

SENATE BILL NO. 1506

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance and Appropriations

on _____)

(Patron Prior to Substitute--Senator Ruff)

A BILL to amend and reenact §§ 58.1-439.20, 58.1-439.25, as it shall become effective, 58.1-439.26, and 58.1-439.28, as it shall become effective, of the Code of Virginia and the second enactment of Chapter 808 of the Acts of Assembly of 2019, relating to income tax credits; Neighborhood Assistance Act; Education Improvement Scholarships.

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-439.20, 58.1-439.25, as it shall become effective, 58.1-439.26, and 58.1-439.28, as it shall become effective, of the Code of Virginia are amended and reenacted as follows:

§ 58.1-439.20. Proposals to the State Board of Social Services; regulations; tax credits authorized.

A. Any neighborhood organization may submit a proposal, other than education proposals which shall be applied for and allocated pursuant to the provisions of § 58.1-439.20:1, to the Commissioner of Social Services requesting an allocation of tax credits for use by business firms making donations to the neighborhood organization.

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

B. 1. The State Board of Social Services is hereby authorized to adopt regulations 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

27 approval, neighborhood organizations with total revenues of (i) more than \$100,000 shall provide to the
28 Commissioner of Social Services an audit or review for the most recent year or (ii) \$100,000 or less shall
29 provide to the Commissioner of Social Services a compilation for the most recent year. Such audit, review,
30 or compilation shall be performed by an independent certified public accountant. For purposes of this
31 subdivision, "total revenues" means all revenues, including the value of all donations, for the
32 organization's most recent year. No proposal for an allocation of tax credits shall be untimely filed solely
33 because such audit, review, or compilation was not submitted by the neighborhood organization by the
34 proposal filing deadline, provided that the audit, review, or compilation is submitted to the Commissioner
35 of Social Services within the 30-day period immediately following such deadline.

36 3. In order to be eligible to receive an allocation of credits pursuant to this article, at least 50
37 percent of the persons served by the neighborhood organization shall be low-income persons, and at least
38 50 percent of the neighborhood organization's revenues shall be used to provide services to low-income
39 persons.

40 4. In order for a proposal to be approved, an applicant neighborhood organization and any of its
41 affiliates shall meet the requirements of this section and the application regulations.

42 However, beginning with tax credit allocations for fiscal year 2016-2017 and thereafter, such
43 requirement for a proposal submitted by a neighborhood organization to the Commissioner of Social
44 Services shall not apply in determining the eligibility of the neighborhood organization submitting a
45 proposal, provided that (i) the neighborhood organization otherwise meets all statutory requirements and
46 regulations, (ii) the neighborhood organization received a fiscal year 2013-2014 allocation of
47 neighborhood assistance tax credits, and (iii) no affiliate of the neighborhood organization submits a
48 proposal for or receives an allocation of tax credits pursuant to this article for the program year for which
49 the neighborhood organization has submitted its proposal.

50 5. The regulations shall provide for the equitable allocation of the available amount of tax credits
51 among the approved proposals submitted by neighborhood organizations. In making such equitable
52 allocation of credits, the Commissioner of Social Services shall consider the portion of a neighborhood
53 organization's revenues and expenses that are used to serve low-income persons and shall not rely solely

54 on the amount of credits allocated to the neighborhood organization in the prior year in allocating available
55 credits. In allocating credits, the Commissioner of Social Services ~~or the Superintendent of Public~~
56 ~~Instruction~~ shall consider the past performance of neighborhood organizations that have received
57 allocations of credits, including review of performance metrics, success in reaching targeted goals, or
58 other measures of accountability that may be established by regulations or guidelines.

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

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

70 2. Notwithstanding any other provision of law, no more than an aggregate of \$0.5 million in tax
71 credits shall be approved in a fiscal year to a neighborhood organization or to a grouping of neighborhood
72 organization affiliates for all other proposals combined.

73 3. If, after the initial allocation of credits to approved proposals, the State Department of Social
74 Services has a balance of tax credits remaining for the fiscal year that can be used or allocated by a
75 neighborhood organization for a proposal that had been approved for tax credits during the initial
76 allocation, then the Commissioner of Social Services shall reallocate the remaining balance of tax credits
77 to such previously approved proposals to the extent that a neighborhood organization can use or allocate
78 additional tax credits for the previously approved proposal. The \$0.5 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 Commissioner of Social Services 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 Commissioner of Social
 85 Services under this article for each fiscal year shall not exceed \$8 million for fiscal year 2015-2016 and
 86 each fiscal year thereafter.

87 The Commissioner of Social Services shall work cooperatively with the Superintendent of Public
 88 Instruction for purposes of ensuring that neighborhood organization proposals are submitted to the proper
 89 state agency pursuant to this section and § 58.1-439.20:1. The Commissioner of Social Services may
 90 request the assistance of the Department of Taxation for purposes of determining whether or not
 91 anticipated donations for which tax credits are requested by a neighborhood organization likely qualify as
 92 a charitable donation under federal tax laws and regulations.

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

98 **§ 58.1-439.25. (Applicable to taxable years beginning January 1, 2024) Definitions.**

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

100 "Eligible pre-kindergarten child" means a child who is (i) a resident of Virginia; (ii) an at-risk four-
 101 year-old unable to obtain services through Head Start or Virginia Preschool Initiative programs; and (iii)
 102 enrolled in, eligible to attend, or attending a nonpublic pre-kindergarten program and whose family (a)
 103 does not have an annual household income in excess of 300 percent of the current poverty guidelines or
 104 400 percent of such guidelines in cases in which an individualized education program has been written
 105 and finalized for the child in accordance with the federal Individuals with Disabilities Education Act
 106 (IDEA), regulations promulgated pursuant to IDEA, and regulations of the Board of Education; (b) is
 107 homeless as defined in 42 U.S.C. § 11302; or (c) includes a parent or guardian of the child who did not

108 graduate from high school, and whose parent or guardian certifies to the scholarship foundation that the
109 child was unable to obtain services through the Virginia Preschool Initiative in the public school division
110 in which the child resides.

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

116 "In-kind services donation" means a donation by a person licensed as a certified public accountant
117 of audit, review, compilation, or other accounting services to a scholarship foundation.

118 "Nonpublic pre-kindergarten program" means a pre-kindergarten program that is not operated,
119 directly or indirectly, by a federal, state, or local government entity and that is (i) a preschool program
120 designed for child development and kindergarten preparation that complies with nonpublic school
121 accreditation requirements administered by the Virginia Council for Private Education pursuant to § 22.1-
122 19; (ii) participating in Virginia Quality with a current designation of at least Level 3 under such quality
123 rating system; or (iii) a child day center, as defined in § 63.2-100, that is licensed by the Department of
124 Social Services pursuant to Subtitle IV (§ 63.2-1700 et seq.) of Title 63.2 and implements a curriculum,
125 professional development program, and coaching model developed and endorsed by a baccalaureate
126 public institution of higher education, as defined in § 23.1-100.

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

130 "Qualified educational expenses" means scholastic assistance and school-related tuition and
131 instructional fees and materials, including textbooks, workbooks, and supplies used solely for school-
132 related work.

133 "Scholarship foundation" means a nonstock, nonprofit corporation that is (i) exempt from taxation
134 under § 501(c)(3) of the Internal Revenue Code of 1954, as amended or renumbered; (ii) approved by the

135 Department of Education in accordance with the provisions of § 58.1-439.27; and (iii) established to
136 provide scholastic assistance or financial aid for the education of students residing in the Commonwealth.

137 "Scholastic assistance" means counseling or supportive services provided to elementary or
138 secondary school students or their parents in developing a postsecondary academic or vocational education
139 plan, including college financing options for such students or their parents, provided by a scholarship
140 foundation at a public school with which the foundation is under contract.

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

150 "Virginia Quality" means a quality rating and improvement system for early childhood programs
151 administered in partnership between the Virginia Early Childhood Foundation and the Office of Early
152 Childhood Development of the Department of Social Services.

153 **§ 58.1-439.26. Tax credit for donations to certain scholarship foundations.**

154 A. Notwithstanding the provisions of § 30-19.1:11, for taxable years beginning on or after January
155 1, 2013, but before January 1, 2028, a person shall be eligible to earn a credit against any tax due under
156 Article 2 (§ 58.1-320 et seq.) or Article 10 (§ 58.1-400 et seq.), Chapter 12 (§ 58.1-1200 et seq.), Chapter
157 25 (§ 58.1-2500 et seq.), or Article 2 (§ 58.1-2620 et seq.) of Chapter 26 in an amount equal to 65 percent
158 of the value of the monetary ~~or~~ marketable securities, or in-kind services donation made by the person to
159 a scholarship foundation included on the list published annually by the Department of Education in
160 accordance with the provisions of § 58.1-439.28.

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

168 B. Tax credits shall be issued to persons making monetary-~~or~~, marketable securities, or in-kind
169 services donations to scholarship foundations by the Department of Education on a first-come, first-served
170 basis in accordance with procedures established by the Department of Education under the following
171 conditions:

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

174 2. The amount of the credit shall not exceed the person's tax liability pursuant to Article 2 (§ 58.1-
175 320 et seq.) or Article 10 (§ 58.1-400 et seq.), Chapter 12 (§ 58.1-1200 et seq.), Chapter 25 (§ 58.1-2500
176 et seq.), or Article 2 (§ 58.1-2620 et seq.) of Chapter 26, as applicable, for the taxable year for which the
177 credit is claimed. Any credit not usable for the taxable year for which first allowed may be carried over
178 for credit against the taxes imposed upon the person pursuant to Article 2 (§ 58.1-320 et seq.) or Article
179 10 (§ 58.1-400 et seq.), Chapter 12 (§ 58.1-1200 et seq.), Chapter 25 (§ 58.1-2500 et seq.), or Article 2 (§
180 58.1-2620 et seq.) of Chapter 26, as applicable, in the next five succeeding taxable years or until the total
181 amount of the tax credit has been taken, whichever is sooner.

182 The amount of any credit attributable to a partnership, electing small business corporation (S
183 corporation), or limited liability company shall be allocated to the individual partners, shareholders, or
184 members, respectively, in proportion to their ownership or interest in such business entities.

185 C. In a form approved by the Department of Education, ~~the~~ a person seeking to make a monetary
186 ~~or~~, marketable securities, or in-kind services donation to a scholarship foundation or a scholarship
187 foundation on behalf of such person shall request preauthorization for a specified tax credit amount from

188 the Superintendent of Public Instruction. The Department of Education's preauthorization notice shall
189 accompany the monetary ~~or~~, marketable securities, or in-kind services donation from the person to the
190 scholarship foundation, which shall, within 40 days, return the notice to the Department of Education
191 certifying the value and type of donation and date received. Upon receipt and approval by the Department
192 of Education of the preauthorization notice with required supporting documentation and certification of
193 the value and type of the donation by the scholarship foundation, the Superintendent of Public Instruction
194 shall as soon as practicable, and in no case longer than 30 days, issue a tax credit certificate to the person
195 eligible for the tax credit. The person shall attach the tax credit certificate to the applicable tax return filed
196 with the Department of Taxation or the State Corporation Commission, as applicable. The Department of
197 Education shall provide a copy of the tax credit certificate to the scholarship foundation.

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

201 In determining the value of an in-kind services donation, the Superintendent of Public Instruction
202 shall consider the fair market value of the services rendered by the person, including the time spent by the
203 person on audit, review, compilation, or other accounting services.

204 **§ 58.1-439.28. (Applicable to taxable years beginning on and after January 1, 2024)**
205 **Guidelines for scholarship foundations.**

206 A. As a condition for qualification by the Department of Education, a scholarship foundation, as
207 defined in § 58.1-439.25 and included on the list published annually by the Department of Education
208 pursuant to this section, shall disburse an amount at least equal to 90 percent of the value of the donations
209 it receives (for which tax credits were issued under this article) during each 12-month period ending on
210 June 30 by the immediately following June 30 for qualified educational expenses through scholastic
211 assistance or scholarships to eligible students. Tax-credit-derived funds not used for such scholastic
212 assistance and scholarships may only be used for the administrative expenses of the scholarship
213 foundation. Any scholarship foundation that fails to meet such disbursement requirement shall, for the first
214 offense, be required to pay a civil penalty equal to the difference between 90 percent of the value of the

215 tax-credit-derived donations it received in the applicable 12-month period and the amount that was
216 actually disbursed. Such civil penalty shall be remitted by the scholarship foundation to the Department
217 of Education within 30 days after the end of the one-year period and deposited to the general fund. For a
218 second offense within a five-year period, the scholarship foundation shall be removed from the annual list
219 published pursuant to this section and shall not be entitled to request preauthorization for additional tax
220 credits, nor shall it be entitled to receive and administer additional tax-credit-derived funds for two years.
221 After two years, the scholarship foundation shall be eligible to reapply to be included on the annual list to
222 receive and administer tax-credit derived funds. If a scholarship foundation is authorized to be added to
223 the annual list after such reapplication, the scholarship foundation shall not be considered to have any
224 previous offenses for purposes of this subsection. The required disbursement under this section shall begin
225 with donations received for the period January 1, 2013, through June 30, 2014.

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

241 list after such reapplication, the scholarship foundation shall not be considered to have any previous
242 offenses for purposes of this subsection.

243 C. In awarding scholarships from tax-credit-derived funds, the scholarship foundation shall (i)
244 provide scholarships for qualified educational expenses only to students whose family's annual household
245 income is not in excess of 300 percent of the current poverty guidelines, eligible students with a disability,
246 or eligible pre-kindergarten children; (ii) not limit scholarships to students of one school; and (iii) comply
247 with Title VI of the Civil Rights Act of 1964, as amended. Payment of scholarships from tax-credit-derived
248 funds by the eligible scholarship foundation shall be by individual warrant or check made payable to and
249 mailed to the eligible school that the student's parent or legal guardian indicates. In mailing such
250 scholarship payments, the eligible scholarship foundation shall include a written notice to the eligible
251 school that the source of the scholarship was donations made by persons receiving tax credits for the same
252 pursuant to this article.

253 D. 1. Scholarship foundations shall ensure that schools selected by students to which tax-credit-
254 derived funds may be paid (i) are in compliance with the Commonwealth's and locality's health and safety
255 laws and codes; (ii) hold a valid occupancy permit as required by the locality; (iii) comply with Title VI
256 of the Civil Rights Act of 1964, as amended; and (iv) are (a) for students in grades K through 12, nonpublic
257 schools that comply with nonpublic school accreditation requirements as set forth in § 22.1-19 and
258 administered by the Virginia Council for Private Education or nonpublic schools that maintain an
259 assessment system that annually measures scholarship students' progress in reading and math using a
260 national norm-referenced achievement test, including but not limited to the Stanford Achievement Test,
261 California Achievement Test, and Iowa Test of Basic Skills and (b) for eligible pre-kindergarten children,
262 nonpublic pre-kindergarten programs.

263 2. Each nonpublic pre-kindergarten program shall (i) provide to the eligible pre-kindergarten child
264 a curriculum that is aligned with Virginia's Foundation Blocks for Early Learning: Comprehensive
265 Standards for Four-Year-Olds as published by the Department of Education, or any successor standards
266 published by the Department of Education; (ii) have maximum class sizes of 20 students with a teacher-
267 student ratio of not fewer than two teachers for every 20 students; (iii) provide at least half-day services

268 and operate for at least the school year; (iv) agree to provide the Department of Education with student
269 information for each eligible pre-kindergarten child receiving a scholarship foundation scholarship for
270 purposes of allowing the Department of Education to conduct studies comparing the academic
271 performance of such children while attending primary or secondary school with other children attending
272 primary or secondary school who have attended a pre-kindergarten program, including programs funded
273 under the Virginia Preschool Initiative; and (v) require professional development of program teachers,
274 which enables such teachers to engage in high-quality interactions with eligible pre-kindergarten children
275 and provide high-quality instruction in accordance with the curriculum described under clause (i). Each
276 nonpublic pre-kindergarten program teacher at a minimum shall have earned a certificate from a nationally
277 recognized early childhood education certificate program, including but not limited to any early childhood
278 education program provided or sponsored by the Virginia Community College System.

279 In awarding scholarships to eligible pre-kindergarten children, scholarship foundations shall award
280 scholarships from tax-credit-derived funds only to such children who are enrolled in or attending
281 nonpublic pre-kindergarten programs that meet the conditions of this subdivision as certified by the
282 Virginia Council for Private Education or the Virginia Early Childhood Foundation.

283 3. Eligible schools shall compile the results of any national norm-referenced achievement test for
284 each of its students receiving tax-credit-derived scholarships and shall provide the respective parents or
285 legal guardians of such students with a copy of the results on an annual basis, beginning with the first year
286 of testing of the student. Such schools also shall annually provide to the Department of Education for each
287 such student the achievement test results, beginning with the first year of testing of the student, and student
288 information that would allow the Department to aggregate the achievement test results by grade level,
289 gender, family income level, number of years of participation in the scholarship program, and race.
290 Beginning with the third year of testing of each such student and test-related data collection, the
291 Department of Education shall ensure that the achievement test results and associated learning gains are
292 published on the Department of Education's website in accordance with such classifications and in an
293 aggregate form as to prevent the identification of any student. Eligible schools shall annually provide to
294 the Superintendent of Public Instruction graduation rates of its students participating in the scholarship

295 program in a manner consistent with nationally recognized standards. In publishing and disseminating
296 achievement test results and other information, the Superintendent of Public Instruction and the
297 Department of Education shall ensure compliance with all student privacy laws.

298 The provisions of this subdivision shall not apply to eligible pre-kindergarten children.

299 E. 1. The aggregate amount of scholarships provided to each student for any single school year by
300 all eligible scholarship foundations from eligible donations shall not exceed the lesser of (i) the actual
301 qualified educational expenses of the student or (ii) 100 percent of the per-pupil amount distributed to the
302 local school division (in which the student resides) as the state's share of the standards of quality costs
303 using the composite index of ability to pay as defined in the general appropriation act.

304 2. In the case of eligible pre-kindergarten children, the aggregate amount of scholarships provided
305 to each child for any single school year by all eligible scholarship foundations from eligible donations
306 shall not exceed the lesser of the actual qualified educational expenses of the child or the state share of
307 the grant per child under the Virginia Preschool Initiative for the locality in which the eligible pre-
308 kindergarten child resides.

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

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

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

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

329 J. Actions of the Superintendent of Public Instruction or the Department of Education relating to
 330 the awarding of tax credits under this article and the qualification of scholarship foundations shall be
 331 exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.). Decisions of the
 332 Superintendent of Public Instruction or the Department of Education with respect to the awarding of tax
 333 credits or the qualification of scholarship foundations ~~shall be final and not subject to review or appeal.~~
 334 constitute a case decision, as defined in § 2.2-4001. Any taxpayer or scholarship foundation shall have a
 335 right to seek judicial review of the case decision in accordance with Article 5 (§ 2.2-4025 et seq.) of the
 336 Administrative Process Act.

337 **2. That the second enactment of Chapter 808 of the Acts of Assembly of 2019 is amended and**
 338 **reenacted as follows:**

339 **2. That the provisions of this act shall apply to taxable years beginning on and after January**
 340 **1, 2019, but before January 1, ~~2024~~ 2023.**

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