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HOUSE BILL NO. 2480

Offered January 20, 2023

A *BILL to amend the Code of Virginia by adding in Article 3 of Chapter 3 of Title 58.1 a section numbered 58.1-339.14, relating to home instruction and private school tax credit.*

Patron—LaRock

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 Article 3 of Chapter 3 of Title 58.1 a section numbered 58.1-339.14 as follows:

§ 58.1-339.14. Home instruction and private school tax credit.

A. For taxable years beginning on or after January 1, 2023, but before January 1, 2028, an individual filing a return or married persons filing a joint return who are the parents or legal guardians of a child receiving home instruction in the Commonwealth authorized under § 22.1-254.1 or a child attending an accredited private school in the Commonwealth shall be allowed a nonrefundable credit against the tax levied pursuant to § 58.1-320 for amounts paid by the parent or legal guardian for such child for (i) instruction-related materials, including textbooks, workbooks, and supplies; (ii) courses or programs used in home instruction; or (iii) private school tuition. The credit shall equal the lesser of (a) the amount actually paid in the taxable year for such costs or (b) half of the average state Standards of Quality funding per student per year.

B. The credit shall be limited to 1,000 children. In order to claim the credit, the individual or married persons shall submit an application to the Department of Education for consideration, which shall include (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. The parent or legal guardian shall further provide information demonstrating that the child was not home schooled or sent to private school for the previous year in the Commonwealth. The credit shall be allowed through a lottery process developed by the Department of Education to those individuals or married persons who submit a properly completed application. Notwithstanding the provisions of § 58.1-3 or any other provision of law, the Department of Education shall inform the Department of the individuals or married persons selected for this credit by such lottery process. If two parents or legal guardians of the same child file separately, only one of the two parents or legal guardians may claim the credit allowed under this section. Any savings resulting from the credit of less than a student's full state Standards of Quality funding to an individual or married couple shall be deposited into the School Construction Fund established pursuant to § 22.1-140.1.

C. The amount of the credit that may be claimed in any single taxable year shall not exceed the total amount of tax imposed by this chapter for that taxable year. If the amount of the credit allowed under this section exceeds the taxpayer's tax liability for the taxable year during which the expenses in subsection A were incurred, the amount that exceeds the tax liability may be carried over for credit against the income taxes of the taxpayer in the next five taxable years or until the total amount of the tax credit has been taken, whichever is sooner. The credit shall be available for only two years per child over the course of the child's schooling.

D. The Tax Commissioner shall develop guidelines implementing the provisions of this section. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

2. That the provisions of Chapter 8 of the 2022 Acts of Assembly, Special Session I, shall become effective upon passage of this act.

INTRODUCED

HB2480