuant to this section for qualifying expenses incurred on behalf of one eligible student shall not be claimed by any other taxpayer for such child. Credits shall be allocated by the Department on a first-come, first-served basis.

2. For taxable years beginning on and after January 1, 2025, but before January 1, 2030, a household (i) whose family Virginia adjusted gross income does not exceed 300 percent of the poverty guideline amount corresponding to a household of an equal number of persons as listed in the poverty guidelines published during such taxable year and (ii) who qualifies for the credit under subdivision 1 shall be allowed to claim a refundable credit of \$2,500 in addition to the credit provided in subdivision 1.

3. Any taxpayer claiming credits pursuant to this subsection may only claim such credits for one eligible student in a taxable year. The aggregate amount of credits allowable under this section shall not exceed \$25 million in any taxable year; however, in the event that the aggregate amount of credits claimed in a single taxable year is greater than ninety percent of such amount, then such aggregate credit cap amount shall be increased in the immediately succeeding taxable year by 10 percent. Credits shall be allocated by the Department on a first-come, first-served basis.

C. To claim the credit, the taxpayer shall submit purchase receipts with the income tax return to verify any qualifying expenses incurred and shall provide with the income tax return (i) the name of the child receiving home instruction for the year and the school division to which notice was provided pursuant to subsection B of § 22.1-254.1 or (ii) the name of the child attending private school and certification of such enrollment from the private school.

D. If the amount of the credit that may be claimed in any single taxable year exceeds the taxpayer's liability for taxes imposed by this chapter for that taxable year, the excess shall be refunded by the Tax Commissioner. Tax credits shall be refunded by the Tax Commissioner within 90 days after the filing date of the income tax return on which the individual applies for the refund.

E. The Tax Commissioner shall develop guidelines for claiming the credit provided by this section. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

INTRODUCED

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§ 58.1-339.16. Public school tax credit.

A. For purposes of this section:

"Eligible student" means a student who is (i) subject to the compulsory attendance law in accordance with the provisions of § 22.1-254, (ii) a resident of the Commonwealth of Virginia at the time any qualifying expense is incurred, (iii) under the age of 18 at the close of the school year for which a credit under this section is sought, and (iv) enrolled full time in a kindergarten through twelfth grade education program at any public school in the Commonwealth during the school year for which a credit is sought.

"Household" means an individual, or in the case of married individuals, an individual and his spouse, regardless of whether the individual and his spouse file combined or separate Virginia individual income tax returns.

"Poverty guidelines" means the poverty guidelines for the 48 contiguous states and the District of Columbia updated annually in the Federal Register by the U.S. Department of Health and Human Services under the authority of § 673(2) of the Omnibus Budget Reconciliation Act of 1981.

"Qualifying expense" means any expense incurred during the taxable year for instruction-related materials, including textbooks, workbooks, and supplies or programs used directly to assist the eligible student's education.

B. 1. For taxable years beginning on and after January 1, 2025, but before January 1, 2030, a taxpayer shall be allowed a refundable credit against the tax levied pursuant to § 58.1-320 for up to \$1,500 of qualifying expenses incurred by a parent or legal guardian for his eligible student. Any credits claimed pursuant to this section for qualifying expenses incurred on behalf of one eligible student shall not be claimed by any other taxpayer for such child. Credits shall be allocated by the Department on a first-come, first-served basis.

2. For taxable years beginning on and after January 1, 2025, but before January 1, 2030, a household (i) whose family Virginia adjusted gross income does not exceed 300 percent of the poverty guideline amount corresponding to a household of an equal number of persons as listed in the poverty guidelines published during such taxable year and (ii) who qualifies for the credit under subdivision 1 shall be allowed to claim a refundable credit of \$2,500 in addition to the credit provided in subdivision 1.

3. Any taxpayer claiming credits pursuant to this subsection may only claim such credits for one eligible student in a taxable year. The aggregate amount of credits allowable under this section shall not exceed \$25 million in any taxable year; however, in the event that the aggregate amount of credits claimed in a single taxable year is greater than ninety percent of such amount, then the aggregate credit cap amount shall be increased in the immediately succeeding taxable year by 10 percent. Credits shall be allocated by the Department on a first-come, first-served basis.

C. To claim the credit, the taxpayer shall submit purchase receipts with the income tax return to verify any qualifying expenses incurred and shall provide with the income tax return the name of the child enrolled full time in a kindergarten through twelfth grade education program at any public school in the Commonwealth for the year and the school division in which such child is enrolled.

D. If the amount of the credit that may be claimed in any single taxable year exceeds the taxpayer's liability for taxes imposed by this chapter for that taxable year, the excess shall be refunded by the Tax Commissioner. Tax credits shall be refunded by the Tax Commissioner within 90 days after the filing date of the income tax return on which the individual applies for the refund.

E. The Tax Commissioner shall develop guidelines for claiming the credit provided by this section. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).