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SENATE BILL NO. 266

Offered January 12, 2022

Prefiled January 11, 2022

A *BILL to amend the Code of Virginia by adding in Article 3 of Chapter 3 of Title 58.1 a section numbered 58.1-339.13, relating to family caregiver tax credit.*

Patrons—Hashmi and McClellan; Delegates: Carr and Rasoul

Referred to Committee on Finance and Appropriations

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 58.1-339.13 as follows:

§ 58.1-339.13. Family caregiver tax credit.

A. *For the purposes of this section:*

"Activities of daily living" or "ADLs" means bathing, dressing, toileting, transferring or moving, bowel control, bladder control, and eating or feeding.

"Eligible expenditures" means expenses incurred by a family caregiver that are directly related to the care of an eligible family member, including (i) improvements or alterations to the family caregiver's primary residence to permit the eligible family member to remain mobile, safe, and independent; (ii) the purchase or lease of equipment or technology that assists the eligible family member in carrying out one or more activities of daily living; or (iii) expenditures related to hiring a home care aide or personal care attendant, respite care, adult day care, transportation, and legal or financial services. "Eligible expenditures" does not include expenses incurred in carrying out general household maintenance, including painting, plumbing, electrical repairs, or exterior maintenance.

"Eligible family member" means an individual who (i) is at least 18 years of age during the taxable year; (ii) requires assistance with one or more ADLs, as certified by a licensed physician, physician assistant, nurse practitioner, or registered nurse; and (iii) qualifies as a dependent, or is related by blood, marriage, or adoption, or is in the care of the family caregiver as a legally appointed guardian.

"Family caregiver" means an individual, or in the case of married persons, an individual and his spouse, who (i) provides care to one or more eligible family members during the taxable year and (ii) has federal adjusted gross income that is no greater than \$100,000 for an individual or \$200,000 for married persons.

B. *For taxable years beginning on and after January 1, 2022, but before January 1, 2027, a family caregiver shall be allowed a nonrefundable credit against the tax levied pursuant to § 58.1-320 for eligible expenditures. The credit shall equal 50 percent of the eligible expenditures incurred by the family caregiver, but shall not exceed \$1,000. In order to qualify for the credit, the family caregiver shall not have received any compensation or reimbursement for the eligible expenditures.*

C. *The amount of the credit that may be claimed in any single taxable year shall not exceed the family caregiver's liability for taxes imposed by this chapter for that taxable year. If the amount of the credit allowed under this section exceeds the family caregiver's tax liability for the taxable year in which the eligible expenditures occurred, the amount that exceeds the tax liability may be carried over for credit against the income taxes of the family caregiver in the next five taxable years or until the total amount of the tax credit has been taken, whichever is sooner.*

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