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HOUSE BILL NO. 700

Offered January 10, 2018

Prefiled January 9, 2018

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 58.1-439.34, relating to school readiness tax credits.*

Patrons—Delaney and Lindsey

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 58.1-439.34, as follows:

*Article 13.4.**School Readiness Tax Credits.***§ 58.1-439.29. Child care expenses tax credit.**

A. For purposes of this article:

*"Child" means a child under the age of six.**"Child care expenses" means an expenditure paid by a parent for his child to attend a child care facility.**"Child care facility" means a facility that primarily serves children under the age of six.**"Quality rating" means a child care facility's level in the Virginia Quality Rating and Improvement System as determined by the Department of Social Services and the Virginia Early Childhood Foundation.*

B. A parent shall be allowed a credit against the tax imposed under Article 2 (§ 58.1-320 et seq.) for child care expenses. The amount of the credit shall be a percentage of the federal income tax credit for child care expenses, as provided in subsection C, multiplied by a percentage determined by the quality rating of the child care facility that the child attends, as provided in subsection D.

C. The percentage of the federal income tax credit for child care expenses shall be based on a percentage of the federal income tax credit for which the parent is eligible, pursuant to 26 U.S.C. § 21, for the taxable year. The percentage shall be calculated based on the federal tax credit before it is reduced by the amount of the parent's federal income tax liability as follows:

1. For a parent with federal adjusted gross income less than or equal to \$25,000, 50 percent of the federal credit;

2. For a parent with federal adjusted gross income greater than \$25,000 but less than or equal to \$35,000, 30 percent of the federal credit;

3. For a parent with federal adjusted gross income greater than \$35,000 but less than or equal to \$60,000, 10 percent of the federal credit; and

4. For a parent with federal adjusted gross income greater than \$60,000, the lesser of \$25 or 10 percent of the federal credit.

D. The amount calculated pursuant to subsection C shall be multiplied by a percentage based on the quality rating of the child care facility that the child attends as follows:

1. For a facility with a quality rating of level five, 200 percent;

2. For a facility with a quality rating of level four, 150 percent;

3. For a facility with a quality rating of level three, 100 percent;

4. For a facility with a quality rating of level two, 50 percent; and

5. For a facility with a quality rating of level one or a nonparticipating facility, 0 percent.

E. A parent with multiple children shall calculate the credit of each child separately. If a child receives services in more than one child care facility in a single year, the facility with the highest quality rating shall be used to calculate the credit. If more than one parent is eligible to claim a credit for a single child, only one parent shall claim such credit.

§ 58.1-439.30. Child care provider tax credit.

A. An owner or operator of a child care facility shall be allowed a credit against the tax imposed under Article 2 (§ 58.1-320 et seq.) for each eligible child attending such facility. The amount of the credit shall consist of an amount determined by the number of eligible children multiplied by an amount determined by the quality rating of the child care facility that the eligible child attends, as provided in subsection B. For purposes of this section, "number of eligible children" means the average monthly number of children, rounded up to the next integer, who either participate in the Child Care Subsidy

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59 Program administered by the Department of Social Services or are foster children in the custody of the
60 Department of Social Services.

61 B. The number of eligible children shall be multiplied by an amount based on the quality rating of
62 the child care facility that the children attend as follows:

- 63 1. For a facility with a quality rating of level five, \$1,500;
- 64 2. For a facility with a quality rating of level four, \$1,250;
- 65 3. For a facility with a quality rating of level three, \$1,000;
- 66 4. For a facility with a quality rating of level two, \$750; and
- 67 5. For a facility with a quality rating of level one or a nonparticipating facility, \$0.

68 **§ 58.1-439.31. Child care directors and staff tax credit.**

69 A. Child care facility directors and child care facility staff shall be allowed a credit against the tax
70 imposed under Article 2 (§ 58.1-320 et seq.) in the amount provided in subsection B.

71 B. Directors and staff shall be allowed a credit that shall be determined based on their professional
72 development level, as defined in subsection C, in an amount as follows:

- 73 1. For level four directors and level four staff, \$3,000;
- 74 2. For level three directors and level three staff, \$2,500;
- 75 3. For level two directors and level two staff, \$2,000; and
- 76 4. For level one directors and level one staff, \$1,000.

77 C. The Department of Social Services shall promulgate regulations establishing professional
78 development criteria for directors and staff. The criteria shall define four levels representing cumulative
79 advancement for directors and staff, with the fourth level representing the highest level of advancement.
80 The criteria shall be designed to achieve the goal of ensuring high-quality child care in the
81 Commonwealth. The Department of Social Services shall provide documentation of certification to
82 directors or staff who provide evidence to the Department of Social Services that they meet the criteria
83 for the applicable level.

84 D. Beginning in taxable year 2019, the tax credit amounts in subsection B shall be adjusted annually
85 for each taxable year by the percentage increase in the Consumer Price Index United States city
86 average for all urban consumers (CPI-U), as prepared by the United States Department of Labor,
87 Bureau of Labor Statistics, calculated as of December 1 of the previous year.

88 E. In order to receive a credit pursuant to this section, a director or staff member shall file with his
89 income tax return a certification provided by the Department of Social Services verifying that he meets
90 the requirements and qualifications of a director or staff member for the level claimed. If a director or
91 staff member claims a credit pursuant to subdivision B 1, he shall not claim a credit pursuant to this
92 section in any subsequent taxable year.

93 **§ 58.1-439.32. Business-supported child care tax credit.**

94 A. A business shall be allowed a credit against the tax imposed under this chapter for eligible child
95 care expenses. The credit shall be the amount of the business's eligible child care expenses multiplied by
96 an amount based on the quality rating of the child care facility, as provided in subsection B. For
97 purposes of this section, "eligible child care expenses" means a business's (i) expenses to construct,
98 renovate, expand, or repair a child care facility, purchase equipment for a facility, and maintain or
99 operate a facility, not to exceed \$50,000 in expenses per tax year; (ii) payments made to a child care
100 facility for child care services to support the business's employees, not to exceed \$5,000 per child per
101 tax year; and (iii) purchase of child care slots at child care facilities actually provided or reserved for
102 children of the business's employees, not to exceed \$50,000 per tax year.

103 B. The amount of the business's eligible child care expenses shall be multiplied by a percentage
104 based on the quality rating of the child care facility as follows:

- 105 1. For a facility with a quality rating of level five, 20 percent;
- 106 2. For a facility with a quality rating of level four, 15 percent;
- 107 3. For a facility with a quality rating of level three, 10 percent;
- 108 4. For a facility with a quality rating of level two, 5 percent; and
- 109 5. For a facility with a quality rating of level one or a nonparticipating facility, 0 percent.

110 C. In addition to the credit allowed pursuant to subsections A and B, a business shall be allowed a
111 credit against the tax imposed under this chapter for any donation during the taxable year to a child
112 care resource agency. Such credit shall not exceed \$5,000 per taxpayer in a taxable year. For purposes
113 of this section, "child care resource agency" means a private agency that contracts with the Department
114 of Education to provide information and services to parents and child care providers.

115 D. No credit shall be allowed under this section for a business that claims, for the same expenditure
116 or donation:

- 117 1. A deduction for a charitable contribution on its federal income tax return; or
- 118 2. A tax credit pursuant to § 58.1-439.4 or Articles 13.2 or 13.3.

119 **§ 58.1-439.33. Refund; carryover; sunset.**

120 A. If a taxpayer claims a tax credit pursuant to §§ 58.1-439.29, 58.1-439.30, and 58.1-439.31 and

his federal adjusted gross income is less than or equal to \$25,000, the amount by which the credit exceeds his tax liability under this chapter shall constitute an overpayment, as described in § 58.1-309, and the Department shall refund such overpayment to the taxpayer. The taxpayer may not carry forward any unused credit.

B. If a taxpayer's federal adjusted gross income is greater than \$25,000, the credit shall not be refundable; however, the taxpayer may carry forward any unused credit for the next five taxable years or until the full credit is used, whichever is sooner.

C. The credits available under this article shall be available for taxable years beginning on and after January 1, 2018. No credits shall be issued under this article for taxable years beginning on and after January 1, 2023.

§ 58.1-439.34. Recapture.

A. If the Department finds that a taxpayer obtained tax credits in violation of the requirements of this article, including by fraud or by misrepresentation, then the taxpayer's state income tax for such taxable year shall be increased by the amount necessary for recapture of the tax credits provided under this article.

B. Recapture shall be subject to interest as provided in § 58.1-15.

C. The statute of limitations for recapture shall be the same as is provided in § 58.1-104.