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**SENATE BILL NO. 230**

Senate Amendments in [ ] - February 17, 2004

*A BILL to amend the Code of Virginia by adding in Title 23 a chapter numbered 4.4:5, consisting of sections numbered 23-38.53:21 through 23-38.53:24, by adding in Title 30 a chapter numbered 34, consisting of sections numbered 30-226 through 30-231, and by adding a section numbered 58.1-346.25, relating to the Brown v. Board of Education Scholarship Program and Fund.*

Patron Prior to Engrossment—Senator Lambert

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 Title 23 a chapter numbered 4.4:5, consisting of sections numbered 23-38.53:21 through 23-38.53:24, by adding in Title 30 a chapter numbered 34, consisting of sections numbered 30-226 through 30-231, and by adding a section numbered 58.1-346.25 as follows:**

*CHAPTER 4.4:5.*

*BROWN v. BOARD OF EDUCATION SCHOLARSHIP PROGRAM AND FUND.*

*§ 23-38.53:21. Brown v. Board of Education Scholarship Program created; purpose; State Council of Higher Education to administer.*

*There is hereby created, from such funds as may be appropriated or otherwise made available for this purpose, the Brown v. Board of Education Scholarship Program, hereinafter referred to as the Program. The Program shall be established for the purpose of assisting students who were enrolled in the public schools of Virginia between 1954 and 1964, in jurisdictions in which such public schools were closed to avoid desegregation. The State Council of Higher Education shall administer the Program in accordance with the provisions of this chapter and as may be prescribed by the Brown v. Board of Education Scholarship Awards Committee.*

*§ 23-38.53:22. Criteria for awarding scholarships; awards made by the Brown v. Board of Education Scholarship Committee; eligible students.*

*A. Within the funds allocated or made available for such purposes, scholarships shall be awarded annually and may be renewed upon evidence of satisfactory academic achievement. Awards may be granted for part-time or full-time attendance for (i) no more than one year of study for students enrolled in adult education programs and General Education Development preparation programs, (ii) no more than two years of study for students enrolled in comprehensive community college programs, (iii) no more than four years of study for students enrolled in four-year undergraduate degree programs, and (iv) no more than five years of study for students enrolled in recognized five-year undergraduate programs.*

*B. No student pursuing a course of religious training or theological education or a student enrolled in any institution whose primary purpose is to provide religious training or theological education shall be eligible to receive such awards.*

*C. Only students who are domiciled residents of Virginia as defined by § 23-7.4 shall be eligible to receive such awards.*

*D. Scholarships shall be awarded to eligible students by the Brown v. Board of Education Scholarship Awards Committee.*

*E. For the purpose of this chapter, "eligible student" means a person who resided in a jurisdiction in Virginia between 1954 and 1964 in which the public schools were closed to avoid desegregation and who (i) was unable during such years to (a) begin, continue, or complete his education in the public schools of the Commonwealth, (b) attend a private academy or foundation, whether in state or out of state, established to circumvent desegregation, or (c) pursue postsecondary education opportunities or training because of the inability to obtain a high school diploma; (ii) was required to relocate within or outside of the Commonwealth to begin, continue, or complete his K-12 education during such years because of public school closings to avoid desegregation; or (iii), although not denied education because of school closings, has identifiable economic, psychosocial, or cultural risk factors that research indicates may negatively affect academic achievement or the ability to perform basic life skills, or may hinder an individual in reaching his life goals.*

*§ 23-38.53:23. Amount of scholarships; use of scholarships; terms and conditions.*

*A. No scholarship awarded under this Program shall exceed the cost per year of the specific program in which the student is enrolled. The amounts of scholarships awarded under this Program shall be in accordance with the appropriation act.*

*B. The full amount of each scholarship awarded to each recipient shall be used only for payment of charges for tuition.*

*C. This chapter shall not be construed as creating any legally enforceable right or entitlement on the part of any person or any right or entitlement in participation in the program. Scholarships shall be awarded to the extent funds are made available or as directed by the appropriation act.*

*§ 23-38.53:24. There is hereby created in the state treasury a special nonreverting fund to be known as the Brown v. Board of Education Scholarship Program Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller and shall consist of any appropriations, gifts, donations, grants, bequests, or other funds from any source as may be received by the Brown v. Board of Education Scholarship Program or the Brown v. Board of Education Scholarship Awards Committee on behalf of the Program. Moneys shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of awarding to qualified students, pursuant to §§ 23-38.53:21 and 23-38.53:22. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the chairman of the State Council of Higher Education for Virginia.*

*CHAPTER 34.*

*BROWN v. BOARD OF EDUCATION SCHOLARSHIP AWARDS COMMITTEE.*

*§ 30-226. Brown v. Board of Education Scholarship Awards Committee established; membership; terms; vacancies; chairman and vice chairman.*

*A. There is hereby established in the legislative branch of state government, the Brown v. Board of Education Scholarship Awards Committee, hereinafter referred to as the "Committee," to evaluate applications for and select recipients of the Brown v. Board of Education scholarships, in accordance with the provisions of Chapter 4.4:5 (§ 23-38.53:21 et seq.) of Title 23.*

*B. The Committee shall consist of 11 members that includes six legislative members and five nonlegislative citizen members. Members shall be appointed as follows: four members of the House of Delegates and two members of the Senate to be appointed by the Joint Rules Committee; and five nonlegislative citizen members of whom one shall represent college admissions personnel, one shall have expertise in academic and career counseling, and three shall represent residents of the affected jurisdictions, to be appointed by the Governor. Nonlegislative citizen members of the Committee shall be citizens of the Commonwealth of Virginia. Unless otherwise approved in writing by the chairman of the Committee and the Joint Rules Committee, nonlegislative citizen members shall only be reimbursed for travel originating and ending within the Commonwealth of Virginia for the purpose of attending meetings.*

*C. Legislative members of the Committee shall serve terms coincident with their terms of office. Nonlegislative citizen members shall be appointed for a term of two years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Legislative and nonlegislative citizen members may be reappointed. However, no House member shall serve more than four consecutive two-year terms, no Senate member shall serve more than two consecutive four-year terms, and no nonlegislative citizen member shall serve more than four consecutive two-year terms. The remainder of any term to which a nonlegislative citizen member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment. Vacancies shall be filled in the same manner as the original appointments.*

*The Committee shall elect a chairman and vice chairman from among its membership, who shall be members of the General Assembly.*

*§ 30-227. Quorum; meetings; voting on recommendations.*

*A majority of the voting members shall constitute a quorum. The Committee shall meet not more than four times each year. The meetings of the Committee shall be held at the call of the chairman or whenever the majority of the voting members so request. At the option of a majority of the members of the House of Delegates appointed to the Committee or a majority of the Senate members appointed to the Committee, no recommendation of the Committee shall be adopted without the approval of a majority of such members of the House of Delegates and a majority of such members of the Senate. For the purpose of this provision, a "majority" constitutes a majority of the members present and voting at the meeting of the Committee.*

*§ 30-228. Compensation; expenses.*

*Legislative members of the Committee shall receive such compensation as provided in § 30-19.12, and nonlegislative citizen members shall receive such compensation for the performance of their duties as provided in § 2.2-2813. All members shall be reimbursed for reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. However, all such compensation and expenses shall be paid from existing appropriations to the Committee, or if unfunded,*

*shall be approved by the Joint Rules Committee.*

*§ 30-229. Powers and duties of the Committee.*

*The Committee shall have the following powers and duties:*

*1. Establish criteria for the awarding of scholarships, including, but not limited to, eligibility for and the renewal of scholarships, including evidence of satisfactory academic achievement in accordance with § 23-38.53:22, terms and conditions of scholarships awarded pursuant to § 23-38.53:23, and the conditions for which repayment of scholarships, or any part thereof, may be required;*

*2. Evaluate applications for and select recipients of the Brown v. Board of Education scholarships, in accordance with the provisions of Chapter 4.4:5 (§ 23-38.53:21 et seq.) of Title 23;*

*3. Determine annually the appropriations made available for such scholarships by the General Assembly in the appropriation act and set the maximum number of scholarships that may be awarded in any year;*

*4. Make the first awards of the Brown v. Board of Education Scholarship Program to eligible students between July 1, 2004, and July 1, 2006, but no later than July 1, 2006;*

*5. Establish standards to ensure that the Program is implemented and administered in a manner that preserves the purposes for which it was created; and*

*6. Perform such other duties, functions, and activities as may be necessary to facilitate and implement the objectives of Chapter 4.4:5 (§ 23-38.53:21 et seq.) of Title 23 and this chapter.*

*§ 30-230. Staffing.*

*The Office of the Clerk of the chairman of the Committee shall provide administrative staff support. The Division of Legislative Services shall provide legal, research, policy analysis and other services as requested by the Committee. The State Council of Higher Education shall provide technical assistance to the Committee and administer the Brown v. Board of Education Scholarship Program, pursuant to § 23-38.53:21. All agencies of the Commonwealth shall provide assistance to the Committee, upon request.*

*§ 30-231. Chairman's executive summary of activity and work of the Committee.*

*The chairman shall submit to the General Assembly and the Governor an annual executive summary of the interim activity and work of the Committee no later than the first day of each regular session of the General Assembly. The executive summary shall state whether the Committee intends to submit to the General Assembly and the Governor a report of its findings and recommendations for publication as a state document. The executive summary shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.*

*§ 58.1-346.25. Voluntary contribution to the Brown v. Board of Education Scholarship Fund.*

*A. For taxable years beginning on or after January 1, 2004, any individual eligible to receive a tax refund pursuant to § 58.1-309 may designate, at the time of filing the return, a voluntary contribution of any amount of such refund, but not less than $1, to the Brown v. Board of Education Scholarship Fund, such funds to be used to cover the costs of tuition for eligible residents of the Commonwealth who were enrolled in the public schools of Virginia between 1954 and 1964, in jurisdictions in which the public schools were closed to avoid desegregation. Such funds shall be used to assist eligible residents in obtaining a high school diploma, the General Education Development certificate, career or technical education or training, or an undergraduate degree from a public institution of higher education in Virginia.*

*B. All moneys collected pursuant to subsection A shall be deposited into a special fund in the state treasury to be known as the Brown v. Board of Education Scholarship Fund, which special fund is hereby established. The Tax Commissioner shall determine annually the total amount designated on all returns and shall report the same to the State Treasurer, who shall credit that amount to the Brown v. Board of Education Scholarship Fund.*

*All moneys so deposited in the Fund shall be administered by the State Council of Higher Education in accordance with and for the purposes provided in Chapter 4.4:5 (§ 23-38.53:21 et seq.) of Title 23 and Chapter 34 (§ 30-226 et seq.) of Title 30.*

**2. That, the educational terms used in this act shall be construed as defined in Titles 22.1, 23, and 40.1 of the Code of Virginia.**

**3. That the Tax Commissioner shall provide a description of the Brown v. Board of Education Scholarship Program in the instructions that accompany the annual Virginia income tax return package.**

**4. That, upon the 50th anniversary of the Supreme Court decision in Brown v. Board of Education in 2004, the General Assembly of Virginia acknowledges and hereby deeply regrets the irreparable harm suffered by many students, both African American and Caucasian, in the Commonwealth due to the closing of public schools to avoid desegregation of such public schools.**

**[ 5. That the provisions of this act shall not become effective unless an appropriation of general**

**funds effectuating the purposes of this act is included in the general appropriation act for the period July 1, 2004, through June 30, 2006, passed during the 2004 Session of the General Assembly and signed into law by the Governor. ]**