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RESEARCH SUPPLEMENT

J. Michael Smith, President — Michael P. Farris, Chairman

MODEL EDUCATION TAX CREDIT BILL

A BILL to provide income tax credits for donations to school tuition organizations supporting the K-12 education of low-income children, and to provide income tax credits for parents or guardians who have paid certain costs associated with enrollment of their children in K-12 public, private or home schools other than free public schools in the school district of the taxpayer.

Chapter One

Section 1. Definitions.

For the purpose of this chapter:

“Academic instruction” means instruction in reading, writing, mathematics, science, history (including art and music history), geography, social studies (including government and citizenship), literature, philosophy, and foreign languages.

“Average per-pupil public expenditure” means the figure obtained by adding together all local, state and federal expenditures on the public education of children in the State in kindergarten through grade 12 in a given year, excluding capital outlays and debt service, and then dividing that total by the combined average daily membership (ADM) of K-12 public schools in the State for such year.

“Close relatives” refers to a person’s children, grandchildren, mother, father, brothers, sisters, aunts, or uncles, whether by blood, marriage, or adoption.

“Low-income,” or “low income household” means that the total adjusted gross income of all taxpayers in the household does not exceed 185% of the federal poverty level.

“Qualifying educational expenses” means either (i) tuition and other instructional fees charged by a qualified school other than a home school, or (ii) the following fees and costs associated with home schooling in kindergarten through grade twelve: tutoring fees charged by an individual teacher or a home school correspondence school for academic instruction, including remedial assistance; and the cost of computer equipment (including related software and services), textbooks, workbooks, curricula and other written materials used primarily for academic instruction.

“Qualified school” means either (i) a public elementary or secondary school charging tuition pursuant to [insert applicable section of State Code], or (ii) a private educational program, including

home schooling, that can be used to satisfy the compulsory school attendance requirements of [insert applicable section of State Code].

“School tuition organization” means a charitable organization incorporated in this State that is exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code, that has as part of its tax exempt purpose the provision of financial assistance for the education of children from low-income households, and that expends one hundred percent of its annual tax credit-qualifying revenues for grants to cover the qualifying educational expenses of minor children in low-income households at the qualified school of the parents’ choice.

“Tax credit-qualifying revenues” means those voluntary cash contributions to a school tuition organization for which a receipt meeting the requirements of Section 5 of this chapter has been given by the school tuition organization to the donor of the cash contribution.

Section 2. Tax Credit for Contributions to School Tuition Organizations.

A. For [insert State] tax years beginning on or after January 1, 2000, a taxpayer shall be allowed a non-refundable credit against any tax levied pursuant to [cite sections of State Code imposing tax on (a) individual income and (b) corporations] for voluntary cash contributions made by the taxpayer to a school tuition organization, provided that such contributions to a school tuition organization cannot be designated for the direct benefit of any dependent of the taxpayer or his close relatives.

B. The maximum allowable credit amount pursuant to this section shall be \$200 per taxpayer, per taxable year, and shall not exceed the total tax imposed on the taxpayer for the taxable year in which the credit is claimed.

C. A taxpayer claiming a credit pursuant to this section shall be ineligible to claim a credit pursuant to Section 3 during the same taxable year.

D. Amounts claimed under this section shall not also be itemized as charitable deductions for the same taxable year when computing State taxable income.

Section 3. Tax Credit for Certain Tuition Payments to Public or Private Schools.

A. For [insert State] tax years beginning on or after January 1, 2000, a taxpayer shall be allowed a non-refundable credit against any tax levied pursuant to [cite section of State Code imposing individual income tax] for up to 80% of the qualifying educational expenses incurred during the tax year on behalf of each child who is eligible to be enrolled in a public school in this State free of charge pursuant to [cite State Code section delineating eligibility for free tuition in a public school], qualifies as the individual’s dependent for federal tax purposes, and who does not attend a free public school during the semester or other school year portion for which such qualified educational expenses were incurred. Taxpayers who are members of low-income households shall be allowed to claim the credit for up to 100% of the qualifying educational expenses incurred.

B. For each child for which this credit is claimed, the maximum allowable credit amount for each taxable year, including carry-over credits allowed by Section 3 (E), shall be the greater of the

following: (i) 50% of the average per-pupil public expenditure for the state fiscal year ending prior to the start of the tax year during which the credit is claimed; or (ii) \$2,500.

C. In the absence of available figures for determining the average per-pupil public expenditure, a best estimate of such expenditure shall be used.

D. For two taxpayers filing a joint return, the maximum allowable credit per taxpayer shall be 50% of the maximum allowable credit per child under 3 (B).

E. If the amount of the allowable credit exceeds the tax imposed on the taxpayer for such taxable year, such excess may be carried over for credit against the tax imposed on the taxpayer in the two succeeding taxable years until the total amount of the tax credit has been taken.

F. A taxpayer claiming a credit pursuant to this Section is ineligible to claim a credit pursuant to Section 2 during the same tax year.

G. Amounts claimed under this section shall not also be itemized as deductions for the same tax year when computing [insert State] taxable income.

Section 4. Initial Limits on the Tax Credit Claimed.

A. The tax credit allowed by Section 2 shall be limited as follows: (i) for the tax year 20__, a maximum credit of \$50 per taxpayer; (ii) for the tax year 20__, a maximum credit of \$100 per taxpayer; and (iii) for the tax year 20__, a maximum credit of \$150 per taxpayer.

B. The tax credit allowed per eligible child by Section 3 shall be limited for taxpayers who are not members of low-income households as follows:

(i) for the tax year 20__, a maximum credit of 10% of the average per-pupil public expenditure for FY__;

(ii) for the tax year 20__, a maximum credit of 20% of the average per-pupil public expenditure for FY__;

(iii) for the tax year 20__, a maximum credit of 30% of the average per-pupil public expenditure for FY__; and

(iv) for the tax year 20__, a maximum credit of 40% of the average per-pupil public expenditure for FY__.

Section 5. Forms and Regulations.

A. The [State department responsible for taxation] is authorized to require the taxpayer to submit with the tax return copies of such receipts or similar financial documentation as may be necessary to confirm the taxpayer's statement of the allowable credit.

B. The [State department responsible for taxation] shall promulgate regulations and develop tax forms,

directions, and worksheets as necessary to effectuate the intent of this chapter. The regulations shall:

(i) modify the state individual and corporate tax forms, directions, and worksheets to provide a convenient way for taxpayers to claim a credit under this chapter;

(ii) provide a voluntary format for a standard receipt to be issued by school tuition organizations to indicate the tax credit value of a cash contribution to the school tuition organization, and including the date of the receipt, the name of the donor, the total amount of the contribution, the amount of the donation that can be claimed for a tax credit, the name of the school tuition organization, and the printed name and signature of the agent issuing the receipt on behalf of the school tuition organization; and

(iii) provide a format for a standardized receipt to be issued by qualified schools at the conclusion of a student's period of instruction for which qualifying expenses have been incurred, and including the date of the receipt, the dates of the student's enrollment for which expenses have been incurred, the name of the person paying the expense, the total expenses, the portion of the amount paid toward qualifying educational expenses, the name of the qualified school, and the printed name and signature of the agent issuing the receipt on behalf of the qualified school.

C. Regardless of what documentation the [State department responsible for taxation] may require for purposes of allowing credit for payments of qualifying expenses, no school or other organization shall be required to provide such documentation or otherwise act to facilitate taxpayers' access to credits under this chapter, except that schools may be required to fulfill a prior promise to a taxpayer to provide such information.

Section 6. Prohibition on Additional Regulations.

A. Eligibility of a school or other educational program to be considered a "qualified school" under this chapter shall not be subject to a school's compliance with any state law or regulation not applicable to all private schools and home schoolers in this State, with the exception of the financial documentation requirements authorized by Section 5.

B. The intent of the General Assembly is that tax credits authorized pursuant to this chapter not result in any additional regulation of public or private schools or taxpayers' decisions about the education of their dependent children, except to the minimal extent necessary to provide for the efficient administration of the tax credits.

Section 7. Annual Reports and Budgeting

A. The Tax Commissioner shall determine annually by credit type the total amount of credits claimed under this chapter on all state income tax returns and shall report the same to the Secretary of Finance and the Secretary of Education.

B. Within sixty days prior to the start of each General Assembly session, the Secretary of Finance and Secretary of Education shall present a report to the Chairman of the Senate Finance Committee and the Chairman of the House Appropriations Committee projecting the total dollar amount of credits

expected to be claimed under this chapter on returns for the current tax year and the following tax year as of the date of the report.