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HOUSE BILL NO. 846

AMENDMENT IN THE NATURE OF A SUBSTITUTE
 (Proposed by the Senate Committee on Education and Health
 on March 4, 2004)

(Patron Prior to Substitute—Delegate Baskerville)

A *BILL* to amend the Code of Virginia by adding a section numbered 23-9.8:1, and by adding in Title 30 a chapter numbered 34, consisting of sections numbered 30-226 through 30-235, relating to the Brown v. Board of Education Scholarship Program and Fund.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 23-9.8:1, and by adding in Title 30 a chapter numbered 34, consisting of sections numbered 30-226 through 30-235 as follows:

§ 23-9.8:1. *Cooperation with and assistance to the Brown v. Board of Education Scholarship Awards Committee.*

Consistent with its duties as the coordinating agency for higher education in the Commonwealth, the Council shall cooperate with and provide assistance to the Brown v. Board of Education Scholarship Awards Committee for the purpose of implementing and administering the Brown v. Board of Education Scholarship Program, pursuant to Chapter 34 (§ 30-226 et seq.) of Title 30.

CHAPTER 34.**BROWN v. BOARD OF EDUCATION SCHOLARSHIP PROGRAM AND FUND.**

§ 30-226. *Brown v. Board of Education Scholarship Program created; purpose.*

There is hereby created, from such funds as may be appropriated or otherwise made available for this purpose, the Brown v. Board of Education Scholarship Program, hereinafter referred to as the "Program." The Program shall be established for the purpose of assisting students who were enrolled in the public schools of Virginia between 1954 and 1964, in jurisdictions in which such public schools were closed to avoid desegregation, in obtaining a high school diploma, the General Education Development certificate, career or technical education or training, or an undergraduate degree from a public institution of higher education in Virginia.

§ 30-227. *Criteria for awarding scholarships; awards made by the Brown v. Board of Education Scholarship Awards Committee; eligible students.*

A. *Within the funds allocated or made available for such purposes, and from such gifts, grants, donations, bequests, and other funds as may be received for such purposes, scholarships shall be awarded annually and may be renewed upon evidence of satisfactory academic achievement. Awards may be granted for part-time or full-time attendance for (i) no more than one year of study for students enrolled in adult education programs and General Education Development preparation programs, (ii) no more than two years of study for students enrolled in comprehensive community college programs, (iii) no more than four years of study for students enrolled in four-year undergraduate degree programs, and (iv) no more than five years of study for students enrolled in recognized five-year undergraduate programs.*

B. *No student pursuing a course of religious training or theological education or a student enrolled in any institution whose primary purpose is to provide religious training or theological education shall be eligible to receive such awards.*

C. *Only students who are domiciled residents of Virginia as defined by § 23-7.4 shall be eligible to receive such awards.*

D. *Scholarships shall be awarded to eligible students by the Brown v. Board of Education Scholarship Awards Committee.*

E. *For the purpose of this chapter, "eligible student" means a person who resided in a jurisdiction in Virginia between 1954 and 1964 in which the public schools were closed to avoid desegregation and who (i) was unable during such years to (a) begin, continue, or complete his education in the public schools of the Commonwealth, (b) attend a private academy or foundation, whether in state or out of state, established to circumvent desegregation, or (c) pursue postsecondary education opportunities or training because of the inability to obtain a high school diploma; (ii) was required to relocate within or outside of the Commonwealth to begin, continue, or complete his K-12 education during such years because of public school closings to avoid desegregation; or (iii) although not denied education because of school closings, has identifiable economic, psychosocial, or cultural risk factors that research indicates may negatively affect academic achievement or the ability to perform basic life skills, or may hinder an individual in reaching his life goals.*

§ 30-228. *Amount of scholarships; use of scholarships; terms and conditions.*

A. *No scholarship awarded under this Program shall exceed the cost per year of the specific program in which the student is enrolled. The amounts of scholarships awarded under this Program*

60 shall be in accordance with the appropriation act only to the extent that public funds are used for such
61 awards. Scholarships may also be awarded from funds made available to the Program for this purpose
62 from gifts, donations, grants, bequests, or other nonstate funds.

63 B. The full amount of each scholarship awarded to each recipient shall be used only for payment of
64 charges for tuition.

65 C. This chapter shall not be construed as creating any legally enforceable right or entitlement on the
66 part of any person or any right or entitlement to participation in the program. Scholarships shall be
67 awarded to the extent funds are made available through the appropriation act and gifts, donations,
68 grants, bequests, or other nonstate funds made available to the Program.

69 § 30-229. Brown v. Board of Education Scholarship Program Fund established.

70 There is hereby created in the state treasury a special nonreverting fund to be known as the Brown
71 v. Board of Education Scholarship Program Fund, hereafter referred to as the "Fund." The Fund shall
72 be established on the books of the Comptroller and shall consist of any appropriations, gifts, grants,
73 donations, bequests, or other funds from any source as may be received by the Brown v. Board of
74 Education Scholarship Program or the Brown v. Board of Education Scholarship Awards Committee on
75 behalf of the Program. Moneys shall be paid into the state treasury and credited to the Fund. Interest
76 earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in
77 the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund
78 but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of awarding
79 scholarships to qualified students, pursuant to §§ 30-227 and 30-228. Expenditures and disbursements
80 for scholarships to eligible students from the Fund shall be made by the State Treasurer on warrants
81 issued by the Comptroller upon written request signed by the chairman of the State Council of Higher
82 Education as directed by the Brown v. Board of Education Scholarship Awards Committee.

83 § 30-230. Brown v. Board of Education Scholarship Awards Committee established; membership;
84 terms; vacancies; chairman and vice chairman.

85 A. There is hereby established in the legislative branch of state government, the Brown v. Board of
86 Education Scholarship Awards Committee, hereinafter referred to as the "Committee," to evaluate
87 applications for and select recipients of the Brown v. Board of Education scholarships, in accordance
88 with the provisions of §§ 30-227 and 30-228.

89 B. The Committee shall consist of 11 members that includes six legislative members and five
90 nonlegislative citizen members. Members shall be appointed as follows: four members of the House of
91 Delegates and two members of the Senate to be appointed by the Joint Rules Committee; and five
92 nonlegislative citizen members of whom one shall represent college admissions personnel, one shall have
93 expertise in academic and career counseling, and three shall represent residents of the affected
94 jurisdictions, to be appointed by the Governor. Nonlegislative citizen members of the Committee shall be
95 citizens of the Commonwealth of Virginia. Unless otherwise approved in writing by the chairman of the
96 Committee and the respective Clerk, nonlegislative citizen members shall only be reimbursed for travel
97 originating and ending within the Commonwealth of Virginia for the purpose of attending meetings.

98 C. Legislative members of the Committee shall serve terms coincident with their terms of office.
99 Nonlegislative citizen members shall be appointed for terms of two years. Appointments to fill vacancies,
100 other than by expiration of a term, shall be for the unexpired terms. All members may be reappointed.
101 However, no nonlegislative citizen member shall serve more than four consecutive two-year terms. The
102 remainder of any term to which a nonlegislative citizen member is appointed to fill a vacancy shall not
103 constitute a term in determining the member's eligibility for reappointment. Vacancies shall be filled in
104 the same manner as the original appointments.

105 The Committee shall elect a chairman and vice chairman from among its membership, who shall be
106 members of the General Assembly.

107 § 30-231. Quorum; meetings; voting on recommendations.

108 A majority of the members shall constitute a quorum. The meetings of the Committee shall be held at
109 the call of the chairman or whenever the majority of the voting members so request. No
110 recommendation of the Committee shall be adopted if a majority of the House members or a majority of
111 the Senate members appointed to the Committee (i) vote against the recommendation and (ii) vote for
112 the recommendation to fail notwithstanding the majority vote of the Committee.

113 § 30-232. Compensation; expenses.

114 Legislative members of the Committee shall receive such compensation as provided in § 30-19.12,
115 and nonlegislative citizen members shall receive such compensation for the performance of their duties
116 as provided in § 2.2-2813. All members shall be reimbursed for reasonable and necessary expenses
117 incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. However, all such
118 compensation and expenses shall be paid from existing appropriations to the Committee, or if unfunded,
119 shall be approved by the Joint Rules Committee.

120 § 30-233. Powers and duties of the Committee.

121 The Committee shall have the following powers and duties:

1. Establish criteria for the awarding of scholarships, including, but not limited to, eligibility for and the renewal of scholarships, including evidence of satisfactory academic achievement in accordance with § 30-227, terms and conditions of scholarships awarded pursuant to § 30-228, and the conditions for which repayment of scholarships, or any part thereof, may be required;

2. Evaluate applications for and select recipients of the Brown v. Board of Education scholarships, in accordance with the provisions of this chapter;

3. Establish standards to ensure that the Program is implemented and administered in a manner that preserves the purposes for which it was created;

4. Determine annually the appropriations made available for such scholarships by the General Assembly in the appropriation act and the sum of any gifts, grants, donations, bequests, or other nonstate funds, and set the maximum number of scholarships that may be awarded in any year;

5. Seek, receive, and expend gifts, grants, donations, bequests, or other funds from any source on behalf of the Program for its support and to facilitate its purposes;

6. Make the first awards of the Brown v. Board of Education Scholarship Program to eligible students between July 1, 2004, and July 1, 2006, but no later than July 1, 2006; and

7. Perform such other duties, functions, and activities as may be necessary to facilitate and implement the objectives of this chapter.

§ 30-234. Staffing; cooperation and assistance of State Council of Higher Education.

The Office of the Clerk of the chairman of the Committee shall provide administrative staff support. The Division of Legislative Services shall provide legal, research, policy analysis and other services as requested by the Committee. The State Council of Higher Education, consistent with its duties as the coordinating agency for higher education in the Commonwealth, shall cooperate with and provide assistance to the Committee for the purpose of implementing and administering the Program, in accordance with the provisions of this chapter and as may be prescribed by the Brown v. Board of Education Scholarship Awards Committee. All agencies of the Commonwealth shall provide assistance to the Committee, upon request.

§ 30-235. Chairman's executive summary of activity and work of the Committee.

The chairman shall submit to the General Assembly and the Governor an annual executive summary of the interim activity and work of the Committee no later than the first day of each regular session of the General Assembly. The executive summary shall state whether the Committee intends to submit to the General Assembly and the Governor a report of its findings and recommendations for publication as a document. The executive summary shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

2. That, the educational terms used in this act shall be construed as defined in Titles 22.1, 23, and 40.1 of the Code of Virginia.

3. That, upon the 50th anniversary of the Supreme Court decision in Brown v. Board of Education in 2004, the General Assembly of Virginia acknowledges and hereby deeply regrets the irreparable harm suffered by many students, both African American and Caucasian, in the Commonwealth due to the closing of public schools to avoid desegregation of such public schools.

4. That no scholarships may be awarded from general funds unless an appropriation of general funds for such purposes is included in the general appropriation act for the period July 1, 2004, through June 30, 2006, passed during the 2004 Session of the General Assembly and signed into law by the Governor. However, scholarships may be awarded from nonstate funds received by the Program or the Committee. Further, this provision shall not be construed to prevent the establishment of the Brown v. Board of Education Awards Committee or its collaboration with the State Council of Higher Education for the purposes of planning and implementing the Program.