

**DEPARTMENT OF TAXATION
2008 Fiscal Impact Statement**

1. **Patron** David A. Nutter

2. **Bill Number** HB 985

3. **Committee** House Finance

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

4. **Title** Individual Income Tax; Credit for Teacher Expenses

Second House:

 In Committee

 Substitute

 Enrolled

5. Summary/Purpose:

This bill would provide an individual income tax credit to individuals who teach children in kindergarten through grade twelve and who incur expenses for materials used for teaching in Virginia or executing the education mission of the school division. The credit would be equal to the amount of the expenses, up to \$250. The credit could not exceed the tax liability of the individual.

This bill would be effective for taxable years beginning on and after January 1, 2008.

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

7. Budget amendment necessary: Yes. (See Line 8.)
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, but potentially substantial negative revenue impact on General Fund revenue. Data from the Virginia and U.S. Departments of Education indicate that there are approximately 137,000 individuals that could be eligible to claim the credit. Based on Internal Revenue Service (“IRS”) and TAX data, had this bill been in place during taxable year 2005, taxpayers would likely have claimed this credit on approximately 88,290 returns. This would have resulted in a total revenue loss of \$22.1 million.

To implement this credit, a reduction of an equal amount of general fund support from other areas in the introduced budget would be required. Given the magnitude of funding involved, funding would need to be transferred from areas with significant general fund support.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: Yes.

If it is the intent of this bill to limit the tax credit to expenses that have not been deducted on the taxpayer’s federal income tax return, the following technical amendment is suggested:

Page 1, Line 18, after are incurred

Insert: , provided that the individual has not claimed a deduction for such expenses on his federal income tax return

In order to clarify the types of materials that would be eligible for this credit, the following amendment is suggested:

Page 1, Line 22, after (§ 2.2-4000 et seq.).

Insert: For the purposes of this section, “materials used in teaching in the Commonwealth or in executing the education mission of the school division” means books, supplies, computer equipment (including related software and services) and other equipment, and supplementary materials used in the classroom.

11. Other comments:

Generally

Virginia currently provides a deduction to teachers equal to 20% of the tuition costs to attend continuing teacher education courses that are required as a condition of employment. This deduction is available only if the teacher is not reimbursed for the tuition costs and has not claimed a deduction for the payment of the tuition costs on his or her federal income tax return.

Under federal law, teachers who have unreimbursed employee expenses may deduct such expenditures as an itemized deduction. The amount is limited to the excess of all the allowable expenses that exceed 2% of the teacher's federal adjusted gross income. As a conformity state, the allowable federal deductions would flow through on the Virginia return. Consequently, the proposed bill could potentially provide a double benefit to those individuals who claim an itemized deduction for unreimbursed employee expenses.

In addition, teachers may be eligible for a special federal deduction. This federal deduction allows eligible educators to deduct up to \$250 per year for unreimbursed expenses incurred for certain materials used in the classroom in determining their federal adjusted gross income. The eligible expenses are not subject to the limitations of unreimbursed employee expenses claimed as an itemized deduction. This deduction expired at the end of 2007, but is expected to be renewed by Congress.

Proposal

This bill would provide an individual income tax credit to individuals who teach children in kindergarten through grade twelve and who incur expenses for materials used for teaching in Virginia or executing the education mission of the school division. The credit would be equal to the amount of the expenses, up to \$250. The credit could not exceed the tax liability of the individual.

This bill would require the individual to attach proof of payment for the teaching materials to his income tax return. The Tax Commissioner would be required to establish guidelines, exempt from the Administrative Process Act, regarding the information that a taxpayer must provide and the format for such information.

TAX has suggested a technical amendment that would ensure that individuals would not benefit from both the federal deduction and this credit for the same expenses.

This bill would be effective for taxable years beginning on and after January 1, 2008.

Similar Legislation

House Bill 420 would provide a nonrefundable individual income tax credit for qualifying educational expenses incurred on behalf of a child of the taxpayer.

cc : Secretary of Finance

Date: 1/18/2008 TG
HB985F161