

WEST VIRGINIA LEGISLATURE
2019 FIRST EXTRAORDINARY SESSION

Introduced
House Bill 167

BY DELEGATES HOUSEHOLDER, D. JEFFRIES, ELLINGTON,
STEELE, WAXMAN, FOSTER, PHILLIPS, HARSHBARGER,
MANDT, HILL, AND HARDY

[Introduced June 17, 2019; Referred
to the Select Committee on Education Reform B]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated section §11-21-25, relating to allowing a tax credit for state income tax
3 purposes for certain expenses paid by parent or legal guardian of student in providing
4 private or home school grade levels prekindergarten through grade 12 education for the
5 student; setting a maximum tax credit of \$3,000 per taxable year; permitting tax credits in
6 excess of tax liability to be carried forward for a maximum of four taxable years or until the
7 excess credit is used in its entirety; providing for definitions; and establishing rulemaking
8 authority and emergency rulemaking authority to the Tax Commissioner.

Be it enacted by the Legislature of West Virginia:

ARTICLE 21. PERSONAL INCOME TAX.

§11-21-25. Tax credit – qualified education expenses.

1 (a) Amount of credit – For taxable years beginning on and after January 1, 2019, a
2 nonrefundable credit may be applied by an eligible taxpayer against the tax liability of the taxpayer
3 imposed by the provisions of this article in the amount of qualified education expenses, up to a
4 maximum amount of \$3,000 per taxable year paid by an eligible taxpayer for each eligible student,
5 but only to the extent the amount is not otherwise allowable as a credit, deduction, or exemption
6 when arriving at the taxpayer’s tax liability for the taxable year in which the payment is made.

7 (b) Carry forward – If the tax credit allowed under this article in the first taxable year, in
8 which the tax credit is allowed to offset tax liability, exceeds the taxpayer's tax liability as
9 determined in accordance with this article for that taxable year, the excess may be applied for not
10 more than the four next succeeding taxable years until the excess tax credit is used or the end of
11 the fourth next succeeding taxable year, whichever occurs first. Any excess credit remaining at
12 the end of the fourth next succeeding taxable year shall be forfeited. No carryback to a prior
13 taxable year is allowed for any unused amount in any taxable year.

14 (c) Definitions – As used in this section, the following terms have the meanings ascribed
15 to them in this subsection:

16 (1) “Amount of qualified education expenses” means the aggregate paid in any taxable
17 year by an eligible taxpayer for:

18 (A) Tuition, fees, books, supplies, and equipment required for the enrollment or attendance
19 of an eligible student at an eligible educational institution or for participation of an eligible student
20 in an eligible home school program; or

21 (B) Expenses for special needs services in the case of a special needs student which are
22 incurred in connection with such enrollment, attendance or participation; and

23 (C) Expenses for the purchase of computer or peripheral equipment, computer software,
24 or Internet access and related services, if such equipment, software, or services are to be used
25 primarily by the student during any of the years the student is enrolled at an eligible educational
26 institution or participates in an eligible home school program. These expenses do not include
27 expenses for computer software designed for sports, games, or hobbies unless the software is
28 predominantly educational in nature; and

29 (D) Expenses for transportation of an eligible student to or from the eligible educational
30 institution, or to or from sites of educational activities in which the student’s participation is
31 authorized as an educational activity by this code or rule promulgated thereunder.

32 (2) “Eligible educational institution” means any private school, parochial school, church
33 school, school operated in this state by a religious order, or other nonpublic school in this state
34 that is authorized by this code or rule promulgated thereunder to provide an educational program
35 that includes one or more of the grade levels prekindergarten through grade 12.

36 (3) “Eligible home school program” means any home-teaching or visiting-teacher service
37 that is authorized by this code or rule promulgated thereunder to provide an educational program
38 in this state that includes one or more of the grade levels prekindergarten through grade 12.

39 (4) “Eligible student” means a student eligible for attendance in public schools in a county
40 school district in this state.

41 (5) “Eligible taxpayer” means a parent or legal guardian of an eligible student.

42 (d) Rulemaking -- In addition to the rulemaking authority provided under §11-10-5 of this
43 code, the Tax Commissioner may promulgate emergency rules under the provisions of §29A-3-1
44 et seq. of this code to administer the provisions of this section.

NOTE: The purpose of this bill is to create a personal income tax exemption of up to \$3,000 per year to parent or legal guardians of a student for expenses incurred in providing private or home school pre-K through 12 education for the student.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.