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HOUSE BILL NO. 508

Offered January 13, 2016

Prefiled January 8, 2016

A BILL to amend and reenact § 58.1-439.6 of the Code of Virginia, relating to the worker retraining and career pathway tax credit.

 Patron—Yancey

 Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:**1. That § 58.1-439.6 of the Code of Virginia is amended and reenacted as follows:****§ 58.1-439.6. Worker retraining and career pathway tax credit.**

A. As used in this section, unless the context clearly requires otherwise:

"Eligible worker retraining" means retraining of a qualified employee that promotes economic development in the form of (i) noncredit courses at any of the Commonwealth's community colleges or a private school or (ii) worker retraining programs undertaken through an apprenticeship agreement approved by the Commissioner of Labor and Industry.

"Qualified employee" means an employee of an employer eligible for a credit under this section in a full-time position requiring a minimum of 1,680 hours in the entire normal year of the employer's operations if the standard fringe benefits are paid by the employer for the employee. Employees in seasonal or temporary positions shall not qualify as qualified employees. A qualified employee (i) shall not be a relative of any owner or the employer claiming the credit and (ii) shall not own, directly or indirectly, more than five percent in value of the outstanding stock of a corporation claiming the credit. As used herein, "relative" means a spouse, child, grandchild, parent or sibling of an owner or employer, and "owner" means, in the case of a corporation, any person who owns five percent or more of the corporation's stock.

"STEM or STEAM discipline" means a science, technology, engineering, mathematics, or applied mathematics related discipline as determined by the Department of Small Business and Supplier Diversity in consultation with the Superintendent of Public Instruction. The term shall include a health care-related discipline.

B. 1. For taxable years beginning on and after January 1, 1999, but prior to January 1, 2018, an employer shall be allowed a credit against the taxes imposed by Articles 2 (§ 58.1-320 et seq.), 6 (§ 58.1-360 et seq.), and 10 (§ 58.1-400 et seq.) of Chapter 3; Chapter 12 (§ 58.1-1200 et seq.); Article 1 (§ 58.1-2500 et seq.) of Chapter 25; or Article 2 (§ 58.1-2620 et seq.) of Chapter 26 in an amount equal to 30 percent of all expenditures paid or incurred by the employer during the taxable year for eligible worker retraining. However, for taxable years beginning prior to January 1, 2013, if the eligible worker retraining consists of courses conducted at a private school, the credit shall be in an amount equal to the cost per qualified employee, but the amount of the credit shall not exceed \$100 per qualified employee annually. For taxable years beginning on or after January 1, 2013, if the eligible worker retraining consists of courses conducted at a private school, the credit shall be in an amount equal to the cost per qualified employee, but the amount of the credit shall not exceed \$200 per qualified employee annually, or \$300 per qualified employee annually if the eligible worker retraining includes retraining in a STEM or STEAM discipline including but not limited to industry-recognized credentials, certificates, and certifications.

2. For taxable years beginning on or after January 1, 2016, but prior to January 1, 2018, a business primarily engaged in manufacturing shall be allowed a credit against the taxes imposed by Articles 2 (§ 58.1-320 et seq.) and 10 (§ 58.1-400 et seq.) in an amount equal to 35 percent of its direct costs incurred during the taxable year in conducting orientation, instruction, and training in the Commonwealth relating to the manufacturing activities undertaken by the business. In no event shall the credit allowed to a business under this subdivision exceed \$2,000 for any taxable year. Programs for which credit may be allowed shall (i) provide orientation, instruction, and training solely to students in grades six through 12, (ii) be coordinated with the local school division, and (iii) be conducted during school hours at a plant or facility owned, leased, rented, or otherwise used by the business. Direct costs for which credit may be allowed include salaries or wages paid to instructors and trainers, prorated for the period of instruction or training; costs for orientation, instruction, and training materials; amounts paid for machinery and equipment used primarily for such instruction and training; and the cost of leased or rented space used primarily for conducting the program.

3. The total amount of tax credits granted to employers under this section for each fiscal year of the

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59 *Commonwealth* shall not exceed \$2,500,000.

60 C. For purposes of this section, the amount of any credit attributable to a partnership, electing small
61 business corporation (S corporation), or limited liability company shall be allocated to the individual
62 partners, shareholders, or members, respectively, in proportion to their ownership or interest in such
63 business entities.

64 D. 1. An employer shall be entitled to the credit granted under this section *allowed the credit*
65 *pursuant to subdivision B 1* only for those courses at a community college or a private school which
66 courses have been certified as eligible worker retraining to the Department of Taxation by the
67 Department of Small Business and Supplier Diversity. The Tax Commissioner shall promulgate
68 regulations, in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), (i) establishing
69 procedures for claiming the credit provided by this section, (ii) defining eligible worker retraining, which
70 shall include only those courses and programs that are substantially related to the duties of a qualified
71 employee or that enhance the qualified employee's job-related skills, and that promote economic
72 development, and (iii) providing for the allocation of credits among employers requesting credits in the
73 event that the amount of credits for which requests are made exceeds the available amount of credits in
74 any year. The Department of Small Business and Supplier Diversity shall review requests for
75 certification submitted by employers and shall advise the Tax Commissioner whether a course or
76 program qualifies as eligible worker retraining and, if it qualifies, whether the course or program is in a
77 STEM or STEAM discipline.

78 2. A business shall be allowed the credit pursuant to subdivision B 2 only for an orientation,
79 instruction, and training program that has been approved by the local school division and the
80 Department of Small Business and Supplier Diversity. A business seeking a tax credit under subdivision
81 B 2 shall include in its application reviewed by the Department of Small Business and Supplier
82 Diversity a certification from the local school division approving the program. The Department of Small
83 Business and Supplier Diversity shall inform the Tax Commissioner of the orientation, instruction, and
84 training programs that qualify for tax credit.

85 3. The Tax Commissioner shall promulgate regulations, in accordance with the Administrative
86 Process Act (§ 2.2-4000 et seq.), (i) establishing procedures for claiming any credit provided by this
87 section; (ii) defining eligible worker retraining, which shall include only those courses and programs
88 that are substantially related to the duties of a qualified employee or that enhance the qualified
89 employee's job-related skills, and that promote economic development; and (iii) providing for the
90 allocation of credits among employers and businesses requesting credits in the event that the amount of
91 credits for which requests are made exceeds the available amount of credits in any year.

92 E. Any credit not usable for the taxable year may be carried over for the next three taxable years.
93 The amount of credit allowed pursuant to this section shall not exceed the tax imposed for such taxable
94 year. No credit shall be carried back to a preceding taxable year. If an employer *or business* that is
95 subject to the tax limitation imposed pursuant to this subsection is allowed another credit pursuant to
96 any other section of this Code, or has a credit carryover from a preceding taxable year, such employer
97 *or business* shall be considered to have first utilized any credit allowed which does not have a carryover
98 provision, and then any credit which is carried forward from a preceding taxable year, prior to the
99 utilization of any credit allowed pursuant to this section.

100 F. No employer *or business* shall be eligible to claim a credit under this section for worker retraining
101 *or manufacturing orientation, instruction, and training* undertaken by any program operated,
102 administered, or paid for by the Commonwealth.

103 G. The Director of the Department of Small Business and Supplier Diversity shall report annually to
104 the chairmen of the House Finance and Senate Finance Committees on the status and implementation of
105 the credit established by this section, including certifications for eligible worker retraining.