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HOUSE BILL NO. 1119

Offered January 9, 2002

Prefiled January 9, 2002

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 58.1-339.11 through 58.1-339.15, relating to income tax credits for donations to school tuition organizations; the Virginia Children's Educational Opportunity Act 2002.

Patrons—Lingamfelter, Black and Cole

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 58.1-339.11 through 58.1-339.15, as follows:

*Article 3.1.**Virginia Children's Educational Opportunity Act 2002.**§ 58.1-339.11. 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, foreign languages, and career and technical education.

"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.

"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, educational supplies and materials, 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 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. 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 without limiting the availability of such contributions to students of only one school. 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. Any funds not expended by the end of such tax year following the date that the qualifying contributions are received must be remitted to the General Fund in accordance with regulations to be developed by the Department of Taxation. In no event shall financial assistance provided from tax-credit-qualifying contributions exceed \$3,100 per recipient child per school year for a child of a low-income household enrolled in a qualified school charging tuition; nor shall the scholarship exceed \$550 per recipient child per school year for home schooling or other educational programs that do not require the payment of tuition.

The parent of every child attending a private school or being home schooled and receiving a school tuition organization scholarship shall provide such organization by August 1 following the school year for which the scholarship was awarded with either (i) evidence that the child has attained a composite score in or above the fourth stanine on a battery of achievement tests that have been approved by the Board of Education or (ii) an evaluation or assessment from the private school that indicates the child is achieving an adequate level of educational growth and progress. Any child failing to attain such a score or evaluation or whose parent fails to submit such information shall be ineligible to receive additional scholarships in accordance with this section until the parent has submitted such information.

"Tax-credit-qualifying revenues" means those voluntary cash contributions to a school tuition

INTRODUCED

HB1119

59 organization for which a receipt satisfying the requirements of § 58.1-339.13 has been given by the
60 school tuition organization to the donor of the cash contribution.

61 § 58.1-339.12. Tax credit for contributions to school tuition organizations.

62 A. For taxable years beginning on or after January 1, 2003, any taxpayer shall be allowed a
63 nonrefundable credit against any tax imposed pursuant to § 58.1-320 or § 58.1-400 for voluntary cash
64 contributions made by the taxpayer to a school tuition organization, provided that the contributions to
65 the school tuition organization cannot be designated for the direct benefit of any specific child.

66 B. The amount of the credit allowed to a taxpayer annually under subsection A shall not exceed the
67 lesser of the total amount of the tax imposed on the taxpayer pursuant to § 58.1-320 or § 58.1-400 for
68 the taxable year, or (ii) for taxable year 2003, \$200 per taxpayer; (ii) for taxable year 2004, \$300 per
69 taxpayer; (iii) for taxable year 2005, \$400 per taxpayer; and (iv) for taxable year 2006 and thereafter,
70 \$500 per taxpayer.

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

73 § 58.1-339.13. Forms; regulations.

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

77 B. The Department of Taxation shall promulgate regulations required to implement this article. The
78 regulations shall (i) modify the state individual and corporate tax forms, directions, and worksheets to
79 provide a convenient way for taxpayers to claim a credit under this article; (ii) provide a format for a
80 standardized receipt to be issued by school tuition organizations to indicate the tax credit value of a
81 cash contribution to the school tuition organization, and to include the date of the receipt, the name of
82 the donor, the total amount of the contribution, the amount of the donation that can be claimed for a
83 tax credit, the name of the school tuition organization, and the printed name and signature of the agent
84 issuing the receipt on behalf of the school tuition organization; and (iii) provide a format for a
85 standardized receipt to be issued by qualified schools at the conclusion of a student's period of
86 instruction for which qualifying educational expenses have been paid, and to include the date of the
87 receipt, the dates of the student's enrollment for which expenses are being paid, the name of the person
88 paying the expense, the total expenses, the portion of the amount paid toward qualifying educational
89 expenses, the name of the qualified school, and the printed name and signature of the agent issuing the
90 receipt on behalf of the qualified school.

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

96 § 58.1-339.14. Limitation on regulations.

97 A. Eligibility of a school or other educational program to be considered a qualified school under
98 this article shall not be conditioned on a school's compliance with any state law or regulation not
99 applicable to all private schools or providers of home schooling in the Commonwealth, with the
100 exception of the financial documentation requirements authorized by § 58.1-339.13.

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

105 § 58.1-339.15. Annual reports.

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

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

114 **2. That the Board of Education shall develop guidelines and testing requirements similar to those**
115 **required for home school instruction of children and shall make such requirements available to**
116 **school tuition organizations to be used in determining which private school students shall be**
117 **eligible to receive scholarships annually.**