# DEPARTMENT OF TAXATION
# 2012 Fiscal Impact Statement

**1. Patron** William M. Stanley, Jr.

**3. Committee** House Finance

**4. Title** Income tax; educational improvement scholarships tax credits

**2. Bill Number** SB 131

**House of Origin:**

_____ **Introduced**
_____ **Substitute**
_____ **Engrossed**

**Second House:**

__X__ **In Committee**
_____ **Substitute**
_____ **Enrolled**

**5. Summary/Purpose:**

This bill would allow taxpayers to claim a credit against the individual income tax, corporate income tax, bank franchise tax, insurance premiums license tax, or tax on public service corporations for contributions to approved scholarship foundations that provide scholarships to students in the Commonwealth with the intent to reduce state expenditures required for K-12 education. The total amount of credits available in any given fiscal year would be capped at $25 million. Any unused tax credits would be carried over for five years. This credit would be effective for taxable years beginning on and after January 1, 2013, but before January 1, 2018.

This bill would also expand the Neighborhood Assistance Act Tax Credit program by increasing the tax credit percentage from 40 percent to 65 percent of the value of donations, and by increasing the credit cap from $11.9 million to $15 million. The credit cap for education proposals would be increased from $4.9 million to $8 million and the credit cap for all other proposals would remain at $7 million. This bill would also change the current procedures for reallocation of credits and expand the requirements for neighborhood organizations to include assistance provided to an individual with a family annual household income not in excess of 300 percent of the current poverty guidelines, or an eligible student with a disability. Additionally, this bill would extend the sunset date for the Neighborhood Assistance Act Tax Credit program from July 1, 2014, to July 1, 2017. The effective date for the provisions relating to the Neighborhood Assistance Act Tax Credit is not specified.

**This is an Executive bill.**

**6. Budget amendment necessary:** Yes.
Page 1, Revenue Estimates.

**7. Fiscal Impact Estimates are:** Preliminary. (See Line 8.)

**7b. Revenue Impact:**

| *Fiscal Year* | *Dollars* | *Fund* |
|---|---|---|
| 2011-12 | $0 | GF |
| 2012-13 | ($3.1 million) | GF |
| 2013-14 | ($3.1 million) | GF |
| 2014-15 | (Unknown) | GF |
| 2015-16 | (Unknown) | GF |
| 2016-17 | (Unknown) | GF |
| 2017-18 | (Unknown) | GF |

**8. Fiscal implications:**

Administrative Costs

The Department of Taxation ("the Department") would not incur any administrative costs in connection with the expansion of the Neighborhood Assistance Act Tax Credit or the creation of the Educational Improvement Scholarships Tax Credit. However, this bill would require the Department to submit a report by November 15 of the year before the expiration of the Neighborhood Assistance Act and Educational Improvement Scholarships Tax Credits. In order to produce such reports, the Department would have to modify its forms and systems to capture additional data, and begin accumulating data and conducting surveys soon after the bill becomes effective. If present staff is diverted to the proposed study, then the Department would not have the resources to continue performing other critical work.

Revenue Impact - Neighborhood Assistance Act Tax Credits

Increasing the percentage amount and annual cap for the Neighborhood Assistance Act Tax Credit would have a revenue impact in Fiscal Year 2013 and each year thereafter. Based on the current amount of education proposal donations receiving Neighborhood Assistance Act Tax Credits ($12.25 million), increasing the credit percentage from 40 percent to 65 percent would result in $7,962,500 worth of annual credits, resulting in a fiscal impact of approximately $3.1 million in Fiscal Year 2013 and each year thereafter.

Revenue Impact - Educational Improvement Scholarships Tax Credits

The creation of Educational Improvement Scholarships Tax Credits would have an unknown revenue impact, beginning in Fiscal Year 2015. The maximum amount of credits that could be issued annually would be $25 million.

Expenditure Impact - Educational Improvement Scholarships Tax Credits

The potential revenue impact from this bill may be offset by a decrease in education expenditures. Donations would be used to fund scholarships, which would result in reduced state expenditures for public K-12 education. Whether such cost reduction would completely offset the costs of the credit would depend on the number and timing of scholarships versus the timing of claims for the tax credit and the location of students accepting the scholarships. State funding is distributed to local school divisions on a per pupil basis using the number of students enrolled, and the per pupil funding amounts and composite index calculated for the division. Due to the composite index, state per pupil funding varies across school divisions. For Fiscal Year 2014, the weighted average per pupil funding amount for students who qualify for the Federal Free and Reduced Lunch Program is projected to be $3,422. The actual figures vary across divisions and would likely range from $1,152 to $5,717 for the lowest and highest divisions.

Based on Fiscal Year 2014 data for students eligible for the Federal Free and Reduced Lunch Program, assuming that the maximum amount of credits ($25 million) is issued, approximately 7,306 scholarships would need to be distributed by the beginning of the first academic year following the year during which contributions are made in order to achieve a sufficient decrease in education expenditures to break even and offset the cost of the credits. This figure represents approximately 1.59 percent of students who are estimated to qualify for the Federal Free and Reduced Lunch Program in Fiscal Year 2014.

The income thresholds for the Federal Free and Reduced Lunch Program are 130 percent of the poverty level to be eligible for free lunches and 185 percent of the poverty level to be eligible for reduced lunches. However, this bill would allow scholarships to be granted to students whose family income is less than 300 percent of the federal poverty guidelines in addition to certain students with a disability. Accordingly, the number of students who would qualify for scholarships under this bill would be greater than the number of students eligible for the Federal Free and Reduced Lunch Program.

The effectiveness of this bill in offsetting the costs of the credit with the reduced education expenses depends on the timing of contributions and scholarship distributions. This bill requires scholarship foundations to annually distribute 90 percent of tax credit-derived funds as scholarships. The timing of such distribution may depend on when contributions are made, as well as the availability of scholarship recipients. Public schools must report enrollment as of September 30 of the current school year. This figure is used to project March 31 average daily membership (ADM), which is used to determine the amount of funding for budget purposes. Accordingly, students still enrolled in public school as of September 30 would be included in the number of students for purposes of appropriating funds to their respective school divisions. Depending on the timing of contributions made by corporations under this bill, amounts contributed would not necessarily be distributed to scholarship recipients by September of the following school year.

Because scholarships may not be issued until after tax credits are received, this bill may have an initial negative revenue impact. To help resolve this timing issue, this bill provides that the credit may be claimed for the taxable year following the year of contribution. So, if a corporation makes a contribution during Taxable Year 2013, it would be able to claim a tax credit on its Taxable Year 2014 return, which would be filed during Fiscal Year 2015. This delay will allow scholarship foundations time to receive preauthorization from the Department of Education, solicit donations, and provide scholarships to children.

Even with this provision, there is a potential for the amount of tax credits granted to exceed the amount of savings, since there is no guarantee that all scholarships will be awarded during the first year and it will take time for schools to recognize savings. For example, a contribution made in December 2013 would not necessarily be distributed to a student by the beginning of the following school year, but could be distributed mid-school year. A calendar year corporation making this contribution would be entitled to claim a credit on its Taxable Year 2014 return, filed during Fiscal Year 2015. However, if the contribution is distributed as a scholarship in December 2014, such scholarship would not reduce the amount of funding for budget purposes until the 2015-2016 school year, which is in Fiscal Year 2016.

In summary, the extent of whether there are costs or savings from this bill depends on the number of scholarships given, the location of students receiving them, and the timing of when the tax credits are taken versus when the scholarships are given. Based on where students eligible for free or reduced lunch now reside, approximately 7,306 students would have to get scholarships to break even. Moreover, the scholarships would have to be awarded by the scholarship foundations fairly soon after receipt of the corporate contributions or there would likely be a fiscal impact caused by timing differences with contributing corporations taking a tax credit in one year and the student savings for public schools showing up in the following year. Because of the potential variation of such impacts, tracking the students involved with these scholarships will be of the utmost importance to ascertain the final impact of the bill (costs or savings).

Finally, it should be noted that state appropriated amounts for public schools are likely to increase in the future, regardless of the enactment of this legislation due to increases in prevailing per pupil cost and enrollment. To the extent that this legislation is successful, it will result in future funding increases being less for public education than would otherwise be the case.

**9. Specific agency or political subdivisions affected:**

Department of Taxation
Department of Education
All local school divisions

**10. Technical amendment necessary:** Yes.

To clarify the timing of tax credits under Article 13.3, which are earned with a donation in one year and claimed as a credit the following year, the Department suggests the following technical amendment:

Line 231, after eligible to
Strike: receive
Insert: earn

It is the Department's understanding that the amount of credit claimed may not exceed the taxpayer's tax liability for the year in which the credit is claimed. Accordingly, the Department suggests the following technical amendment:

Line 252, after year in which the
Strike: monetary donation was made
Insert: credit is claimed

**11. Other comments:**

Current Law – Neighborhood Assistance Act Tax Credit

The Virginia Neighborhood Assistance Act provides an income tax credit to businesses and individuals that donate to neighborhood organizations for approved programs that benefit impoverished people. Under this Act, a neighborhood organization is allocated funding through the Neighborhood Assistance Act Program. The Department of Social Services and the Department of Education are responsible for approving the programs and allocating the tax credits to the neighborhood organizations. An individual or business that donates to an organization that qualifies as a neighborhood organization is then eligible to receive an income tax credit from that neighborhood organization.

A neighborhood organization is defined as any local, regional or statewide organization whose primary function is providing neighborhood assistance for impoverished people, and holding a ruling from the Internal Revenue Service of the United States Department of the Treasury that the organization is exempt from income taxation under the provisions of IRC §§ 501(c)(3) and 501(c)(4), or any organization defined as a community action agency in the Economic Opportunity Act of 1964 (42 U.S.C. § 2701 et seq.), or any housing authority as defined in *Va. Code* § 36-3. To qualify for this credit, at least 50 percent of the persons served by the organization must be impoverished people with annual family income not in excess of 200 percent of the current poverty guidelines.

A business contributing to an approved Neighborhood Assistance Act Program organization is eligible for an income tax credit equal to 40 percent of the contribution. However, the 2010-2012 Appropriation Act allows businesses to claim a credit equal to 45 percent of the qualifying donations. The minimum tax credit that may be issued to a business contribution is $400. A contributing business may take a maximum of $175,000 Neighborhood Assistance Act Program credits in a taxable year.

An individual who contributes directly to an approved Neighborhood Assistance Act Program organization is also eligible for an income tax credit equal to 40 percent of the contribution. The minimum donation by an individual must be at least $500, and the maximum tax credit is $50,000.

No more than $500,000 in tax credits may be approved to a neighborhood organization or grouping of neighborhood organization affiliates for all education proposals. Additionally, no more than an aggregate of $500,000 in tax credits may be approved in a fiscal year to a neighborhood organization or grouping of neighborhood organization affiliates for all other proposals combined.

The total amount of credits that may be granted for each fiscal year is $11.9 million. Out of this amount $4.9 million is allocated to education proposals, while the remaining $7 million is allocated to all other proposals. If the amount of tax credits requested by neighborhood organizations and approved by the Superintendent for education proposals is less than $4.9 million, the balance of such amount is allocated to programs for approval by the Commissioner of the Department of Social Services. Education proposals are defined those that provide as any type of scholastic instruction or scholastic assistance to an individual who is impoverished with family income not in excess of 200 percent of the current poverty guidelines. Under current law, no credits may be issued after July 1, 2014.

Proposed Legislation – Neighborhood Assistance Act Tax Credit

This bill would expand the Neighborhood Assistance Act Tax Credit program by increasing the tax credit percentage from 40 percent to 65 percent of the value of the money, property, professional services, and contracting services donated by a business firm, or 65 percent of the monetary donation or donation of marketable securities made by an individual.

This bill would also increase the annual cap for Neighborhood Assistance Act Tax Credits from $11.9 million to $15 million. The credit cap for education proposals would be increased from $4.9 million to $8 million and the credit cap for all other proposals would remain at $7 million. The percentage increase would not have an impact on donations related to education because the percentage increase and credit cap increase offset each other. For non-education donations, the percentage of credit is increased, but the credit cap is not increased. As a result, donors would receive a greater credit for the same amount of donation, and later donors may not receive credit for their donations. To the extent that donors decide not to donate because there are not sufficient credits, this bill could potentially decrease the amount of donations to neighborhood organizations participating in the program under the Department of Social Services.

In addition to the percentage and cap changes, this bill would make changes to the current allocation procedures. Under current law, if the amount of tax credits requested by neighborhood organizations and approved by the Superintendent for education proposals is less than $4.9 million, the balance of such amount is allocated to programs for approval by the Commissioner of the Department of Social Services. Under this bill, any balance after credits for education proposals have been allocated would not be allocated to other programs approved by the Department of Social Services. Rather, if either the Department of Social Services or Department of Education has a balance of tax credits remaining after the initial allocation of tax credits to approved proposals, then the Commissioner of the Department of Social Services or the Superintendent of Public Instruction, as applicable, would reallocate the remaining balance of tax credits to such previously approved proposals to the extent that a neighborhood organization can use or allocate additional tax credits for the previously approved proposal. The $500,000 annual limitation for tax credits approved to a grouping of neighborhood organization affiliates would be applicable to the extent of any such reallocation. The balance of credits remaining for allocation would include the amount of tax credits that have been granted fro a proposal approved during the initial allocation but for which the Commissioner of the Department of Social Services or the Superintendent of Public Instruction has been provided notice by the neighborhood organization that it will not be able to use or allocate such amount for the approved proposal.

This bill would also expand the existing requirements for neighborhood organizations. Currently, to qualify as a neighborhood organization, at least 50 percent of the persons served by the organization must be impoverished people with annual family income not in excess of 200 percent of the current poverty guidelines. Additionally, education proposals are considered to be any type of scholastic instruction or scholastic assistance to an individual with family income not in excess of 200 percent of the current poverty guidelines. This bill would expand these requirements to include assistance provided to an individual with a family annual household income not in excess of 300 percent of the current poverty guidelines, or an eligible student with a disability. For purposes of this bill, an "eligible student with a disability" would be defined as a student (i) for whom an individualized educational program has been written and finalized in accordance with the federal Individuals with Disabilities Education Act (IDEA), regulations promulgated pursuant to IDEA, and regulations of the Board of Education, and (ii) whose family's annual household income is not in excess of 400 percent of the current poverty guidelines.

This bill would also extend the sunset date for the Neighborhood Assistance Act Tax Credit program to July 1, 2017. The effective date for the provisions relating to the Neighborhood Assistance Act Tax Credit is not specified.

Proposed Legislation – Education Improvement Scholarships Tax Credit

Under this bill, a taxpayer would be able to earn a credit against the individual income tax, corporate income tax, bank franchise tax, insurance premiums license tax, or tax on public service corporations equal to 65 percent of the monetary donation made to a scholarship foundation. The credit would be allowed to be claimed for the taxable year following the year of contribution. For taxpayers making estimated tax payments, the credit would be prorated equally against estimated tax payments made in the third and fourth quarters of the taxable year in which the credit may be claimed, and the final tax payment.

No tax credit would be allowed if the monetary donation is less than $500. No more than $50,000 in tax credits would be permitted to be issued to an individual or to married persons in a taxable year. The $50,000 limitation would not apply to credits issued to any business entity, including a sole proprietorship.

Tax credits would be awarded to taxpayers on a first-come, first-served basis in accordance with procedures established by the Department of Education. The total amount of credits available in any given fiscal year would be capped at $25 million. Any unused tax credits would be carried over for the next five succeeding taxable years or until the total amount of credit has been taken, whichever is sooner.

Taxpayers would be required to request and receive preauthorization for a specified tax credit amount from the Superintendent of Public Instruction. The preauthorization notice would accompany the donation from the taxpayer to the scholarship foundation. The scholarship foundation would be required to return the notice to the Department of

Education within 20 days certifying the amount of the donation and date received. A taxpayer would be required to make the preauthorized contribution within 60 days of issuance of the notice.

In addition to being preauthorized, taxpayers claiming credit for a contribution would be required to submit verification from each scholarship foundation to which monetary donations have been made. (Note: The receiving scholarship foundation would have to be on the annual list of approved scholarship foundations published pursuant to the legislation in order for the tax credit to be approved.)

Proposed Legislation – Requirements for Scholarship Foundations

Scholarship foundations would be required to apply to the Department of Education in order to be approved to receive and administer tax credit-approved funds. The Department of Education would be required to issue a notice of approval or denial, including reasons for denial to the applicant within 60 days after the application is submitted. A "scholarship foundation" would be defined as a nonstock, nonprofit corporation that is exempt from taxation under IRC § 501(c)(3), that has been approved by the Department of Education, and that is established to provide financial aid for the education of students residing in the Commonwealth.

This bill requires that a qualified scholarship foundation be organized as a § 501(c)(3) tax-exempt charity. To qualify as a tax-exempt charity, an organization must be organized and operated exclusively for one or more of the following exempt purposes: religious, charitable, scientific, testing for public safety, literary, educational, national or international amateur sports competition, and the prevention of cruelty to children or animals. The charity must also meet several other stringent requirements, including that no part of the net earnings of the organization may inure to the benefit of any private individuals; the organization must serve a public interest, rather than benefit a private individual or entity; the organization may not become heavily involved in disseminating propaganda or influencing legislation; and the organization may not participate or intervene in political campaigns. Additionally, the organization must benefit a charitable class, rather than specified individuals, and must not be operated contrary to public policy.

To receive tax-exempt status, an organization must file a 30-page application with the IRS, in which the organization must provide information demonstrating that it has met the above requirements. Upon recognition as a tax-exempt entity, the organization is then required to file an annual information return with the IRS, in which the organization must answer questions to show that it is continuing to comply with these requirements. A non-profit that fails to meet any requirement may be subject to the revocation of its tax-exempt status, meaning that it would no longer be considered a qualified scholarship foundation under this bill.

A scholarship foundation would be required to disburse at least 90 percent of the amount of each donation for which a tax credit may be received within one year of such donation for "qualified educational expenses" through scholarships. Any scholarship foundation that fails to disburse at least 90 percent of any donated amount within one year would be removed from the annual list published by the Department of Education and would not be entitled to request preauthorization for additional tax credits, nor would it be entitled to receive and administer additional tax credit-derived funds. Tax credit-derived funds not used for such scholarships would be permitted to be used only for the administrative expenses of the scholarship foundation. "Qualified educational expenses" would mean school-related tuition and instructional fees and materials, including textbooks, workbooks, and supplies used solely for school-related work. Scholarship foundations would be required to provide receipts to individual taxpayers for their contributions.

By September 30 of each year, the scholarship foundation would be required to provide the following information to the Department of Education:

- The total number and dollar amount of contributions received between September 1 of the prior calendar year and September 1 of the current calendar year,
- The dates when such contributions were received, and
- The total number and dollar amount of qualified educational expenses scholarships awarded for the school year that began during the current calendar year

Any scholarship foundation that fails to provide this report by September 30 would be removed from the annual list published by the Department of Education and would not be entitled to request preauthorization for additional tax credits, nor would it be entitled to receive and administer additional tax credit-derived funds.

In awarding scholarships from tax credit-derived funds, the scholarship foundation would be required to (i) provide scholarships for qualified educational expenses only to students whose family's annual household income is not in excess of 300 percent of the current poverty guidelines or any eligible student with a disability; (ii) not limit scholarships to students of one school; and (iii) comply with Title VI of the Civil Rights Act of 1964. Because data about which students qualify for the federal program is confidential, scholarship foundations would need to obtain consent from parents to access data about whether the student qualifies for this program. In mailing scholarship payments, the eligible scholarship foundation would be required to include a written notice to the eligible school that the source of the scholarship was donations made by taxpayers receiving tax credits.

Scholarship foundations would also be required to ensure that schools selected by students to which tax credit-derived funds may be paid (i) are in compliance with the Commonwealth's and locality's health and safety laws and codes; (ii) hold a valid occupancy permit as required by the locality; (iii) comply with Title VI of the Civil Rights Act of 1964; and (iv) comply with nonpublic school accreditation requirements administered by the Virginia Council for Private Education or maintain an assessment system that annually measures scholarship students' progress in reading and math using a national norm-referenced achievement test.

Eligible schools would be required to compile the results of any national norm-referenced achievement test for each of its students receiving tax credit-derived scholarships and provide the respective parents or legal guardians of such students with a copy of the results on an annual basis, beginning with the first year of testing of the student. Such schools would also be required to provide the Department of Education the annual achievement test results for each student, as well as student information that would allow the Department to aggregate the achievement test results by grade level, gender, family income level, number of years of participation in the scholarship program, and race. Beginning with the third year of testing of each such student and test-related data collection, the Department of Education would be required to publish the achievement test results and associated learning gains on the Department of Education's website in accordance with such classifications and in an aggregate form as to prevent the identification of any student. Eligible schools would be required to provide to the Superintendent of Public Instruction graduation rates of its students participating in the scholarship program in a manner consistent with nationally recognized standards. In publishing and disseminating achievement test results and other information, the Superintendent of Public Instruction and the Department of Education would be required to comply with all student privacy laws.

The aggregate amount of scholarships provided to each child for any single school year by all eligible scholarship foundations from eligible donations would not be allowed to exceed the lesser of: (i) the actual qualified educational expenses, or (ii) 100 percent of the per-pupil amount distributed to the local school division in which the student resides as the state's share of the standards of quality costs using the composite index of ability to pay as defined in the general Appropriations Act.

Scholarship foundations would be required to develop procedures for disbursing scholarships in periodic payments throughout the school year to ensure scholarships are portable.

This credit would be effective for taxable years beginning on and after January 1, 2013.

Florida Tax Credit Scholarship Program

Florida offers a similar tax credit for corporations equal to the amount of eligible contributions made to nonprofit scholarship funding organizations. The credit may not exceed 75 percent of the tax due after applying other allowable credits. Additionally, any scholarships generated by this program are capped at $4,100 per student.

For the 2011 fiscal year, this credit was limited to $140 million. For all fiscal years thereafter, the credit cap is equal to the credit cap amount in the prior fiscal year, but is increased by 25 percent in any fiscal year when the annual tax credit amount claimed for the prior year is at least 90 percent of the tax credit cap amount.

Any unused credit amount may be carried forward for three years. The credit is not transferable or refundable.

Several studies have demonstrated the savings generated from the Florida program. In a research memorandum on the fiscal impact of the tax credit scholarship program in FY 2009, the Florida Office of Program Policy Analysis and Government Accountability (OPPAGA) estimated that the scholarship program saved $36.2 million. In a 2008 report on the tax credit scholarship program, OPPAGA had previously estimated that the number of scholarship recipients had increased over time, from 11,550 in FY 2004 to 21,493 in FY 2008. Additionally, in the 2008 report, OPPAGA estimated a net savings of $38.9 million in FY 2008.

Likewise, in its report entitled “The Florida Corporate Income Tax Credit Scholarship Program: Updated Fiscal Analysis, February 2007,” the Collins Center for Public Policy concluded that general revenue funds for K-12 public education did not decline as a result of the tax credit scholarship program, but actually increased more than $2 billion over a three year period, from $13.6 billion in FY 2002 to $15.7 billion in FY 2004. The study also found that Florida had accrued nearly $140 million in public school revenues since 2002 as a result of the savings generated by the difference between the scholarship and the value of per pupil state and local revenue for K-12 education.

In its 2008 report, OPPAGA reported that 75 percent of the scholarship recipients were minority students. According to this report, 34 percent of participating students were African American, 35 percent were Hispanic, 25 percent were Caucasian, 2 percent were Asian, and the remaining 4 percent were other ethnicities. A 2010 study conducted by the University of Florida indicated that Florida’s program is attracting students who have significant academic problems in public schools.

According to the Thomas Jefferson Institute, the Florida scholarship program generated 15,585 scholarships during the first year of operation, which was approximately 1.4 percent of eligible students. Participation declined slightly during the following two years, but rose to 1.2 percent in the fourth year and has continued to increase every year since. During the 2010-2011 academic year, 34,550 scholarships were awarded, with a participation rate of 2.3 percent of eligible students.

Current Tax Credit Reports

The Department issues an annual Corporate Tax Preferences Report to the members of the House Appropriations, House Finance, and Senate Finance Committees. Among other data, this report includes the dollar amount of corporate income credits claimed by corporations. This report also includes summary information regarding the types of taxpayers that claim corporate income tax relief. The most recent report is R.D. 238.

Beginning in 2011, the Department publishes an annual fiscal year tax credit report as part of its annual report. This report shows the number of individual and corporate taxpayers that claim each tax credit and the dollar amount of tax credits that are claimed each fiscal year. The most recent report can be found on the Department’s website at www.tax.virginia.gov.

Proposed Legislation – Reporting Requirements

This bill would require the Department of Taxation to submit a report concerning the Neighborhood Assistance Act and Educational Improvement Scholarships Tax Credits to the House Appropriations, House Finance, and Senate Finance Committees no later than November 15 of the year immediately preceding the sunset date of the credits. Such reports would include the following information:

- The number of persons, individuals, or other classes of taxpayers claiming the credit in each of the immediately preceding five years;
- The aggregate amount of credits claimed in each of the preceding five years by each class of taxpayers;

- The average amount of credit claimed by each class of taxpayers in each of the preceding five years;
- The average amount of taxes paid, after claiming any credits or deductions, by each class of taxpayers claiming the tax credit in each of the preceding five years;
- Any noted trends in the use of the tax credit; and
- Any other information deemed relevant by the Department.

All other agencies of the Commonwealth involved in the administration of the credit would be required to provide information requested by the Department.

Although the bill would require the report to provide information on the preceding five taxable years, data for only two taxable years of the Education Improvement Scholarships Tax Credit would be available by November 15, 2017. The first returns for the 2014 taxable year would be due April 15, 2015, but taxpayers may elect a six-month extension until October 15, 2015. In addition, taxpayers reporting on a fiscal year that begins during calendar year 2014 could be filing under an extended due date as late as September 15, 2016, and the Department would need a few months to process, validate and analyze the data. Therefore, by November 15, 2017, the Department would have data for the 2014 taxable year and most of the 2015 taxable year.

Three taxable years of data for the Neighborhood Assistance Act Tax Credit would be available by the November 15, 2016 reporting deadline. The first returns for the 2012 taxable year would be due April 15, 2013, but taxpayers may elect a six-month extension until October 15, 2013. In addition, taxpayers reporting on a fiscal year that begins during calendar year 2012 could be filing under an extended due date as late as September 15, 2014, and the Department would need a few months to process, validate and analyze the data. Therefore, by November 15, 2016, the Department would have data for taxable years 2012, 2013, and most of 2014.

Similar Legislation

**House Bill 321** would create a similar tax credit, effective for taxable years beginning on or after January 1, 2012.

**House Bill 368** would expand the professional services eligible for tax credits under the Neighborhood Assistance Act to include services provided by mediators certified by the Judicial Council of Virginia.

**Senate Bill 680** would decrease the minimum percentage of impoverished persons that neighborhood organizations approved by the Board of Social Services must serve from 50 to 40 percent.

cc : Secretary of Finance

Date: 2/26/2012 KLC
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