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SENATE BILL NO. 892

Offered January 11, 2023

Prefiled January 5, 2023

A BILL to amend and reenact § 58.1-439.25, as it shall become effective, of the Code of Virginia, relating to education improvement scholarships tax credit; student definition.

Patrons—Newman, Chase, Cosgrove, Dunnivant, Hackworth, McDougle, Norment, Obenshain, Peake, Pillion, Reeves, Ruff, Stanley and Stuart

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-439.25, as it shall become effective, of the Code of Virginia is amended and reenacted as follows:

§ 58.1-439.25. (Applicable to taxable years beginning January 1, 2024) Definitions.

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

"Eligible pre-kindergarten child" means a child who is (i) a resident of Virginia; (ii) an at-risk four-year-old unable to obtain services through Head Start or Virginia Preschool Initiative programs; and (iii) enrolled in, eligible to attend, or attending a nonpublic pre-kindergarten program and whose family (a) does not have an annual household income in excess of 300 percent of the current poverty guidelines or 400 percent of such guidelines in cases in which an individualized education program has been written and finalized for the child in accordance with the federal Individuals with Disabilities Education Act (IDEA), regulations promulgated pursuant to IDEA, and regulations of the Board of Education; (b) is homeless as defined in 42 U.S.C. § 11302; or (c) includes a parent or guardian of the child who did not graduate from high school, and whose parent or guardian certifies to the scholarship foundation that the child was unable to obtain services through the Virginia Preschool Initiative in the public school division in which the child resides.

"Eligible student with a disability" means a student (i) for whom an individualized educational program has been written and finalized in accordance with the federal Individuals with Disabilities Education Act (IDEA), regulations promulgated pursuant to IDEA, and regulations of the Board of Education; (ii) whose family's annual household income is not in excess of 400 percent of the current poverty guidelines; and (iii) who otherwise is a student as defined in this section.

"Nonpublic pre-kindergarten program" means a pre-kindergarten program that is not operated, directly or indirectly, by a federal, state, or local government entity and that is (i) a preschool program designed for child development and kindergarten preparation that complies with nonpublic school accreditation requirements administered by the Virginia Council for Private Education pursuant to § 22.1-19; (ii) participating in Virginia Quality with a current designation of at least Level 3 under such quality rating system; or (iii) a child day center, as defined in § 63.2-100, that is licensed by the Department of Social Services pursuant to Subtitle IV (§ 63.2-1700 et seq.) of Title 63.2 and implements a curriculum, professional development program, and coaching model developed and endorsed by a baccalaureate public institution of higher education, as defined in § 23.1-100.

"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.

"Qualified educational expenses" means school-related tuition and instructional fees and materials, including textbooks, workbooks, and supplies used solely for school-related work.

"Scholarship foundation" means a nonstock, nonprofit corporation that is (i) exempt from taxation under § 501(c)(3) of the Internal Revenue Code of 1954, as amended or renumbered; (ii) approved by the Department of Education in accordance with the provisions of § 58.1-439.27; and (iii) established to provide financial aid for the education of students residing in the Commonwealth.

"Student" means a child who is a resident of Virginia and (i) in the current school year has enrolled and attended a public school in the Commonwealth for at least one-half of the year, (ii) for the school year that immediately preceded his receipt of a scholarship foundation scholarship was enrolled and attended a public school in the Commonwealth for at least one-half of the year, (iii) is a prior recipient of a scholarship foundation scholarship, (iv) is eligible to enter kindergarten or eligible to enter first grade, or (v) for the school year that immediately preceded his receipt of a scholarship foundation scholarship was domiciled in a state other than the Commonwealth and did not attend a nonpublic school in the Commonwealth for more than one-half of the school year is a person of school age as defined in § 22.1-1. "Student" does not include an eligible pre-kindergarten child.

58 "Virginia Quality" means a quality rating and improvement system for early childhood programs
59 administered in partnership between the Virginia Early Childhood Foundation and the Office of Early
60 Childhood Development of the Department of Social Services.