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SENATE BILL NO. 1160

Offered January 9, 2019

Prefiled January 2, 2019

A *BILL to amend and reenact §§ 58.1-439.20:1 and 58.1-439.25 through 58.1-439.28 of the Code of Virginia and to amend the Code of Virginia by adding in Article 13.3 of Chapter 3 of Title 58.1 sections numbered 58.1-439.29 and 58.1-439.30, relating to income tax credits related to education; neighborhood organizations.*

Patron—Ruff

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-439.20:1 and 58.1-439.25 through 58.1-439.28 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 13.3 of Chapter 3 of Title 58.1 sections numbered 58.1-439.29 and 58.1-439.30 as follows:

§ 58.1-439.20:1. Proposals to the Department of Education; guidelines; tax credits authorized.

A. Any neighborhood organization may submit education proposals to the Superintendent of Public Instruction requesting an allocation of tax credits for use by business firms *and individuals* making donations to the neighborhood organization. All other neighborhood organization proposals shall be submitted to the Commissioner or Social Services pursuant to § 58.1-439.20.

The proposal shall set forth the program to be conducted by the neighborhood organization, the low-income persons or eligible students with disabilities to be assisted, the estimated amount to be donated to the program, and the plans for implementing the program.

B. 1. The Department of Education is hereby authorized to adopt guidelines for the approval or disapproval of such proposals by neighborhood organizations and for determining the value of the donations.

2. In order to be eligible to receive an allocation of tax credits pursuant to this article, a neighborhood organization shall have been in existence for at least one year. As a prerequisite for approval, neighborhood organizations with total revenues of (i) more than \$100,000 shall provide to the Department of Education an audit or review for the most recent year or (ii) \$100,000 or less shall provide to the Department of Education a compilation for the most recent year. Such audit, review, or compilation shall be performed by an independent certified public accountant. For purposes of this subdivision, "total revenues" means all revenues, including the value of all donations, for the organization's most recent year. No proposal for an allocation of tax credits shall be untimely filed solely because such audit, review, or compilation was not submitted by the neighborhood organization by the proposal filing deadline, provided that the audit, review, or compilation is submitted to the Superintendent of Public Instruction within the 30-day period immediately following such deadline.

3. In order to be eligible to receive an allocation of credits pursuant to this article, at least 50 percent of the persons served by the neighborhood organization shall be low-income persons or eligible students with disabilities and at least 50 percent of the neighborhood organization's revenues shall be used to provide services to low-income persons or to eligible students with disabilities. Expenditures for teacher salaries shall count toward the requirement that at least 50 percent of revenues be used to provide services to low-income persons or to eligible students with disabilities.

4. In order for a proposal to be approved, an applicant neighborhood organization and any of its affiliates shall meet the requirements of this section and the application guidelines. However, beginning with tax credit allocations for fiscal year 2014-2015 and ending with tax credit allocations for fiscal year 2019-2020, such requirement for a proposal submitted by a neighborhood organization to the Superintendent of Public Instruction shall not apply in determining eligibility of the neighborhood organization submitting the proposal, provided that (i) the neighborhood organization otherwise meets all statutory requirements and regulations, (ii) the neighborhood organization received a fiscal year 2011-2012 allocation of neighborhood assistance tax credits, and (iii) no affiliate of the neighborhood organization submits a proposal for or receives an allocation of tax credits pursuant to this article for the program year for which the neighborhood organization has submitted its proposal.

5. The guidelines shall provide for the equitable allocation of the available amount of tax credits among the approved proposals submitted by neighborhood organizations. *In making such equitable allocation of credits, the Superintendent shall consider the portion of a neighborhood organization's total revenues that are used to serve low-income persons and eligible students with disabilities and shall not rely solely on the amount of credits allocated to the neighborhood organization in the prior year in*

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59 *allocating available credits.* In any year in which the available amount of tax credits exceeds the
60 previous year's available amount, at least 10 percent of the excess amount shall be allocated to qualified
61 programs proposed by neighborhood organizations that did not receive any allocations in the preceding
62 year. If the amount of tax credits requested by such neighborhood organizations is less than 10 percent
63 of the excess amount, the unallocated portion of such 10 percent shall be allocated to qualified programs
64 proposed by other neighborhood organizations.

65 C. 1. If the Superintendent of Public Instruction approves a proposal submitted by a neighborhood
66 organization, the organization shall make the allocated tax credit amounts available to business firms *and*
67 *individuals* making donations to the approved program. A neighborhood organization shall not assign or
68 transfer an allocation of tax credits to another neighborhood organization without the approval of the
69 Superintendent of Public Instruction.

70 2. Notwithstanding any other provision of law, no more than an aggregate of \$0.825 million in tax
71 credits shall be approved in a fiscal year to a neighborhood organization or to a grouping of
72 neighborhood organization affiliates for all education proposals.

73 3. If, after the initial allocation of credits to approved proposals, the Department of Education has a
74 balance of tax credits remaining for the fiscal year that can be used or allocated by a neighborhood
75 organization for a proposal that had been approved for tax credits during the initial allocation, then the
76 Superintendent of Public Instruction shall reallocate the remaining balance of tax credits to such
77 previously approved proposals to the extent that a neighborhood organization can use or allocate
78 additional tax credits for the previously approved proposal. The \$0.825 million annual limitations for tax
79 credits approved to a grouping of neighborhood organization affiliates shall be inapplicable for such
80 reallocation of any balance of tax credits. The balance of tax credits remaining for reallocation shall
81 include the amount of any tax credits that have been granted for a proposal approved during the initial
82 allocation but for which the Superintendent of Public Instruction received notice from the neighborhood
83 organization that it will not be able to use or allocate such amount for the approved proposal.

84 D. The total amount of tax credits granted for programs approved by the Superintendent of Public
85 Instruction under this article for each fiscal year shall not exceed \$9 million for fiscal year 2015-2016
86 and each fiscal year thereafter.

87 The Superintendent of Public Instruction shall work cooperatively with the Commissioner of Social
88 Services for purposes of ensuring that neighborhood organization proposals are submitted to the proper
89 state agency. The Superintendent of Public Instruction may request the assistance of the Department of
90 Taxation for purposes of determining whether or not anticipated donations for which tax credits are
91 requested by a neighborhood organization likely qualify as a charitable donation under federal tax laws
92 and regulations.

93 E. Actions of the Superintendent of Public Instruction or the Department of Education relating to the
94 review of neighborhood organization proposals and the allocation of tax credits to proposals shall be
95 exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.). Decisions of the
96 Superintendent of Public Instruction or the Department of Education shall be final and not subject to
97 review or appeal.

98 **§ 58.1-439.25. Definitions.**

99 As used in this article, unless the context requires a different meaning:

100 "Eligible student with a disability" means a student (i) for whom an individualized educational
101 program has been written and finalized in accordance with the federal Individuals with Disabilities
102 Education Act (IDEA), regulations promulgated pursuant to IDEA, and regulations of the Board of
103 Education; (ii) whose family's annual household income is not in excess of 400 percent of the current
104 poverty guidelines; and (iii) who otherwise is a student as defined in this section.

105 "Poverty guidelines" means the poverty guidelines for the 48 contiguous states and the District of
106 Columbia updated annually in the Federal Register by the U.S. Department of Health and Human
107 Services under the authority of § 673(2) of the Omnibus Budget Reconciliation Act of 1981.

108 "Qualified educational expenses" means school-related tuition and instructional fees and materials,
109 including textbooks, workbooks, and supplies used solely for school-related work.

110 "Scholarship foundation" means a nonstock, nonprofit corporation that is (i) exempt from taxation
111 under § 501(c)(3) of the Internal Revenue Code of 1954, as amended or renumbered; (ii) approved by
112 the Department of Education in accordance with the provisions of § 58.1-439.27; and (iii) established to
113 provide financial aid for the education of students residing in the Commonwealth.

114 "Scholastic assistance" means counseling or supportive services to elementary or secondary school
115 students or their parents in developing a postsecondary academic or vocational education plan,
116 including college financing options for such students or their parents, provided by a scholastic
117 assistance organization at a public school with which the organization is under contract.

118 "Scholastic assistance organization" means a neighborhood organization, as defined in § 58.1-439.18,
119 that also meets the eligibility requirements set forth in subdivision B 3 of § 58.1-439.20:1 and works
120 under contract with a public school in the Commonwealth to provide scholastic assistance.

"Student" means a child who is a resident of Virginia and (i) in the current school year has enrolled and attended a public school in the Commonwealth for at least one-half of the year, (ii) for the school year that immediately preceded his receipt of a scholarship foundation scholarship was enrolled and attended a public school in the Commonwealth for at least one-half of the year, (iii) is a prior recipient of a scholarship foundation scholarship, (iv) is eligible to enter kindergarten or first grade, or (v) for the school year that immediately preceded his receipt of a scholarship foundation scholarship was domiciled in a state other than the Commonwealth and did not attend a nonpublic school in the Commonwealth for more than one-half of the school year.

§ 58.1-439.26. Tax credit for donations to certain scholarship foundations and scholastic assistance organizations.

A. Notwithstanding the provisions of § 30-19.1:11, for taxable years beginning on or after January 1, 2013, but before January 1, 2028, a person shall be eligible to earn a credit against any tax due under Article 2 (§ 58.1-320 et seq.) or Article 10 (§ 58.1-400 et seq.), Chapter 12 (§ 58.1-1200 et seq.), Chapter 25 (§ 58.1-2500 et seq.), or Article 2 (§ 58.1-2620 et seq.) of Chapter 26 in an amount equal to 65 percent of the value of the monetary or marketable securities donation made by the person to a scholarship foundation *or scholastic assistance organization* included on the list published annually by the Department of Education in accordance with the provisions of ~~§ 58.1-439.28~~ § 58.1-439.27.

No tax credit shall be allowed under this article if the value of the monetary or marketable securities donation made by an individual is less than \$500. In addition, tax credits shall be issued only for the first \$125,000 in value of donations made by the individual during the taxable year. The maximum aggregate donations of \$125,000 for the taxable year for which tax credits may be issued and the minimum required donation of \$500 shall apply on an individual basis. Such limitation on the maximum amount of tax credits issued to an individual shall not apply to credits issued to any business entity, including a sole proprietorship.

B. Tax credits shall be issued to persons making monetary or marketable securities donations to scholarship foundations *or scholastic assistance organizations* by the Department of Education on a first-come, first-served basis in accordance with procedures established by the Department of Education under the following conditions:

1. The total amount of tax credits that may be issued each fiscal year under this article shall not exceed \$25 million.

2. The amount of the credit shall not exceed the person's tax liability pursuant to Article 2 (§ 58.1-320 et seq.) or Article 10 (§ 58.1-400 et seq.), Chapter 12 (§ 58.1-1200 et seq.), Chapter 25 (§ 58.1-2500 et seq.), or Article 2 (§ 58.1-2620 et seq.) of Chapter 26, as applicable, for the taxable year for which the credit is claimed. Any credit not usable for the taxable year for which first allowed may be carried over for credit against the taxes imposed upon the person pursuant to Article 2 (§ 58.1-320 et seq.) or Article 10 (§ 58.1-400 et seq.), Chapter 12 (§ 58.1-1200 et seq.), Chapter 25 (§ 58.1-2500 et seq.), or Article 2 (§ 58.1-2620 et seq.) of Chapter 26, as applicable, in the next five succeeding taxable years or until the total amount of the tax credit has been taken, whichever is sooner.

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.

C. In a form approved by the Department of Education, the person seeking to make a monetary or marketable securities donation to a scholarship foundation *or scholastic assistance organization*, or a scholarship foundation *or scholastic assistance organization* on behalf of such person, shall request ~~preauthorization~~ *authorization* for a specified tax credit amount from the Superintendent of Public Instruction. The Department of Education's ~~preauthorization~~ *authorization* notice shall accompany the monetary or marketable securities donation from the person to the scholarship foundation *or scholastic assistance organization*, which shall, within 40 days, return the notice to the Department of Education certifying the value and type of donation and date received. Upon receipt and approval by the Department of Education of the ~~preauthorization~~ *authorization* notice with required supporting documentation and certification of the value and type of the donation by the scholarship foundation *or scholastic assistance organization*, the Superintendent of Public Instruction shall as soon as practicable, and in no case longer than 30 days, issue a tax credit certificate to the person eligible for the tax credit. The person shall attach the tax credit certificate to the applicable tax return filed with the Department of Taxation or the State Corporation Commission, as applicable. The Department of Education shall provide a copy of the tax credit certificate to the scholarship foundation *or scholastic assistance organization*.

~~Preauthorization~~ *Authorization* notices not acted upon by a donor within 180 days of issuance shall be void. No tax credit shall be approved by the Department of Education for activities that are a part of a person's normal course of business.

§ 58.1-439.27. Scholarship foundation and scholastic assistance organization eligibility and

requirements; list of foundations and organizations receiving donations.

A. Persons seeking to receive and administer tax-credit-approved funds shall submit information to the Department of Education, which shall determine whether an applicant is a scholarship foundation or *scholastic assistance organization* as defined in § 58.1-439.25. The Department of Education shall prescribe through guidelines what reasonable information shall be submitted by such persons. Notice of approval or denial, including reasons for denial, shall be issued by the Department of Education to the applicant within 60 days after the complete information is submitted. Any approval shall not be withheld unreasonably.

B. *The Department of Education shall publish annually on its website a list of each scholarship foundation and scholastic assistance organization qualified under this article. Once a foundation or organization has been qualified by the Department of Education, it shall remain qualified until the Department removes the foundation or organization from its annual list. The Department of Education shall remove a foundation or organization if it no longer meets the requirements of this article. The Department of Education may periodically require a qualified foundation or organization to submit updated or additional information for the purposes of determining whether or not the foundation or organization continues to meet the requirements of this article.*

C. The Department of Education shall submit a list of all scholarship foundations and *scholastic assistance organizations* that received donations for which tax credits were issued under this article to the Chairmen of the House and Senate Finance Committees no later than December 1 of each year. The list shall report such scholarships for the 12-month period ending on the immediately preceding June 30.

§ 58.1-439.28. Guidelines for scholarship foundations.

A. As a condition for qualification by the Department of Education, a scholarship foundation, as defined in ~~§ 58.1-439.25~~ and included on the list published annually by the Department of Education pursuant to this section, § 58.1-439.27 shall disburse an amount at least equal to 90 percent of the value of the donations it receives (for which tax credits were issued under this article) during each 12-month period ending on June 30 by the immediately following June 30 for qualified educational expenses through scholarships to eligible students. Tax-credit-derived funds not used for such scholarships may only be used for the administrative expenses of the scholarship foundation. Any scholarship foundation that fails to meet such disbursement requirement shall, for the first offense, be required to pay a civil penalty equal to 200 percent of the difference between 90 percent of the value of the tax-credit-derived donations it received in the applicable 12-month period and the amount that was actually disbursed. Such civil penalty shall be remitted by the scholarship foundation to the Department of Education within 30 days after the end of the one-year period and deposited to the general fund. For a second offense within a five-year period, the scholarship foundation shall be removed from the annual list published pursuant to this section and shall not be entitled to request preauthorization for additional tax credits, nor shall it be entitled to receive and administer additional tax-credit-derived funds for two years. After two years, the scholarship foundation shall be eligible to reapply to be included on the annual list to receive and administer tax-credit derived funds. If a scholarship foundation is authorized to be added to the annual list after such reapplication, the scholarship foundation shall not be considered to have any previous offenses for purposes of this subsection. The required disbursement under this section shall begin with donations received for the period January 1, 2013, through June 30, 2014.

B. By September 30 of each year beginning in 2016, the scholarship foundation shall provide the following information to the Department of Education: (i) the total number and value of donations received by the foundation during the 12-month period ending on June 30 of the prior calendar year for which tax credits were issued by the Superintendent of Public Instruction, (ii) the dates when such donations were received, and (iii) the total number and dollar amount of qualified educational expenses scholarships awarded from tax-credit-derived donations and disbursed by the scholarship foundation during the 24-month period ending on June 30 of the current calendar year. Any scholarship foundation that fails to provide this report by September 30 shall, for the first offense, be required to pay a \$1,000 civil penalty. Such civil penalty shall be remitted by the scholarship foundation to the Department of Education by November 1 of the same year and deposited to the general fund. For a second offense within a five-year period, the scholarship foundation shall be removed from the annual list published pursuant to this section and shall not be entitled to request preauthorization for additional tax credits, nor shall it be entitled to receive and administer additional tax-credit-derived funds. After two years, the scholarship foundation shall be eligible to reapply to be included on the annual list to receive and administer tax-credit derived funds. If a scholarship foundation is authorized to be added to the annual list after such reapplication, the scholarship foundation shall not be considered to have any previous offenses for purposes of this subsection.

C. In awarding scholarships from tax-credit-derived funds, the scholarship foundation shall (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 eligible students 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, as amended. Payment of scholarships from tax-credit-derived funds by the eligible scholarship foundation shall be by individual warrant or check made payable to and mailed to the eligible school that the student's parent or legal guardian indicates. In mailing such scholarship payments, the eligible scholarship foundation shall include a written notice to the eligible school that the source of the scholarship was donations made by persons receiving tax credits for the same pursuant to this article.

D. Scholarship foundations shall 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, as amended; and (iv) are nonpublic schools that comply with nonpublic school accreditation requirements as set forth in § 22.1-19 and administered by the Virginia Council for Private Education or nonpublic schools that maintain an assessment system that annually measures scholarship students' progress in reading and math using a national norm-referenced achievement test, including but not limited to the Stanford Achievement Test, California Achievement Test, and Iowa Test of Basic Skills.

Eligible schools shall compile the results of any national norm-referenced achievement test for each of its students receiving tax-credit-derived scholarships and shall 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 also shall annually provide to the Department of Education for each such student the achievement test results, beginning with the first year of testing of the student, and 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 shall ensure that the achievement test results and associated learning gains are published 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 shall annually 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 shall ensure compliance with all student privacy laws.

E. The aggregate amount of scholarships provided to each student for any single school year by all eligible scholarship foundations from eligible donations shall not exceed the lesser of (i) the actual qualified educational expenses of the student 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 appropriation act.

F. Scholarship foundations shall develop procedures for disbursing scholarships in quarterly or semester payments throughout the school year to ensure scholarships are portable.

G. Scholarship foundations that receive donations of marketable securities for which tax credits were issued under this article shall be required to sell such securities and convert the donation into cash immediately, but in no case more than 21 days after receipt of the donation.

H. Each scholarship foundation with total revenues (including the value of all donations) (i) in excess of \$100,000 for the foundation's most recent fiscal year ended shall have an audit or review performed by an independent certified public accountant of the foundation's donations received in such year for which tax credits were issued under this article or (ii) of \$100,000 or less for the foundation's most recent fiscal year ended shall have a compilation performed by an independent certified public accountant of the foundation's donations received in such year for which tax credits were issued under this article. A summary report of the audit, review, or compilation shall be made available to the public and the Department of Education upon request.

I. The Department of Education shall publish annually on its website a list of each scholarship foundation qualified under this article. Once a foundation has been qualified by the Department of Education, it shall remain qualified until the Department removes the foundation from its annual list. The Department of Education shall remove a foundation from the annual list if it no longer meets the requirements of this article. The Department of Education may periodically require a qualified foundation to submit updated or additional information for purposes of determining whether or not the foundation continues to meet the requirements of this article.

J. Actions of the Superintendent of Public Instruction or the Department of Education relating to the awarding of tax credits under this article and the qualification of scholarship foundations shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.). Decisions of the Superintendent of Public Instruction or the Department of Education shall be final and not subject to review or appeal.

§ 58.1-439.29. Guidelines for scholastic assistance organizations.

305 A. As a condition for qualification by the Department of Education, a scholastic assistance
306 organization included on the list published annually by the Department of Education pursuant to
307 § 58.1-439.27 shall disburse an amount equal to at least 90 percent of the value of the donations it
308 receives for which tax credits were issued under this article during each 12-month period ending on
309 June 30 by the immediately following June 30 for scholastic assistance. Tax-credit-derived funds not
310 used for such assistance may only be used for the administrative expenses of the scholastic assistance
311 organization. Any scholastic assistance organization that fails to meet such disbursement requirement shall,
312 for the first offense, be required to pay a civil penalty equal to the difference between 90 percent of the
313 value of the tax-credit-derived donations it received in the applicable 12-month period and the amount
314 that was actually disbursed. Such civil penalty shall be remitted by the scholastic assistance
315 organization to the Department of Education within 30 days after the end of the one-year period and
316 deposited to the general fund. For a second offense within a five-year period, the scholastic assistance
317 organization shall be removed from the annual list published pursuant to § 58.1-439.27 and shall not
318 be entitled to request preauthorization for additional tax credits, nor shall it be entitled to receive and
319 administer additional tax-credit-derived funds for two years. After two years, the scholastic assistance
320 organization shall be eligible to reapply to be included on the annual list to receive and administer
321 tax-credit derived funds. If a scholastic assistance organization is authorized to be added to the annual
322 list after such reapplication, the organization shall not be considered to have any previous offenses for
323 purposes of this subsection.

324 B. By September 30 of each year beginning in 2020, the scholastic assistance organization shall
325 provide the following information to the Department of Education: (i) the total number and value of
326 donations received by the organization during the 12-month period ending on June 30 of the prior
327 calendar year for which tax credits were issued by the Superintendent of Public Instruction, (ii) the
328 dates when such donations were received, (iii) a description of the types of scholastic assistance
329 provided, and (iv) the number of students provided scholastic assistance. Any scholastic assistance
330 organization that fails to provide this report by September 30 shall, for the first offense, be required to
331 pay a \$1,000 civil penalty. Such civil penalty shall be remitted by the scholastic assistance organization
332 to the Department of Education by November 1 of the same year and deposited to the general fund. For
333 a second offense within a five-year period, the scholastic assistance organization shall be removed from
334 the annual list published pursuant to § 58.1-439.27 and shall not be entitled to request preauthorization
335 for additional tax credits, nor shall it be entitled to receive and administer additional tax-credit-derived
336 funds. After two years, the scholastic assistance organization shall be eligible to reapply to be included
337 on the annual list to receive and administer tax-credit derived funds. If a scholastic assistance
338 organization is authorized to be added to the annual list after such reapplication, the scholastic
339 assistance organization shall not be considered to have any previous offenses for purposes of this
340 subsection.

341 C. Scholastic assistance organizations that receive donations of marketable securities for which tax
342 credits were issued under this article shall be required to sell such securities and convert the donation
343 into cash immediately, but in no case more than 21 days after receipt of the donation.

344 D. Each scholastic assistance organization with total revenues (including the value of all donations)
345 (i) in excess of \$100,000 for the organization's most recent fiscal year ended shall have an audit or
346 review performed by an independent certified public accountant of the organization's donations received
347 in such year for which tax credits were issued under this article or (ii) of \$100,000 or less for the
348 organization's most recent fiscal year ended shall have a compilation performed by an independent
349 certified public accountant of the organization's donations received in such year for which tax credits
350 were issued under this article. A summary report of the audit, review, or compilation shall be made
351 available to the public and the Department of Education upon request.

352 **§ 58.1-439.30. Decisions related to the award of tax credits.**

353 Actions of the Superintendent of Public Instruction or the Department of Education relating to the
354 awarding of tax credits under this article and the qualification of scholarship foundations and scholastic
355 assistance organizations shall be exempt from the provisions of the Administrative Process Act
356 (§ 2.2-4000 et seq.). Decisions of the Superintendent of Public Instruction or the Department of
357 Education shall be final and not subject to review or appeal.