

October 8, 2019

The Honorable Thomas K. Norment, Jr. Co-Chair
The Honorable Emmett W. Hanger, Jr., Co-Chair
Senate Finance Committee
14th Floor, Pocahontas Building
900 East Main Street
Richmond, Virginia 23219

The Honorable R. Lee Ware, Chair
House Finance Committee
Room E308, Pocahontas Building
900 East Main Street
Richmond, Virginia 23219

Re: Report on the Worker Retraining Tax Credit
Fiscal Year 2019

Gentlemen:

Beginning in 2017, the Virginia Economic Development Partnership Authority (“VEDP”) was tasked with providing an annual report regarding the Worker Retraining Tax Credit. The Tax Credit can be found at Virginia Code Section 58.1-439.6. Attached to this letter is a copy of that Virginia Code Section as in effect on June 30, 2019, and a copy of the Virginia Department of Taxation’s Worker Retraining Tax Credit Application, Form WRC. Also attached is a copy of the legislation that became effective July 1, 2019, changing the Worker Retraining Tax Credit to a Worker Training Tax Credit. Due to this legislation, this is the last annual report to be provided by VEDP regarding this program.

For Fiscal Year 2019, VEDP received no applications for the Worker Retraining Tax Credit. Accordingly, the value of the requested Worker Retraining Tax Credits was \$0.

Thank you for your interest in the Worker Retraining Tax Credit program.

Very truly yours,



Sandra Jones McNinch
General Counsel

cc: The Honorable R. Brian Ball

Attachment: Virginia Code Section 58.1-439.6, as in effect on June 30, 2019
Form WRC for Tax Year 2018
Virginia Code Sections 58.1-439.6 and 58.1-439.6:1, as in effect on July 1, 2019

§ 58.1-439.6. Worker retraining tax credit.

A. As used in this section, unless the context clearly requires otherwise:

"Eligible worker retraining" means retraining of a qualified employee that promotes economic development in the form of (i) noncredit courses at any of the Commonwealth's comprehensive community colleges or a private school or (ii) worker retraining programs undertaken through an apprenticeship agreement approved by the Commissioner of Labor and Industry.

"Manufacturing" means processing, manufacturing, refining, mining, or converting products for sale or resale.

"Qualified employee" means an employee of an employer eligible for a credit under this section in a full-time position requiring a minimum of 1,680 hours in the entire normal year of the employer's operations if the standard fringe benefits are paid by the employer for the employee. Employees in seasonal or temporary positions shall not qualify as qualified employees. A qualified employee (i) shall not be a relative of any owner or the employer claiming the credit and (ii) shall not own, directly or indirectly, more than five percent in value of the outstanding stock of a corporation claiming the credit. As used herein, "relative" means a spouse, child, grandchild, parent or sibling of an owner or employer, and "owner" means, in the case of a corporation, any person who owns five percent or more of the corporation's stock.

"STEM or STEAM discipline" means a science, technology, engineering, mathematics, or applied mathematics related discipline as certified by the Virginia Economic Development Partnership Authority in consultation with the Superintendent of Public Instruction. The term shall include a health care-related discipline.

B. 1. For taxable years beginning on and after January 1, 1999, but prior to January 1, 2022, an employer shall be allowed a credit against the taxes imposed by Articles 2 (§ 58.1-320 et seq.), 6 (§ 58.1-360 et seq.), and 10 (§ 58.1-400 et seq.) of Chapter 3; Chapter 12 (§ 58.1-1200 et seq.); Article 1 (§ 58.1-2500 et seq.) of Chapter 25; or Article 2 (§ 58.1-2620 et seq.) of Chapter 26 in an amount equal to 30 percent of all expenditures paid or incurred by the employer during the taxable year for eligible worker retraining. However, for taxable years beginning prior to January 1, 2013, if the eligible worker retraining consists of courses conducted at a private school, the credit shall be in an amount equal to the cost per qualified employee, but the amount of the credit shall not exceed \$100 per qualified employee annually. For taxable years beginning on or after January 1, 2013, if the eligible worker retraining consists of courses conducted at a private school, the credit shall be in an amount equal to the cost per qualified employee, but the amount of the credit shall not exceed \$200 per qualified employee annually, or \$300 per qualified

employee annually if the eligible worker retraining includes retraining in a STEM or STEAM discipline, including but not limited to industry-recognized credentials, certificates, and certifications.

2. For taxable years beginning on and after January 1, 2018, but prior to January 1, 2022, a business primarily engaged in manufacturing shall be allowed a credit against the taxes imposed by Articles 2 (§ 58.1-320 et seq.) and 10 (§ 58.1-400 et seq.) in an amount equal to 35 percent of its direct costs incurred during the taxable year in conducting orientation, instruction, and training in the Commonwealth relating to the manufacturing activities undertaken by the business. In no event shall the credit allowed to a business under this subdivision exceed \$2,000 for any taxable year. The Department shall allow credit only for programs that (i) provide orientation, instruction, and training solely to students in grades six through 12; (ii) are coordinated with the local school division; and (iii) are conducted either at a plant or facility owned, leased, rented, or otherwise used by the business or at a public middle or high school in Virginia. The taxpayer shall include in its direct costs only the following expenditures: (a) salaries or wages paid to instructors and trainers, prorated for the period of instruction or training; (b) costs for orientation, instruction, and training materials; (c) amounts paid for machinery and equipment used primarily for such instruction and training; and (d) the cost of leased or rented space used primarily for conducting the program.

3. The total amount of tax credits granted under this section for each fiscal year shall not exceed \$1 million.

C. For purposes of this section, the amount of any credit attributable to a partnership, electing small business corporation (S corporation), or limited liability company shall be allocated to the individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entities.

D. 1. An employer shall be allowed a credit pursuant to subdivision B 1 only for those courses at a comprehensive community college or a private school for which courses have been certified as eligible worker retraining to the Department of Taxation by the Virginia Economic Development Partnership Authority. The Virginia Economic Development Partnership Authority shall review requests for certification submitted by employers and shall advise the Tax Commissioner whether a course or program qualifies as eligible worker retraining and, if it qualifies, whether the course or program is in a STEM or STEAM discipline.

2. A business shall be allowed the credit pursuant to subdivision B 2 only for an orientation, instruction, and training program that has been approved by the local school division and certified as eligible by the Virginia Economic Development Partnership Authority. A business

seeking a tax credit under subdivision B 2 shall include in its application reviewed by the Virginia Economic Development Partnership Authority an approval from the local school division. The Virginia Economic Development Partnership Authority shall review requests for certification submitted by businesses and shall advise the Tax Commissioner whether an orientation, instruction, and training program qualifies as relating to the manufacturing activities undertaken by the business and meets other applicable requirements.

3. The Tax Commissioner shall develop guidelines (i) establishing procedures for claiming the credit provided by this section, (ii) defining eligible worker retraining, which shall include only those courses and programs that are substantially related to the duties of a qualified employee or that enhance the qualified employee's job-related skills, and that promote economic development, and (iii) providing for the allocation of credits among employers and businesses requesting credits in the event that the amount of credits for which requests are made exceeds the available amount of credits in any year. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

E. Any credit not usable for the taxable year may be carried over for the next three taxable years. The amount of credit allowed pursuant to this section shall not exceed the tax imposed for such taxable year. No credit shall be carried back to a preceding taxable year. If an employer or business that is subject to the tax limitation imposed pursuant to this subsection is allowed another credit pursuant to any other section of this Code, or has a credit carryover from a preceding taxable year, such employer or business shall be considered to have first utilized any credit allowed which does not have a carryover provision, and then any credit which is carried forward from a preceding taxable year, prior to the utilization of any credit allowed pursuant to this section.

F. No employer or business shall be eligible to claim a credit under this section for worker retraining or manufacturing orientation, instruction, and training undertaken by any program operated, administered, or paid for by the Commonwealth.

G. The Department shall review certifications received from the Virginia Economic Development Partnership Authority pursuant to subsection D and, if it determines a taxpayer meets the applicable requirements, shall issue a credit in the amount specified in subsection B.

H. The Virginia Economic Development Partnership Authority shall report annually to the Chairmen of the House Finance and Senate Finance Committees on the status and implementation of the credit established by this section, including certifications for eligible worker retraining.

**Virginia
Form WRC**

Worker Retraining Tax Credit Application

Tax Year Ending _____, _____

File Form WRC, applicable schedules, and required enclosures by April 1.

This credit must be approved **before** being claimed on your return. Approval of courses, apprenticeship programs, and manufacturing-related orientation, instruction, and training programs is required. See the instructions for filing requirements prior to completing this application.

| | | |
|---|-----------------------|------------|
| Business Type: <input type="checkbox"/> Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Sole Proprietor <input type="checkbox"/> Partnership <input type="checkbox"/> Limited Liability Company (LLC) | Business Name | FEIN / SSN |
| | Trading As | NAICS Code |
| | Street Address | |
| | City, State, ZIP Code | |

Have you applied for any other credits this year? If yes, indicate which credit(s) _____

Part I: Description of Business Activities - Describe the principal activity of your business

Part II: Tax Credit Based on Noncredit Courses From a Community College or Private School

Complete **Schedule 1**, then enter the total number of courses for which this credit will be claimed and the total credit requested. Complete a separate Schedule 1 for each noncredit course. See the instructions for more information.

| | | |
|---|------------------------------------|--|
| Total Tax Credit Requested for Noncredit Courses From Schedule 1 | Total Number of Courses | Total Credit Requested (Schedule 1, Column E) |
| _____ | _____ | _____ |

Part III: Tax Credit Based on Apprenticeship Programs

Complete **Schedule 2**, then enter the name of each apprenticeship program approved by the Commissioner of Labor and Industry for which this credit will be claimed, the total cost, and credit requested.

| Program Name | Total Number of Programs | Total Number of Apprentices | Total Credit Requested (Schedule 2, Column E) |
|--------------|-----------------------------|--------------------------------|--|
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |

Part IV: Tax Credit Based on Manufacturing-Related Orientation, Instruction, and Training Programs

Complete **Schedule 3**, then enter the total number of manufacturing-related orientation, instruction, or training programs for which this credit will be claimed and the amount of credit requested.

| | | |
|---|-------------------------------------|--|
| Total Tax Credit Requested for Manufacturing-Related Orientation, Instruction, and Training Programs From Schedule 3 | Total Number of Programs | Total Credit Requested (Schedule 3, Line 8) |
| _____ | _____ | _____ |

Declaration

I, the undersigned officer or other person authorized to act on behalf of the business entity, have read and understand the limitations and restrictions set forth for this credit application.

| | | |
|------------------------|-------|--------------|
| Taxpayer Signature | Title | |
| Printed Name | Date | Phone Number |
| Tax Preparer Signature | Title | |
| Printed Name | Date | Phone Number |
| Preparer Address | | |

**Form WRC
Schedule 1**

**Worker Retraining Tax Credit Application for
Noncredit Courses to be Approved by VEDP**

Tax Year Ending _____, _____

Page ____ of ____

Complete a Schedule 1 for each course.

| | | | | |
|--|----------------|---|----------------------|--------------|
| Name as it Appears on Form WRC | | FEIN or SSN | | |
| List each noncredit course from a Virginia community college or a school approved by the Virginia Economic Development Partnership for purposes of claiming this credit. Complete a separate Schedule 1 for each course. See the definition of "eligible worker retraining" in the instructions before completing this schedule. | | | VEDP USE ONLY | |
| A. | Name of School | Course is: <input type="checkbox"/> Approved <input type="checkbox"/> Not Approved Initials: _____ | | |
| Type (Check One) | | | | Contact |
| <input type="checkbox"/> Community College <input type="checkbox"/> Private School <input type="checkbox"/> Check if STEM or STEAM discipline | | | | Phone Number |
| B. | Course Title | Course Number | | |
| C. Course Description, Including Dates, and Prerequisites: | | | | |
| | | | Signature | |
| | | | Name Printed | |
| | | | Phone Number | |

Qualifying Employees Taking Qualifying Noncredit Courses A qualified employee cannot be a relative of any owner or the employer claiming the credit and cannot own, directly or indirectly, more than 5% in value of the outstanding stock of a corporation claiming the credit. See the "Qualified Employee" section of the instructions.

| | Column A Employee Name and SSN | Column B Date Course Completed | Column C Course Cost | Column D Date Paid | Column E Credit Requested* |
|-----|-----------------------------------|-----------------------------------|-------------------------|-----------------------|-------------------------------|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |

Total for This Page

Enter on the First Schedule 1 Only – Total Amount from All Other Schedules 1 Completed

Enter in Part II, Form WRC and Here – Total of All Schedules 1 Completed

* 30% of Column C costs or, if a private school, up to \$200 per qualified employee annually (\$300 per qualified employee annually if the eligible worker retraining includes retraining in a STEM or STEAM discipline).

Enclose this schedule with Form WRC along with a copy of all documentation used to complete this form including enrollment forms from the school showing classes taken and payments made.

**Form WRC
Schedule 2**

**Worker Retraining Tax Credit Application Schedule – Retraining Courses
Undertaken Through an Approved Apprenticeship Program**

Tax Year Ending _____

Page ___ of ___

| Name as it Appears on Form WRC | | | | FEIN or SSN | | | |
|--|-------------|--|-------------|-----------------|-------------|-----------|--------------------|
| Column A | Column B | Column C | Column D | Column E | Column F | Column G | Column H |
| Employee Name and SSN* | School Name | Check if: Private <input type="checkbox"/> STEM / STEAM <input type="checkbox"/> | Course Name | Completion Date | Course Cost | Date Paid | Credit Requested** |
| 1. | | Private <input type="checkbox"/> STEM / STEAM <input type="checkbox"/> | | | | | |
| 2. | | Private <input type="checkbox"/> STEM / STEAM <input type="checkbox"/> | | | | | |
| 3. | | Private <input type="checkbox"/> STEM / STEAM <input type="checkbox"/> | | | | | |
| 4. | | Private <input type="checkbox"/> STEM / STEAM <input type="checkbox"/> | | | | | |
| 5. | | Private <input type="checkbox"/> STEM / STEAM <input type="checkbox"/> | | | | | |
| 6. | | Private <input type="checkbox"/> STEM / STEAM <input type="checkbox"/> | | | | | |
| 7. | | Private <input type="checkbox"/> STEM / STEAM <input type="checkbox"/> | | | | | |
| 8. | | Private <input type="checkbox"/> STEM / STEAM <input type="checkbox"/> | | | | | |
| 9. | | Private <input type="checkbox"/> STEM / STEAM <input type="checkbox"/> | | | | | |
| 10. | | Private <input type="checkbox"/> STEM / STEAM <input type="checkbox"/> | | | | | |
| Total of Column E for This Page | | | | | | | |
| Enter on the First Schedule 2 Only – All Other Schedules 3, Column E Totals Combined | | | | | | | |
| Enter on First Schedule 2 Only: Total Credit Requested for All Pages – Enter in Part III, Form WRC and Here – All Schedules 2, Column E Totals Combined | | | | | | | |

*A qualified employee cannot be a relative of any owner or the employer claiming the credit and cannot own, directly or indirectly, more than 5% in value of the outstanding stock of a corporation claiming the credit. See the "Qualified Employee" section of the instructions. ** 30% of Column D costs or, if a private school, up to \$200 per qualified employee annually or \$300 per qualified employee annually if the eligible worker retraining includes retraining in a STEM or STEAM discipline.

Enclose this Schedule with Form WRC. Also enclose a signed copy of:

1. An Apprenticeship Action Form is required for each student. Applications will not be processed without this form. Students without the form will be excluded from the credit amount granted.
2. Proof of payment by the employer.

**Form WRC
Schedule 3**

**Worker Retraining Tax Credit
Application for Manufacturing-Related
Orientation, Instruction, and Training**

Tax Year Ending _____, _____

Page ____ of ____

A manufacturing-related orientation, instruction, and training program must be approved by the Virginia Economic Development Partnership to qualify for this credit. See the instructions before completing this schedule.

| | |
|--------------------------------|------------|
| Name as it appears on Form WRC | FEIN / SSN |
|--------------------------------|------------|

Enclose Schedule 3 with Form WRC, along with an approval letter from the local school division and documentation of the direct costs incurred during the taxable year in conducting the orientation, instruction, or training program. If requesting credit for more than one program, complete a separate Schedule 3 for each program conducted during the taxable year.

Part I – Enter the program information, including a detailed description of the manufacturing-related orientation, instruction, and training program. Enclose additional pages, if necessary.

Part II – On Lines 1-4, enter the program cost(s) on the applicable line(s). On Line 6, calculate the allowable credit amount for the program listed in Part I of this page. On Line 7, enter the total credit requested from all pages combined. On Line 8, enter the lesser of the allowable credit amount or \$2,000 then transfer this amount to Form WRC, Part IV, "Total Credit Requested" line.

| Part I – Program Information | | | | |
|------------------------------|----------------------|---------------------------|-----------------------|-----------------|
| Program Name | | Instructor / Trainer Name | | Program Date(s) |
| Contact Name | Contact Phone Number | | Contact Email Address | |
| School District Name | | | Location | |
| Street Address | | City | State | ZIP Code |
| Course Description | | | | |
| | | | | |
| | | | | |
| | | | | |

| Part II – Credit Calculation | | |
|------------------------------|--|-----|
| 1. | Salaries or wages paid to instructors and trainers, prorated for the period of instruction or training. | .00 |
| 2. | Costs for orientation, instruction, and training materials. | .00 |
| 3. | Amounts paid for machinery and equipment used primarily for instruction and training. | .00 |
| 4. | The cost of leased or rented spaced used primarily for conducting the program. | .00 |
| 5. | Total direct costs. Add Lines 1-4. | .00 |
| 6. | Total credit amount for this page only. Multiply Line 5 by 35% (.35). | .00 |
| 7. | Total credit amount from all Schedules 3 completed (enter on first Schedule 3 only). Add the amounts on Line 6 from each Schedule 3. | .00 |
| 8. | Credit requested: Enter the amount on Line 7 above or \$2,000, whichever is less. Transfer this amount to Form WRC, Part IV, "Total Credit Requested" line. | .00 |

| | |
|---------------|--|
| VEDP Use Only | Course is : <input type="checkbox"/> Approved <input type="checkbox"/> Not Approved Initials: _____ |
|---------------|--|

Instructions for Form WRC, Worker Retraining Tax Credit Application

Summary of Filing Requirements

Use this table to determine the application requirements for each type of training program for which the Worker Retraining Tax Credit will be claimed. See the instructions below for contact information and mailing addresses for the Virginia Economic Development Partnership (VEDP) and the Department of Taxation.

| If you are claiming the credit based on— | Complete Schedule(s)— | Complete these parts on Form WRC— | Submit application to— |
|--|--|---|---------------------------|
| Noncredit Courses | Schedule 1 | Parts I and II | VEDP |
| Apprenticeship Programs | Schedule 2 | Parts I and III | Department of Taxation |
| Manufacturing-Related Orientation, Instruction, and Training Programs | Schedule 3 | Parts I and IV | VEDP |
| Any combination of noncredit courses, apprenticeship programs, and manufacturing-related programs | Schedules 1, 2, and 3 (as applicable) | Part I and Parts II, III, IV (as applicable) | VEDP |

General Information

The Worker Retraining Tax Credit may be claimed by employers that provide qualifying retraining for their employees through noncredit classes or through an apprenticeship agreement approved by the Commissioner of Labor and Industry. Qualifying apprenticeship programs may include credit and noncredit classes.

When claiming the credit on the basis of employee retraining, the credit is equal to:

- 30% of all training costs for qualified employees who attend Virginia community colleges or a private school or an apprenticeship program, and
- the actual costs up to \$200 (\$300 if the eligible worker retraining includes retraining in a STEM or STEAM discipline) per qualified employee annually for those employees who attend private schools.

For taxable years beginning on and after January 1, 2018, but prior to January 1, 2022, the Worker Retraining Tax Credit may also be claimed by certain businesses primarily engaged in manufacturing. The businesses must conduct manufacturing-related orientation, instruction, and training programs in Virginia relating to the manufacturing activities of the taxpayer. To be eligible for the credit, the orientation, instruction, and training program must be approved by Virginia Economic Development Partnership (VEDP) and must:

- (i) provide orientation, instruction, and training solely to students in grades 6-12;
- (ii) be coordinated with the local school division; and
- (iii) be conducted either at a plant or facility owned, leased, rented, or otherwise used by the business or at a public middle or high school in Virginia.

If claiming the credit on the basis of manufacturing-related orientation, instruction, and training programs, the credit is equal to 35% of the direct costs associated with the program, not to exceed \$2,000. Direct costs include:

- salaries or wages paid to instructors and trainers, prorated for the period of instruction or training;
- costs for orientation, instruction, and training materials;
- amounts paid for machinery and equipment used primarily for the instruction and training; and
- the cost of leased or rented space used primarily for conducting the program.

The total credit granted to all employers and businesses is limited to \$1 million for each fiscal year. If the total qualifying credits exceed this amount, the credit will be prorated. Employers and businesses must apply for their share of the available credit by filing Form WRC with the VEDP or Department of Taxation, as applicable, to determine their proportionate share of the credit. Notification of the authorized credit amount must be received before the credit may be claimed on the tax return.

This credit is nonrefundable, but excess credit may be carried forward for the next 3 taxable years. No credit can be carried back to a preceding taxable year.

Applicability of the Credit

If claiming the credit on the basis of **noncredit classes or apprenticeship programs**, the credit is allowable against individual income tax, estates and trusts tax, corporate income tax, bank franchise tax, insurance premiums license tax, and license tax on telegraph, telephone, water, heat, light, power, and pipeline companies.

If claiming the credit on the basis of **manufacturing-related orientation, instruction, and training programs**, the credit is allowable against individual and corporation income tax.

Definitions

Eligible Worker Retraining – the retraining of a qualified employee that promotes economic development. Retraining of a qualified employee will promote economic development when the employment brings new income into Virginia, stimulates

additional employment, improves existing processes, products or services, or is the basis for further economic growth. The retraining can be accomplished through:

- (i) noncredit courses at any Virginia community college or a private school or
- (ii) worker retraining programs undertaken through an apprenticeship agreement approved by the Commissioner of Labor and Industry.

Manufacturing – processing, manufacturing, refining, mining, or converting products for sale or resale.

Noncredit Courses include, but are not limited to:

- specific job-related skills/studies;
- computer training due to process or equipment change of entry-level computer skills (ongoing computer software upgrades are not included);
- continuous improvements such as team building and quality training;
- management and supervisory training;
- safety and environmental training programs; and
- credit or noncredit approved apprenticeship courses.

Qualified Employee – an employee who works in a full-time position requiring a minimum of 1,680 hours in the normal year of the employer's operation and standard fringe benefits are offered to the employee. Employees eligible to take credit or noncredit courses undertaken through a registered apprenticeship agreement must be employed in a full-time position requiring a minimum of 1,924 hours in the normal year of the employer's operation unless otherwise approved by the Virginia Apprenticeship Council. A qualified employee shall not be a spouse, child, grandchild, parent or sibling of an employer, or in the case of a corporation, an individual that owns, directly or indirectly, 5% or more of the corporation's stock. Employees in seasonal or temporary positions are not qualified for this program.

Retraining – an upgrade in training for existing employees, which is identified as essential to the production or distribution of a product, rendering services or retraining provided through an apprenticeship agreement approved by the Virginia Apprenticeship Council.

Standard Fringe Benefits – benefits that a particular employer offers to its full-time employees.

STEM or STEAM discipline – a science, technology, engineering, mathematics, or applied mathematics related discipline as determined by the VEDP in consultation with the Superintendent of Public Instruction. The term also includes a health-care related discipline.

Training Costs – instruction, instructional materials, facilities fees and other costs determined to be necessary to the delivery of the training. Trainee wages and curriculum development costs are not covered.

Process Overview For Claiming This Credit

To claim the credit, you must complete a 3-step process.

Step 1: Determine Eligibility of Programs for Credit

Noncredit Courses

To qualify, employers must retrain employees through noncredit courses. To determine if the training will qualify for this credit, complete Parts I and II, and Schedule 1 of Form WRC and send it to **Virginia Jobs Investment Program, Virginia Economic Development Partnership, 901 East Cary Street Richmond, Suite 900, VA 23219**. For questions, call (804) 545-5706. VEDP will determine if the course qualifies as eligible retraining. VEDP will forward this determination to the Department of Taxation for Step 2.

Apprenticeship Programs

To qualify, employers must retrain employees in a Commissioner of Labor and Industry approved program. For program information, call Department of Labor and Industry at (804) 786-8009.

File Form WRC, completing Parts I and III and Schedule 2 (see **Exception** below), with the **Department of Taxation, Tax Credit Unit, P.O. Box 715, Richmond, VA 23218-0715**, to determine program applicability and authorized credit.

EXCEPTION: If applying for retraining credits for noncredit courses or manufacturing-related orientation, instruction and training programs and an apprenticeship program, complete the appropriate parts of Form WRC and file it with VEDP. After processing Schedule 1 and/or Schedule 3, VEDP will send Form WRC to the Department of Taxation.

Manufacturing-Related Orientation, Instruction, and Training Programs

To qualify, businesses that are primarily engaged in manufacturing must conduct orientation, instruction, and training relating to the manufacturing activities undertaken by the business and meet the criteria listed in the General Information section above.

Complete Form WRC, Parts I and IV and Schedule 3. File the form and enclosures with **Virginia Jobs Investment Program, Virginia Economic Development Partnership, 901 East Cary Street Richmond, Suite 900, VA 23219**. VEDP will determine if the course qualifies as an eligible manufacturing-related orientation, instruction, and training program. VEDP will forward this determination to the Department of Taxation for Step 2.

Step 2: Requests for Additional Information and Notification of Authorized Credit

Additional Information

If the VEDP or the Department of Taxation needs additional information, they will contact you by **May 1** and you will have until **May 15** to respond. If you have not received acknowledgment of your application from the Department of Taxation by May 31, call (804) 786-2992.

The Department of Taxation will issue the credit by June 30. If you have not received your credit certification by July 15, please call (804) 786-2992.

Extension of Time for Filing

If the tax return upon which this credit will be claimed is due on or before May 1, you may need to file an automatic extension payment for any tax due or file an amended return upon receipt of the credit information.

Step 3: Claim Worker Retraining Tax Credit on Your Return

After receiving notification of authorized credit, you may claim the credit on the applicable Virginia tax return. See the tax return instructions for computation and enclosure details.

Instructions For Completing Form WRC

Claiming the credit is a multi-step process. Complete Form WRC and the required schedules using the definitions listed earlier in these instructions. To assist you in completing Schedules 1, 2, and 3 correctly, review these definitions: Eligible worker retraining, qualified employee, noncredit courses, retraining, standard fringe benefits and training costs.

Part I: Description of Business Activities

Enter the principal activity of the business.

Part II: Credit Based on Noncredit Courses From a Community College or Private School

Credit will be granted for retraining through noncredit courses approved by the VEDP.

Complete Form WRC, Schedule 1. If additional space is needed, enclose a separate page. Complete a separate Schedule 1 for each course for which the credits are requested. Enter the total number of courses and total credit requested for training costs for approved courses in the space provided in Part II of the Form WRC.

Part III: Credit Based on Apprenticeship Programs

Credit will be granted for apprenticeship programs (approved by the Commissioner of Labor and Industry) which meet the qualifications for this credit. See the definitions provided earlier in these instructions, before completing this section.

Complete Form WRC, Schedule 2.

- If you have more than one school, use a separate Schedule 2 for each school.
- Enter the student names in alphabetical order.
- If including additional summary worksheets, submit one worksheet for each school and complete all fields as listed on Schedule 2 (list student names in alphabetical order, school name, course name, etc.).
- Organize each school in a separate folder with Form WRC, Schedule 2, invoices, Labor Department Apprenticeship Form and copies of E-checks or canceled checks.

See the definitions listed in these instructions before completing Schedule 2 to ensure that the training costs and employees listed qualify for the credit.

Part IV: Credit Based on Manufacturing-Related Orientation, Instruction, and Training

Credit will be granted for manufacturing-related orientation, instruction, and training programs approved by the VEDP.

Complete Form WRC, Schedule 3.

If additional space is needed for the course description, attach a separate page. If you are claiming the credit for more than one program conducted during the taxable year, complete a separate Schedule 3 for each program. Enter the total number of programs in the space provided in Part IV, Form WRC.

When and Where To File Form WRC

File Form WRC no later than April 1 in order for the qualification process to be completed. Forms received after that date may not be processed and credit may not be approved.

File Form WRC, Schedule 1 and/or Schedule 3, and required enclosures with VEDP if applying on the basis of—

- Noncredit courses;
- Manufacturing-related orientation, instruction, and training programs;
- Any combination of noncredit courses, apprenticeship programs, and manufacturing-related programs;

Mail to:

**Worker Retraining Tax Credit Application
Virginia Jobs Investment Program
Virginia Economic Development Partnership
901 East Cary Street
Suite 900
Richmond, VA 23219**

File Form WRC, Schedule 2, and all required enclosures with the Department of Taxation if applying on the basis of apprenticeship programs only.

Mail to:

**Tax Credit Unit
Virginia Department of Taxation
P.O. Box 715
Richmond, Virginia 23218-0715**

What To Enclose with Form WRC

If Schedule 1 of Form WRC was completed, enclose a copy of the documentation used to complete Schedule 1, including enrollment forms from the school/college showing the courses taken and payment by the employer.

If Schedule 2 of Form WRC was completed, enclose a signed copy of the Apprenticeship Action Form, Apprenticeship Related Instruction Enrollment Form, and proof of payment by employer.

If **Schedule 3** of Form WRC was completed, enclose an approval letter from the local school division and documentation of direct costs incurred during the taxable year in conducting manufacturing-related orientation, instruction, and training programs. Acceptable documentation includes, but is not limited to, calculations of salary prorations, receipts for materials, receipts for equipment, and lease agreements for leased or rented space.

Pass-Through Entities

The Virginia Department of Taxation will issue a credit certification letter specifying the amount of credit authorized to each partnership, S corporation or limited liability company qualifying to claim a portion of this credit.

Each pass-through entity must file **Form PTE** with the Department of Taxation within 30 days after the credit is granted. This information should be sent to: **Department of Taxation, ATTN: Tax Credit Unit, P.O. Box 715, Richmond, VA 23218-0715** or you may fax it to **(804) 774-3902**.

All pass-through entities distributing this credit to their owner(s), shareholders, partners, or members must give each a Schedule VK-1, Owner's Share of Income And Virginia Modifications And Credits.

Where To Get Help

Write to the **Virginia Department of Taxation, Tax Credit Unit, P.O. Box 715, Richmond, VA 23218-0715** or call **(804) 786-2992**. To order forms, call **(804) 367-8031**. Visit www.tax.virginia.gov for most Virginia tax forms and additional tax information. Forms are also available from the office of your local Commissioner of the Revenue, Director of Finance, or Director of Tax Administration.

Virginia Tax Bulletin 99-4, dated April 5, 1999, provides additional information on the Worker Retraining Tax Credit and how the credit applies. To obtain this bulletin, visit our website or write to the address provided above.

VIRGINIA ACTS OF ASSEMBLY -- 2019 SESSION

CHAPTER 189

An Act to amend and reenact § 58.1-439.6 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 58.1-439.6:1, relating to sunset date for worker retraining tax credit; worker training investment tax credit.

[H 2539]

Approved March 5, 2019

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-439.6 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered § 58.1-439.6:1 as follows:

§ 58.1-439.6. Worker retraining tax credit.

A. As used in this section, unless the context clearly requires otherwise:

"Eligible worker retraining" means retraining of a qualified employee that promotes economic development in the form of (i) noncredit courses at any of the Commonwealth's comprehensive community colleges or a private school or (ii) worker retraining programs undertaken through an apprenticeship agreement approved by the Commissioner of Labor and Industry.

"Manufacturing" means processing, manufacturing, refining, mining, or converting products for sale or resale.

"Qualified employee" means an employee of an employer eligible for a credit under this section in a full-time position requiring a minimum of 1,680 hours in the entire normal year of the employer's operations if the standard fringe benefits are paid by the employer for the employee. Employees in seasonal or temporary positions shall not qualify as qualified employees. A qualified employee (i) shall not be a relative of any owner or the employer claiming the credit and (ii) shall not own, directly or indirectly, more than five percent in value of the outstanding stock of a corporation claiming the credit. As used herein, "relative" means a spouse, child, grandchild, parent or sibling of an owner or employer, and "owner" means, in the case of a corporation, any person who owns five percent or more of the corporation's stock.

"STEM or STEAM discipline" means a science, technology, engineering, mathematics, or applied mathematics related discipline as certified by the Virginia Economic Development Partnership Authority in consultation with the Superintendent of Public Instruction. The term shall include a health care-related discipline.

B. 1. For taxable years beginning on and after January 1, 1999, but prior to January 1, ~~2022~~ 2019, an employer shall be allowed a credit against the taxes imposed by Articles 2 (§ 58.1-320 et seq.), 6 (§ 58.1-360 et seq.), and 10 (§ 58.1-400 et seq.) of Chapter 3; Chapter 12 (§ 58.1-1200 et seq.); Article 1 (§ 58.1-2500 et seq.) of Chapter 25; or Article 2 (§ 58.1-2620 et seq.) of Chapter 26 in an amount equal to 30 percent of all expenditures paid or incurred by the employer during the taxable year for eligible worker retraining. ~~However, for taxable years beginning prior to January 1, 2013, if the eligible worker retraining consists of courses conducted at a private school, the credit shall be in an amount equal to the cost per qualified employee, but the amount of the credit shall not exceed \$100 per qualified employee annually.~~ For taxable years beginning on or after January 1, 2013, ~~but prior to January 1, 2019~~, if the eligible worker retraining consists of courses conducted at a private school, the credit shall be in an amount equal to the cost per qualified employee, but the amount of the credit shall not exceed \$200 per qualified employee annually, or \$300 per qualified employee annually if the eligible worker retraining includes retraining in a STEM or STEAM discipline, including but not limited to industry-recognized credentials, certificates, and certifications.

2. For taxable years beginning on and after January 1, 2018, but prior to January 1, ~~2022~~ 2019, a business primarily engaged in manufacturing shall be allowed a credit against the taxes imposed by Articles 2 (§ 58.1-320 et seq.) and 10 (§ 58.1-400 et seq.) in an amount equal to 35 percent of its direct costs incurred during the taxable year in conducting orientation, instruction, and training in the Commonwealth relating to the manufacturing activities undertaken by the business. In no event shall the credit allowed to a business under this subdivision exceed \$2,000 for any taxable year. The Department shall allow credit only for programs that (i) provide orientation, instruction, and training solely to students in grades six through 12; (ii) are coordinated with the local school division; and (iii) are conducted either at a plant or facility owned, leased, rented, or otherwise used by the business or at a public middle or high school in Virginia. The taxpayer shall include in its direct costs only the following expenditures: (a) salaries or wages paid to instructors and trainers, prorated for the period of instruction or training; (b) costs for orientation, instruction, and training materials; (c) amounts paid for machinery and equipment used primarily for such instruction and training; and (d) the cost of leased or rented space used primarily for conducting the program.

3. The total amount of tax credits granted under this section for each fiscal year shall not exceed \$1 million.

C. For purposes of this section, the amount of any credit attributable to a partnership, electing small business corporation (S corporation), or limited liability company shall be allocated to the individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entities.

D. 1. An employer shall be allowed a credit pursuant to subdivision B 1 only for those courses at a comprehensive community college or a private school for which courses have been certified as eligible worker retraining to the Department of Taxation by the Virginia Economic Development Partnership Authority. The Virginia Economic Development Partnership Authority shall review requests for certification submitted by employers and shall advise the Tax Commissioner whether a course or program qualifies as eligible worker retraining and, if it qualifies, whether the course or program is in a STEM or STEAM discipline.

2. A business shall be allowed the credit pursuant to subdivision B 2 only for an orientation, instruction, and training program that has been approved by the local school division and certified as eligible by the Virginia Economic Development Partnership Authority. A business seeking a tax credit under subdivision B 2 shall include in its application reviewed by the Virginia Economic Development Partnership Authority an approval from the local school division. The Virginia Economic Development Partnership Authority shall review requests for certification submitted by businesses and shall advise the Tax Commissioner whether an orientation, instruction, and training program qualifies as relating to the manufacturing activities undertaken by the business and meets other applicable requirements.

3. The Tax Commissioner shall develop guidelines (i) establishing procedures for claiming the credit provided by this section, (ii) defining eligible worker retraining, which shall include only those courses and programs that are substantially related to the duties of a qualified employee or that enhance the qualified employee's job-related skills, and that promote economic development, and (iii) providing for the allocation of credits among employers and businesses requesting credits in the event that the amount of credits for which requests are made exceeds the available amount of credits in any year. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

E. Any credit not usable for the taxable year may be carried over for the next three taxable years. The amount of credit allowed pursuant to this section shall not exceed the tax imposed for such taxable year. No credit shall be carried back to a preceding taxable year. If an employer or business that is subject to the tax limitation imposed pursuant to this subsection is allowed another credit pursuant to any other section of this Code, or has a credit carryover from a preceding taxable year, such employer or business shall be considered to have first utilized any credit allowed which does not have a carryover provision, and then any credit which is carried forward from a preceding taxable year, prior to the utilization of any credit allowed pursuant to this section.

F. No employer or business shall be eligible to claim a credit under this section for worker retraining or manufacturing orientation, instruction, and training undertaken by any program operated, administered, or paid for by the Commonwealth.

G. The Department shall review certifications received from the Virginia Economic Development Partnership Authority pursuant to subsection D and, if it determines a taxpayer meets the applicable requirements, shall issue a credit in the amount specified in subsection B.

H. The Virginia Economic Development Partnership Authority shall report annually to the Chairmen of the House Finance and Senate Finance Committees on the status and implementation of the credit established by this section, including certifications for eligible worker retraining.

§ 58.1-439.6:1. Worker training tax credit.

A. As used in this section, unless the context requires a different meaning:

"Eligible worker training" means the training of a qualified employee or non-highly compensated worker in the form of (i) credit or noncredit courses at any institution recognized on the Eligible Training Provider List that results in the qualified employee or non-highly compensated worker receiving a workforce credential or (ii) instruction or training that is part of an apprenticeship agreement approved by the Commissioner of Labor and Industry.

"Industry-recognized" means demonstrating competency or proficiency in the technical and occupational skills identified as necessary for performing functions of an occupation based on standards developed or endorsed by employers or industry organizations.

"Manufacturing" means processing, manufacturing, refining, mining, or converting products for sale or resale.

"Non-highly compensated worker" means a worker whose income is less than Virginia's median wage, as reported by the Virginia Employment Commission, in the taxable year prior to applying for the credit. "Non-highly compensated worker" does not include an owner or relative.

"Owner" means an individual who owns, directly or indirectly, more than a five percent interest in the business claiming the credit.

"Qualified employee" means an employee of a business eligible for a credit under this section in a full-time position requiring a minimum of 1,680 hours in the entire normal year of the business'

operations if the standard fringe benefits are paid by the business for the employee. Employees in seasonal or temporary positions shall not qualify as qualified employees. "Qualified employee" does not include an owner or relative.

"Relative" means a spouse, child, grandchild, parent, or sibling of an owner.

"Workforce credential" means an industry-recognized (i) certification, (ii) certificate, or (iii) degree.

B. 1. For taxable years beginning on and after January 1, 2019, but prior to July 1, 2022, a business shall be allowed a credit against the taxes imposed by Articles 2 (§ 58.1-320 et seq.), 6 (§ 58.1-360 et seq.), and 10 (§ 58.1-400 et seq.) of Chapter 3; Chapter 12 (§ 58.1-1200 et seq.); Article 1 (§ 58.1-2500 et seq.) of Chapter 25; or Article 2 (§ 58.1-2620 et seq.) of Chapter 26 in an amount equal to 35 percent of expenses incurred by the business during the taxable year for eligible worker training. If the recipient of the training is a qualified employee, the credit shall not exceed \$500 per qualified employee annually. If the recipient of the training is a non-highly compensated worker, the credit shall not exceed \$1,000 per non-highly compensated worker annually.

2. For taxable years beginning on and after January 1, 2019, but prior to January 1, 2022, a business primarily engaged in manufacturing shall be allowed a credit against the taxes imposed by Articles 2 (§ 58.1-320 et seq.) and 10 (§ 58.1-400 et seq.) in an amount equal to 35 percent of its direct costs incurred during the taxable year in conducting orientation, instruction, and training in the Commonwealth relating to the manufacturing activities undertaken by the business. In no event shall the credit allowed to a business under this subdivision exceed \$2,000 for any taxable year. The Department shall allow credit only for programs that (i) provide orientation, instruction, and training solely to students in grades six through 12; (ii) are coordinated with the local school division; and (iii) are conducted either at a plant or facility owned, leased, rented, or otherwise used by the business or at a public middle or high school in the Commonwealth. The taxpayer shall include in its direct costs only the following expenditures: (a) salaries or wages paid to instructors and trainers, prorated for the period of instruction or training; (b) costs for orientation, instruction, and training materials; (c) amounts paid for machinery and equipment used primarily for such instruction and training; and (d) the cost of leased or rented space used primarily for conducting the program.

3. The total amount of tax credits granted under this section for each fiscal year shall not exceed \$1 million.

C. For purposes of this section, the amount of any credit attributable to a partnership, electing small business corporation (S corporation), or limited liability company shall be allocated to the individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entities.

D. 1. A business shall be allowed a credit pursuant to subdivision B 1 only for those programs and providers that have been approved for inclusion in the Commonwealth's Eligible Training Provider List. The Workforce Innovation Opportunity Act Title 1 Administrator shall provide the Tax Commissioner with the approved list annually.

2. A business shall be allowed the credit pursuant to subdivision B 2 only for an orientation, instruction, and training program that has been approved by the local school division and certified as eligible by the Department of Education. A business seeking a tax credit under subdivision B 2 shall include in its application reviewed by the Department of Education an approval from the local school division. The Department of Education shall review requests for certification submitted by businesses and shall advise the Tax Commissioner whether an orientation, instruction, and training program qualifies as relating to the manufacturing activities undertaken by the business and meets other applicable requirements.

3. The Tax Commissioner shall develop guidelines (i) establishing procedures for claiming the credit provided by this section and (ii) providing for the allocation of credits among businesses requesting credits in the event that the amount of credits for which requests are made exceeds the available amount of credits in any year. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

E. Any credit not usable for the taxable year may be carried over for the next three taxable years. The amount of credit allowed pursuant to this section shall not exceed the tax imposed for such taxable year. No credit shall be carried back to a preceding taxable year. If a business that is subject to the tax limitation imposed pursuant to this subsection is allowed another credit pursuant to any other section of this Code, or has a credit carryover from a preceding taxable year, such business shall be considered to have first utilized any credit allowed that does not have a carryover provision, and then any credit which is carried forward from a preceding taxable year, prior to the utilization of any credit allowed pursuant to this section.

F. No business shall be eligible to claim a credit under this section for eligible worker training or manufacturing orientation, instruction, and training undertaken by any program operated, administered, or paid for by the Commonwealth.

G. The Tax Commissioner shall report annually to the Chairmen of the House and Senate Committees on Finance on the status and implementation of the credit established by this section.