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**HOUSE BILL NO. 68**

Offered January 12, 2000

Prefiled January 10, 2000

*A BILL to amend the Code of Virginia by adding in Chapter 3 of Title 58.1 an article numbered 3.1, consisting of sections numbered 58.1-339.8 through 58.1-339.13, relating to income tax credits for donations to school tuition organizations and for payment of certain costs associated with the enrollment of children in certain schools; the Virginia Children's Educational Opportunity Act 2000.*

Patrons—Katzen, Black, Byron, Cantor, Cox, Davis, Drake, Hargrove, Harris, Landes, Louderback, Marshall, McClure, McDonnell, Nixon, O'Brien, Ruff and Ware; Senators: Martin and Rerras

Referred to Committee on Finance

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Chapter 3 of Title 58.1 an article numbered 3.1, consisting of sections numbered 58.1-339.8 through 58.1-339.13, as follows:**

*Article 3.1.**Virginia Children's Educational Opportunity Act 2000.**§ 58.1-339.8. Definitions.*

*For the purposes of this chapter:*

*"Academic instruction" means instruction in reading, writing, mathematics, science, history (including art and music history), geography, social studies (including government and citizenship), literature, philosophy, and foreign languages.*

*"Household" means a taxpayer, the taxpayer's spouse residing or domiciled with the taxpayer, and any person claimed as a dependent on the taxpayer's income tax return for the taxable year.*

*"Low-income household" means a household for which the combined Virginia adjusted gross income for the most recent complete tax year does not exceed 185 percent of the poverty guideline amount corresponding to a household of an equal number of persons as listed in the poverty guidelines published during the applicable taxable year.*

*"Poverty guidelines" means the poverty guidelines for the forty-eight contiguous states and the District of Columbia updated annually in the Federal Register by the U.S. Department of Health and Human Services under the authority of § 673 (2) of the Omnibus Budget Reconciliation Act of 1981.*

*"Qualified school" means either (i) a public elementary or secondary school or (ii) a private educational program, including home schooling, that can be used to satisfy the compulsory school attendance requirements of § 22.1-254.*

*"Qualifying educational expenses" means (i) with respect to a qualified school other than a home school, instructional fees such as tuition charged by the qualified school; and (ii) with respect to home schooling in kindergarten through grade twelve, amounts paid for textbooks, workbooks, curricula, and other written materials used for academic instruction, and tutoring fees charged by an individual teacher or a home school correspondence school for academic instruction, so long as the charges originate from someone other than the taxpayer claiming a credit for such charges under this definition.*

*"School tuition organization" means a charitable organization in Virginia that is exempt from taxation under § 501 (c) (3) of the Internal Revenue Code, and is organized in whole or in part to provide financial assistance for the education of children who are eligible to be enrolled in a public school in Virginia free of charge pursuant to § 22.1-3 and who are (i) claimed as dependents by taxpayers in low-income households or (ii) claimed as dependents by taxpayers who are not in low-income households, but whose tax liability for the most recently completed tax year, excluding any allowance for credits claimed pursuant to § 58.1-339.9 or § 58.1-339.10, did not exceed the maximum allowable credit under § 58.1-339.10 for the current tax year. To qualify as a school tuition organization, the organization must expend all of its tax credit-qualifying contributions as payments to cover the qualifying educational expenses of such children at qualified schools of the parents' choice. All tax credit-qualifying contributions must be expended by the end of the first complete tax year following the date that the qualifying contribution is received. Payments from tax credit-qualifying contributions for the qualifying educational expenses of a child who is not in a low income household may not exceed 80% of such expenses, reduced further by the estimated amount for which the parent will be able to claim a tax credit. In no event shall financial assistance provided from tax credit-qualifying contributions exceed \$3,100 per recipient child per school year for a child enrolled in a qualified school charging tuition, or \$550 per recipient child per school year for home schooling or other educational programs that do not require the payment of tuition.*

INTRODUCED

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60 "Tax credit-qualifying revenues" means those voluntary cash contributions to a school tuition  
61 organization for which a receipt satisfying the requirements of § 58.1-339.11 has been given by the  
62 school tuition organization to the donor of the cash contribution.

63 § 58.1-339.9. Tax credit for contributions to school tuition organizations.

64 A. For taxable years beginning on and after January 1, 2001, any taxpayer shall be allowed a  
65 nonrefundable credit against any tax imposed pursuant to § 58.1-320 or § 58.1-400 for voluntary cash  
66 contributions made by the taxpayer to a school tuition organization, provided that the contributions to  
67 the school tuition organization cannot be designated for the direct benefit of any specific child.

68 B. The amount of the credit allowed to a taxpayer under subsection A shall not exceed the lesser of  
69 the total amount of the tax imposed on the taxpayer pursuant to § 58.1-320 or § 58.1-400 for the  
70 taxable year or (i) for taxable year 2001, \$200 per taxpayer; (ii) for taxable year 2002, \$300 per  
71 taxpayer; (iii) for taxable year 2003, \$400 per taxpayer; and (iv) for taxable years 2004 and thereafter,  
72 \$500 per taxpayer.

73 C. Amounts claimed under this section shall not also be claimed as an itemized charitable deduction  
74 when computing the taxpayer's liability for taxes under § 58.1-320 or § 58.1-400.

75 § 58.1-339.10. Tax credit for certain qualifying educational expenses.

76 A. For taxable years beginning on and after January 1, 2001, a taxpayer shall be allowed a  
77 nonrefundable credit against any tax imposed pursuant to § 58.1-320 for a percentage of the qualifying  
78 educational expenses incurred during the taxable year on behalf of each child of the taxpayer who (i) is  
79 eligible to be enrolled in a public school in Virginia free of charge pursuant to § 22.1-3; and (ii)  
80 qualifies as the taxpayer's dependent for federal income tax purposes.

81 B. 1. Subject to the provisions of subdivision B 4 below, the credit shall be for 100 percent of the  
82 qualifying educational expenses incurred during the taxable year on behalf of each such child by a  
83 taxpayer in a low-income household.

84 2. Subject to the provisions of subdivisions B 3 and B 4 below, the credit shall be for eighty percent  
85 of the qualifying educational expenses incurred during the taxable year on behalf of each such child of  
86 a taxpayer that is not in a low-income household.

87 3. If the taxpayer is not a member of a low-income household, then in no event shall the amount of  
88 the credit per child allowed pursuant to this subsection B in any taxable year, including carry-over  
89 credits allowed by subsection D, (i) for taxable year 2001 exceed \$500; (ii) for taxable year 2002  
90 exceed \$1,000; (iii) for taxable year 2003 exceed \$1,500; (iv) for taxable year 2004 exceed \$2,000; and  
91 (v) for taxable years 2005 and thereafter exceed \$2,500.

92 4. For a child enrolled in a qualified school that is not a school charging tuition, in no event shall  
93 the amount of the credit allowed pursuant to this section in any taxable year exceed \$550 per child.

94 C. For purposes of determining whether a taxpayer has claimed the maximum allowable credit  
95 pursuant to this subsection for a tax year, financial assistance received from a school tuition  
96 organization shall be treated by the taxpayer as a credit claimed.

97 D. Amounts claimed under this section shall not also be claimed as an itemized deduction when  
98 computing the taxpayer's liability for taxes under § 58.1-320.

99 § 58.1-339.11. Forms; regulations.

100 A. The Department of Taxation is authorized to require a taxpayer to submit with the tax return  
101 copies of such receipts or similar financial documentation as is necessary to confirm the taxpayer's  
102 claim of the credit.

103 B. The Department of Taxation shall promulgate regulations required to implement this article. The  
104 regulations shall (i) modify the state individual and corporate tax forms, directions, and worksheets to  
105 provide a convenient way for taxpayers to claim a credit under this article; (ii) provide a format for a  
106 standardized receipt to be issued by school tuition organizations to indicate the tax credit value of a  
107 cash contribution to the school tuition organization, and including the date of the receipt, the name of  
108 the donor, the total amount of the contribution, the amount of the donation that can be claimed for a  
109 tax credit, the name of the school tuition organization, and the printed name and signature of the agent  
110 issuing the receipt on behalf of the school tuition organization; and (iii) provide a format for a  
111 standardized receipt to be issued by qualified schools at the conclusion of a student's period of  
112 instruction for which qualifying educational expenses have been paid, and including the date of the  
113 receipt, the dates of the student's enrollment for which expenses are being paid, the name of the person  
114 paying the expense, the total expenses, the portion of the amount paid toward qualifying educational  
115 expenses, the name of the qualified school, and the printed name and signature of the agent issuing the  
116 receipt on behalf of the qualified school.

117 C. Regardless of what documentation the Department of Taxation may require for purposes of  
118 allowing credit for payments of qualifying educational expenses, no school or other organization shall  
119 be required to provide such documentation or otherwise act to facilitate taxpayers' access to credits  
120 under this article, except that schools may be required to fulfill a prior agreement to a taxpayer to  
121 provide such information.

§ 58.1-339.12. *Limitation on regulations.*

A. *Eligibility of a school or other educational program to be considered a qualified school under this article shall not be conditioned on a school's compliance with any state law or regulation not applicable to all private schools or providers of home schooling in the Commonwealth, with the exception of the financial documentation requirements authorized by § 58.1-339.11.*

B. *The General Assembly intends that the credits authorized by this article not result in any additional regulation of public or private schools or taxpayers' decisions about the education of their dependent children, except to the minimal extent necessary to provide for the prevention of fraud and the efficient administration of the credits.*

§ 58.1-339.13. *Annual reports.*

A. *The Tax Commissioner shall determine annually, by type of credit and level of taxable income, the total amount of credits claimed under this article on all state income tax returns and shall report the same to the Secretary of Finance and the Secretary of Education.*

B. *Within sixty days preceding each regular session of the General Assembly, the Secretary of Finance and the Secretary of Education shall present a report to the Chairmen of the Senate Committee on Finance, the House Committee on Appropriations, and the House Committee on Finance projecting, as of the date of the report, the total amount of credits expected to be claimed under this article on returns for the current taxable year and the following taxable year.*