DEPARTMENT OF TAXATION
2010 Fiscal Impact Statement

1. Patron David B. Albo

2. Bill Number HB 734

House of Origin:
X **Introduced**
_____ **Substitute**
_____ **Engrossed**

Second House:
_____ **In Committee**
_____ **Substitute**
_____ **Enrolled**

3. Committee House Finance

4. Title Income Tax; Public School Renovation Tax Credit.

5. Summary/Purpose:

This bill would allow individuals and corporations to claim an income tax credit for the eligible renovation expenses incurred for completing the renovation of a public school. The credit would be equal to 25 percent of the taxpayer's expenses for the taxable year, not to exceed $1 million dollars in a taxable year. This bill would provide that any unused credits would be allowed to be carried forward for five taxable years or until the total amount of the credit has been taken, whichever is sooner.

The total amount of tax credits available for all taxpayers who qualify would be limited to $100 million for any taxable year. This bill would provide that if the total amount of tax credits exceeds the $100 million limit, TAX would be required to prorate the credits and allocate them to the taxpayers on a pro rata basis.

This bill would be effective for taxable years beginning on or after January 1, 2010.

6. Fiscal Impact Estimates are: Preliminary. (See Line 8.)

7. Budget amendment necessary: Yes.
Page 1, Revenue Estimates

8. Fiscal implications:

Administrative Costs

TAX has not assigned any administrative costs to this bill because the changes required by a single bill such as this can be implemented as part of the annual changes to our systems and forms. As stand-alone legislation, TAX considers implementation of this bill as "routine," and does not require additional funding.

TAX will provide specific administrative costs on any legislation that is not "routine." Additionally, TAX will review all state tax legislation likely to be enacted prior to the passage by each house. If the aggregate number of routine bills likely to pass either house is unusually large, it is possible that additional resources will be required. If so, TAX will identify the costs at that time.

Revenue Impact

This bill would have an unknown negative revenue impact. Based on data from the Department of Education, the average cost per project was $9,406,065 and the average project would have sufficient expenses to qualify for a tax credit of $2,351,516, absent the cap per project. Therefore, the average project could be expected to qualify for $1 million in tax credits. One-third of the projects in the sample provided would have qualified for less than the maximum amount of credit. The total cost of selected addition and renovation projects for FY 2009 was $56,436,389. Using this data, TAX estimates that the tax credits for eligible expenses allowed under this bill could be as high as $14 million.

There are more than 1,800 public school buildings serving Virginia's K-12 students. A 2002 survey identified 822 public school buildings built in 1969 or before. Each year, a new group of schools qualifies for this credit. In addition, this bill could also allow public community colleges or universities to qualify. Provided that these public school buildings qualify for the Public-Private Facilities and Infrastructure Act, the impact could reach the $100 million annual cap.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: Yes.

TAX understands that the reference to investments made in 2009 is an error. Therefore, the following technical amendment is suggested:

Page 1, Line 23, after taxable year.
Strike: To be eligible for the tax credit under this section the taxpayer shall have made a new investment in taxable year 2009.

11. Other comments:

Public-Private Education Facilities and Infrastructure Act of 2002

In 2002, the General Assembly passed legislation (2002 Acts of Assembly, Chapter 571, Senate Bill 681) that established the Public-Private Education Facilities and Infrastructure Act of 2002 (PPEA). Under the PPEA, Virginia's counties, cities and other public bodies can partner with the private sector to design, construct, finance and operate almost any public facility. In recognizing the need for a new public building or infrastructure, the private sector is allowed to offer unsolicited proposal to a public body for its construction or improvement. Conversely, a public body is allowed to identify a need and solicit private proposals to construct or renovate a public facility.

The PPEA allows the private sector to offer financing alternatives that are not otherwise available to the public entity. These include user fees, service fees, fees and payments from third-parties, lease payments and other financing structures not typically used by public entities. For localities such as cities or towns, financings may be arranged that will not affect their debt capacity, and counties' financings may be arranged that will not require a public referendum.

Proposed Legislation

This bill would allow individuals and corporations to claim an income tax credit for the eligible renovation expenses incurred for completing the renovation of a public school. The credit would be equal to 25 percent of the taxpayer's expenses for the taxable year, not to exceed $1 million dollars in a taxable year. This bill would provide that any unused credits would be allowed to be carried forward for five taxable years or until the total amount of the credit has been taken, whichever is sooner.

The total amount of tax credits available for all taxpayers who qualify would be limited to $100 million for any taxable year. This bill would provide that if the total amount of tax credits exceeds the $100 million limit, TAX would be required to prorate the credits and allocate them to the taxpayers on a pro rata basis.

"Eligible renovation expenses" would mean expenses incurred in a qualified public school renovation.

"Qualified public school renovation" would mean the renovation of a public school that (i) has never received a substantial renovation; (ii) is 40 years old or older; (iii) will be used after the renovation as a public school; and (iv) qualifies under the criteria of the Public-Private Education Facilities and Infrastructure Act. A substantial renovation would not include adding or replacing HVAC and other normal upkeep or expansions of the school's original footprint.

In order to qualify for the tax credit, the taxpayer would be required to apply to the Department of Taxation. This bill would require the taxpayer to provide sales receipts, contracts, and any other evidence of the eligible renovation expenses incurred as may be required by TAX. TAX would then determine the credit amount for the taxable year and issue the corresponding tax credit.

This bill would require the TAX to develop and issue guidelines that contains procedures for claiming the tax credit, exempt from the Administrative Process Act.

This bill would also provide that credits granted to a partnership, limited liability company, or electing small business corporation (S corporation) would be allocated to the individual partners, members, or shareholders, respectively, in proportion to their ownership or interest in such business entity.

This bill would be effective for taxable years beginning on or after January 1, 2010.

cc : Secretary of Finance

Date: 1/24/2010 TG
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