

DEPARTMENT OF TAXATION

2005 Fiscal Impact Statement

1. **Patron** Christopher B. Saxman

3. **Committee** House Finance

4. **Title** Children at Risk in Education Scholarship
Tax Credit

2. **Bill Number** HB 1942

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would create a tax credit equal to 25% of an eligible contribution to an eligible organization that funds scholarships for eligible students. The total amount of credits granted in each fiscal year could not exceed \$2 million and would be distributed on a first-come first-served basis. The tax credit would be available for use against the individual income tax, corporate income tax, bank franchise tax, license tax on insurance companies, and license tax on public service companies.

This credit would be effective for taxable years beginning on and after January 1, 2006.

6. **Fiscal Impact Estimates are:** Not available. (See Line 8.)

6a. **Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2004-05	\$0		GF
2005-06	\$136,150	2	GF
2006-07	\$270,282	2	GF
2007-08	\$94,826	2	GF
2008-09	\$97,428	2	GF
2009-10	\$100,090	2	GF
2010-11	\$102,811	2	GF

7. **Budget amendment necessary:** Yes.

ITEM(S): 284 and 285, Department of Taxation

8. **Fiscal implications:**

Administrative Impact

The Department would incur costs of \$136,150 for Fiscal Year 2006 and \$270,282 for Fiscal Year 2007 to implement this bill, including necessary systems changes and two full time positions. In addition, the Department would incur continuing costs of \$94,826 for Fiscal Year 2008, \$97,428 for Fiscal Year 2009, \$100,090 for Fiscal Year 2010 and

\$102,811 for Fiscal Year 2011 for the two full time positions needed to administer the credit program. Although the Department would administer the credit, insurance companies and certain public utilities would claim the credit against taxes administered by the State Corporation Commission.

Revenue Impact

This bill would have an unknown impact on General Fund revenue. However, the credit authorized under this bill is capped at \$2 million per fiscal year.

9. Specific agency or political subdivisions affected:

Department of Taxation
State Corporation Commission
Department of Agriculture and Consumer Services

10. Technical amendment necessary: No.

11. Other comments:

This bill would create a tax credit equal to 25% of an eligible contribution to an eligible organization that funds scholarships for eligible students. The total amount of credits granted in each fiscal year would be equal to \$2 million and would be distributed on a first-come first-served basis. The tax credit would be available for use against the individual income tax, corporate income tax, bank franchise tax, license tax on insurance companies, and license tax on public service companies. The tax credit would not exceed 75% of the taxpayer's tax liability after all other credits. Any unused credits would be allowed to be carried forward for an indefinite period of time.

Business entities seeking a tax credit would have to apply to the Department for the credit. If approved, the Department would notify the business entity that the approved donation must be made within 30 days to an approved organization. If the donation is not made within 30 days, the approval would be void. A scholarship-funding organization would be required to promptly notify the Department upon receipt of the approved donation.

All eligible nonprofit scholarship funding organizations seeking to receive and administer tax credit-approved funds would apply by letter to the Department for approval. Notice of approval or denial, including reasons for denial, would be issued by the Department to the applicant within 60 days. Approved organizations would have to reapply for approval every 3 years.

Eligible nonprofit scholarship funding organizations would provide scholarships from eligible contributions to qualified students for (i) tuition and textbook fees, as well as fees and expenses for testing services required by this bill that would be incurred by an eligible student for the purpose of attending an eligible nonprofit or non-tuition-charging public school or (ii) tutorial services for eligible public school students.

Under this bill, eligible nonprofit scholarship-funding organization would give priority consideration to eligible students who are at-risk of educational failure and who received a scholarship from an eligible nonprofit scholarship funding organization during the previous year. Students who are at risk of educational failure include those who are assigned to a public school not rated “fully accredited,” students who are classified as “learning disabled,” or students who have failed one or more Standards of Learning tests.

An “eligible contribution” would be a contribution of cash, stock, bonds, or other marketable securities to an eligible nonprofit scholarship funding organization from any business that is subject to state taxation in Virginia.

An “eligible nonprofit scholarship funding organization” would be a charitable organization exempt from federal income tax under Internal Revenue Code § 501(c)(3) that, according to its Articles of Incorporation, provides educational scholarship fund and complies with certain program evaluation provisions.

An “eligible public school” would be a public kindergarten, elementary school, or secondary school owned or exclusively controlled by the state or some political subdivision thereof, that charges tuition to an eligible student to attend. Since the public schools are free to the students who reside within their jurisdiction, the only public schools that this bill would apply to are those outside of the school division where the student resides. Therefore, the scholarships would pay for students to attend a public school outside of the jurisdiction where the student resides or a private school.

An “eligible nonpublic school” would be a nonpublic kindergarten, elementary school, or secondary school, not owned or exclusively controlled by the State or some political subdivision thereof, located in Virginia that;

1. Charges tuition to an eligible student to attend;
2. Offers and education to students in any grades K-12 that meets the requirements described in *Va. Code* § 58.1-439.20;
3. Satisfies the requirements for compulsory school attendance as described in *Va. Code* § 22.1-254; and
4. (i) complies with nonpublic school accreditation requirements as set forth in § 22.1-19 administered by the Virginia Council for Private Education, or (ii) maintains an assessment system for CARE scholarship students that measures scholarship students’ progress annually in reading using a national norm-referenced achievement test that includes, but is not limited to, the Stanford Achievement Test, California Achievement Test, and Iowa Test of Basic Skills.

An “eligible student” would be a kindergarten through twelfth grade student who is a resident of Virginia, enrolled in a school and a member of a household with an annual gross income of not more than \$40,000 for a household consisting of four or fewer individuals and an additional \$5,000 for each individual exceeding four. To maintain, “eligible student” status, students must take an annual achievement assessment that may include but is not limited to the Stanford Achievement Test, California Achievement Test, and Iowa Test of Basic Skills or a Virginia Standards of Learning reading assessment for grades 3, 5, and 8.

Other Legislation

House Bill 2914 would create the Virginia Education Investment Act. The Act would create a tax credit for business entities would be equal to 25% of contributions to a nonprofit education foundation and an income tax credit for individuals equal to 25% of eligible contributions or 100% of education expenses paid for a student who is claimed as a dependent.

Senate Bill 1126 would create a refundable income tax credit for certain low income taxpayers equal to 100% of educational expenses incurred during a taxable year up to \$1,000.

cc : Secretary of Finance

Date: 1/30/2005 dtm
HB1942F161