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SENATE BILL NO. 749

Offered January 9, 2013

Prefiled December 14, 2012

A *BILL to amend the Code of Virginia by adding in Chapter 3 of Title 58.1 an article numbered 13.4, consisting of sections numbered 58.1-439.29 through 58.1-439.32, relating to tax credits for donations to science, technology, engineering, and math education programs at qualified schools.*

Patrons—Stanley and Ruff; Delegate: Ramadan

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 3 of Title 58.1 an article numbered 13.4, consisting of sections numbered 58.1-439.29 through 58.1-439.32, as follows:

*Article 13.4.**Science, Technology, Engineering, and Math Education Tax Credits.***§ 58.1-439.29. Definitions.**

As used in this article, unless the context requires a different meaning:

"Qualified school" means a public elementary or secondary school in the Commonwealth at which at least 40 percent of students qualify for free or reduced lunch.

"STEM" means science, technology, engineering, and math.

"STEM organization" means a nonstock, nonprofit corporation that (i) is exempt from taxation under § 501(c)(3) of the Internal Revenue Code of 1954, as amended or renumbered, (ii) is approved by the Department of Education in accordance with the provisions of § 58.1-439.31, and (iii) provides, as part of its mission, support for STEM education and STEM programs.

"STEM program" means an academic class, curriculum, or activity focused on a STEM discipline at a qualified school. "STEM program" includes classes focused primarily on a STEM discipline; modules, projects, or activities focused on a STEM discipline in any academic class; extracurricular activities whose primary objective is to engage students in STEM-related activities; summer school activities focusing on STEM education, regardless of whether such activities are held at the school or at a remote location; and textbooks, equipment, or other supplies used specifically for such classes, curricula, or activities.

§ 58.1-439.30. Tax credit for donations to certain STEM organizations.

A. For taxable years beginning on or after January 1, 2014, but before January 1, 2019, a person shall be eligible to receive a credit against any tax due under Article 2 (§ 58.1-320 et seq.) or 10 (§ 58.1-400 et seq.), Chapter 12 (§ 58.1-1200 et seq.), Chapter 25 (§ 58.1-2500 et seq.), or Article 2 (§ 58.1-2620 et seq.) of Chapter 26 in an amount equal to 65 percent of the monetary donation made by the person to a STEM organization included on the list published annually by the Department of Education in accordance with the provisions of § 58.1-439.31. The credit shall be claimed for the taxable year in which the donation was made. For individuals and corporations making estimated tax payments pursuant to this chapter, the credit shall be prorated equally against the individual's or corporation's estimated tax payments made in the third and fourth quarters of the taxable year in which the credit may be claimed and the final tax payment. No more than \$50,000 in tax credit shall be issued to an individual or to married persons in a taxable year. However, such limitation on the amount of credit issued to an individual shall not apply to any business entity, including a sole proprietorship.

B. Tax credits shall be awarded to persons making monetary donations to STEM organizations by the Department of Education on a first-come, first-served basis in accordance with procedures established by the Department of Education under the following conditions:

1. The total amount of tax credits that may be granted each fiscal year under this article shall not exceed \$25 million.

2. The amount of the credit shall not exceed the person's tax liability pursuant to Article 2 (§ 58.1-320 et seq.) or 10 (§ 58.1-400 et seq.), Chapter 12 (§ 58.1-1200 et seq.), Chapter 25 (§ 58.1-2500 et seq.), or Article 2 (§ 58.1-2620 et seq.) of Chapter 26, as applicable, for the taxable year in which the monetary donation was made. Any credit not usable for the taxable year in which the monetary donation was made may be carried over for credit against the taxes imposed upon the person pursuant to Article 2 (§ 58.1-320 et seq.) or 10 (§ 58.1-400 et seq.), Chapter 12 (§ 58.1-1200 et seq.), Chapter 25 (§ 58.1-2500 et seq.), or Article 2 (§ 58.1-2620 et seq.) of Chapter 26, as applicable, in the next five succeeding taxable years or until the total amount of the tax credit has been taken, whichever is sooner.

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59 *The amount of any credit attributable to a partnership, electing small business corporation (S*
60 *corporation), or limited liability company shall be allocated to the individual partners, shareholders, or*
61 *members, respectively, in proportion to their ownership or interest in such business entity.*

62 3. Every person seeking the credit allowed under this article shall submit with the applicable tax
63 return verification from each STEM organization to which monetary donations have been made by the
64 person during the taxable year.

65 C. On a form approved by the Department of Education, the person seeking to make a monetary
66 donation to a STEM organization, or a STEM organization on behalf of such person, shall request
67 preauthorization for a specified tax credit amount from the Superintendent of Public Instruction. The
68 Department of Education's preauthorization notice shall accompany the monetary donation from the
69 person to the STEM organization, which shall, within 20 days, return the notice to the Department of
70 Education certifying the amount of the monetary donation and the date received. Preauthorization
71 notices not acted upon within 60 days of issuance shall be void. No tax credit shall be approved by the
72 Department of Education for activities that are part of a person's normal course of business.

73 **§ 58.1-439.31. STEM organization eligibility and requirements; list of organizations receiving**
74 **donations.**

75 A. Persons seeking to receive and administer tax-credit-approved funds shall submit information to
76 the Department of Education, which shall determine whether the applicant is a STEM organization as
77 defined in § 58.1-439.29. The Department of Education shall prescribe through guidelines what
78 reasonable information shall be submitted by such persons. Notice of approval or denial, including
79 reasons for denial, shall be issued by the Department of Education to the applicant within 60 days after
80 the complete information is submitted. Any approval shall not be withheld unreasonably.

81 B. The Department of Education shall submit a list of all STEM organizations receiving donations
82 for which tax credits were awarded under this article to the Chairmen of the House and Senate Finance
83 Committees no later than December 1 of each year.

84 **§ 58.1-439.32. Guidelines for STEM organizations.**

85 A. As a condition for qualification by the Department of Education, a STEM organization, as defined
86 in § 58.1-439.29 and included on the list published annually by the Department of Education pursuant
87 to this section, shall disburse at least 90 percent of the amount of each donation for which a tax credit
88 may be received under this article to qualified schools for use in STEM programs. Tax-credit-derived
89 funds not used for such purposes may only be used for the administrative expenses of the STEM
90 organization. Any STEM organization that fails to use the funds for purposes set forth in this section
91 shall be removed from the annual list published pursuant to this section and shall not be entitled to
92 request preauthorization for additional tax credits, nor shall it be entitled to receive and administer
93 additional tax-credit-derived funds.

94 B. By September 30 of each year, the STEM organization shall provide the following information to
95 the Department of Education: (i) the total number and dollar amounts of contributions received between
96 September 1 of the prior calendar year and September 1 of the current calendar year, (ii) the dates
97 when such contributions were received, (iii) the schools to which the STEM organization provided the
98 tax-credit-derived funds, and (iv) the programs for which the funds were designated.

99 C. In awarding tax-credit-derived funds, the STEM organization shall provide funds to qualified
100 schools, and shall designate the particular STEM-related program or purpose for which the funds are
101 being provided. No such funds shall be provided to schools for general education purposes or for
102 overhead costs.

103 D. An annual audit, review, or compilation as required by OMB Circular No. A-133 as may be
104 applicable to nonprofit organizations shall be conducted on a STEM organization's tax-credit-derived
105 funds. A summary report of the audit, review, or compilation shall be made available to the public and
106 the Department of Education upon request.

107 E. The Department of Education shall publish annually on its website a list of STEM organizations
108 qualified under this article. Once an organization has been qualified by the Department of Education, it
109 shall remain qualified until the Department removes it from its annual list. The Department of
110 Education shall remove an organization from the annual list if it no longer meets the requirements of
111 this article. The Department of Education may periodically require a STEM organization to submit
112 updated or additional information for purposes of determining whether or not the organization continues
113 to meet the requirements of this article. The Department of Education shall also publish annually on its
114 website a list of qualified schools eligible to receive tax-credit-derived funds from STEM organizations.

115 F. Actions of the Superintendent of Public Instruction or the Department of Education relating to the
116 awarding of tax credits under this article and the qualifications of STEM organizations shall be exempt
117 from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.). Decisions of the
118 Superintendent of Public Instruction or the Department of Education shall be final and not subject to
119 review or appeal.

120 2. That the Department of Education shall develop guidelines implementing the provisions of this

121 act. Such guidelines shall be exempt from the provisions of the Administrative Process Act
122 (§ 2.2-4000 et seq. of the Code of Virginia).

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