

DEPARTMENT OF TAXATION

2006 Fiscal Impact Statement

1. **Patron** Christopher B. Saxman

3. **Committee** House Finance

4. **Title** Education Tax Credits

2. **Bill Number** HB 1294

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would allow individuals and businesses to claim a tax credit for contributions to Department of Taxation-approved nonprofit foundations that provide financial assistance to public schools for capital projects or provide scholarships to students in the Commonwealth. The total amount of credits available to business entities in any given year would be capped at \$60 million. In addition, an individual taxpayer would be able to claim a credit for \$800, or \$1,200 if filing jointly, for education expenses paid for a dependent who is a student.

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

6. **No Fiscal Impact or 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>
2005-06	\$34,600	1	GF
2006-07	\$48,700	1	GF
2007-08	\$49,700	1	GF
2008-09	\$50,700	1	GF
2009-10	\$51,700	1	GF
2010-11	\$52,700	1	GF
2011-12	\$53,700	1	GF

7. **Budget amendment necessary:** No.

8. **Fiscal implications:**

Information is not available on current contribution levels to public school and scholarship foundations in Virginia or how much individuals in Virginia incur for education expenses. The bill would provide an incentive for contributions to eligible organizations. Therefore, the negative General Fund revenue impact of this bill is not known, but could exceed \$60 million per year because individual credits are not subject to the cap. Most of the revenue

loss would be general fund, but insurance companies may also claim the credit, so the Priority Transportation Fund's share of the premium tax would be reduced.

This bill would cost TAX \$34,600 in FY 06, \$48,700 in FY 07, \$49,700 in FY 08, \$50,700 in FY 09, \$51,700 in FY 10, \$52,700 in FY 11, and \$53,700 in FY 12. Because this bill would create a first-come first-served capped credit, along with a pre-authorization requirement, TAX would require one additional full time employee to implement this bill.

9. Specific agency or political subdivisions affected:

Department of Taxation
State Corporation Commission

10. Technical amendment necessary: Yes.

In order to maintain consistent use of phrasing throughout the bill, the following technical amendment is suggested:

Page 1, Line 50, at beginning of line
Strike: education
Insert: qualified educational

11. Other comments:

Tax Credit for Businesses

Under this bill, a business entity would be able to earn a tax credit equal to 90% of contributions to a nonprofit education foundation. A "business entity" would be a business subject to corporate income tax, individual income tax, bank franchise tax, the license tax on insurance companies, or the tax on public service corporations.

The total amount of tax credits that could be granted to business entities in any fiscal year would be \$60 million. Thirty million dollars of the cap would be designated for contributions made to public school foundations. The other \$30 million would be granted for contributions made to scholarship foundations. Credits would be awarded to business entities on a first-come, first-served basis.

Business entities would be required request and receive preauthorization for a specified tax credit amount from the Department. A business entity would be required to make the preauthorized contribution within 30 days of issuance of the notice. The preauthorization notice would accompany the donation from the business entity to the nonprofit education foundation. The education foundation would be required to return the notice to the Department, within 10 days certifying the amount of the donation and date received.

In addition to being preauthorized, business entities claiming credit for a contribution would be required to submit receipts from each nonprofit education foundation verifying such contribution.

Credits granted to a pass-through entities would be allocated to their individual owners in proportion to their ownership or interest in such business entities. Unused amount of the credit would not be refunded and could not be carried forward.

Individual Income Tax Credit

The bill would allow individuals to earn an income tax credit equal to 100% contributions to a nonprofit education foundation or 100% of the education expenses paid for a dependent student. The amount earned could not exceed \$800 for a single taxpayer or \$1,200 for taxpayers filing a joint return. Unused amount of the credit would not be refunded and could not be carried forward.

Nonprofit Education Foundations

Nonprofit education foundations would be required to apply to the Department in order to be approved to receive and administer tax credit-approved funds. The Department would be required issued a notice of approval or denial, including reasons for denial to the applicant within 60 days after the application is submitted. Nonprofit education foundations would include both public school foundations and scholarship foundations.

A "public school foundation" would be a charitable organization incorporated in this Commonwealth as defined in § 22.2-212.2:2 that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code and is established, in part, to provide financial aid for projects that have been approved by the foundation's local school board. A public school foundation would be required to disburse least 90% percent of its tax-credit derived funds for capital improvement projects approved by the local school board and for extracurricular activities, including, but not limited to, sports, band, and chorus.

A "scholarship foundation" would be a charitable organization incorporated in this Commonwealth that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code and is established, in part, to provide financial aid for the education of students residing in the Commonwealth. A scholarship foundation would be required to disburse at least 90% of its tax-credit derived funds for "qualified educational expenses" through scholarships. "Qualified educational expenses" would include school-related tuition and instructional fees and materials, including textbooks and workbooks used solely for school-related work. Scholarship foundations would be require to provide receipts to individual taxpayers for their contributions

In awarding scholarships, the scholarship foundation would (i) give priority to any student whose family's annual household income is less than twice the amount required to qualify for the Federal Free and Reduced Lunch Program; (ii) require evidence of the student's reading and math achievement for the previous school year as measured by a national norm-referenced achievement assessment, or a Virginia Standards of Learning assessment; (iii) not limit scholarships to students of one school; and (iv) not discriminate on the basis of race, color, national origin or disability.

Scholarship foundations would also be required to ensure that schools selected by scholarship students (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) do not discriminate on the basis of race, color, or national origin; and (iv) comply with nonpublic school accreditation requirements administered by the Virginia Council for Private Education.

The amount of the scholarship provided to any child for any single school year by all eligible nonprofit scholarship foundations from eligible contributions shall not exceed the lesser of: (i) the actual tuition, textbook, and educational fees incurred, or (ii) \$5,000 for a scholarship awarded to a student enrolled in an eligible public or nonpublic school.

Payment of the scholarship by the eligible nonprofit scholarship foundation shall be by individual warrant or check made payable to the student's parent or legal guardian. If the parent chooses for his child to attend an eligible nonpublic school, the warrant or check must be mailed by the eligible nonprofit scholarship foundation to the eligible nonpublic school of the parent's choice, and the parent shall restrictively endorse the warrant or check to the eligible nonpublic school. An eligible nonprofit scholarship foundation shall ensure that, upon receipt of a scholarship warrant or check, the parent to whom the warrant or check is made restrictively endorses the warrant or check to the eligible nonpublic school of the parent's choice for deposit into the account of the nonpublic school.

Nonprofit education foundations would be required to be audited annually by a certified public accountant. The Department would be required to publish a list of approved nonprofit education foundations annually and submit a list of all nonprofit education foundations receiving contributions from business entities and individual taxpayers to the chairmen of the House and Senate Finance Committees no later than December 1 of each year.

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

Other Legislation

SB 189 is similar to this bill. SB 189 would permit business a credit equal to 75% of the contribution made. That bill would cap contribution credits at \$50 million, with \$25 million each evenly divided between public school foundations and scholarship foundations. SB 189 would allow individuals a credit equal to 75% of the individual's contribution made. There is not a cap on the amount of the scholarship that can be provided to any child. The effective date for SB 189 is January 1, 2007.

cc : Secretary of Finance

Date: 02/02/2006 PTR
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