

DEPARTMENT OF TAXATION

2014 Fiscal Impact Statement

1. **Patron** Dave A. LaRock

3. **Committee** House Finance

4. **Title** Individual Income Tax; Home Instruction and
Private School Tax Credit.

2. **Bill Number** HB 950

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

The Department of Taxation ("the Department") understands that the Patron's intent was to limit the amount of the credit imposed by this bill to one-half of the amount of the average state SOQ funding per student per year. Accordingly, the Department has suggested an amendment to this bill to accomplish this purpose (see Line 10), and this fiscal impact statement is drafted based on incorporation of this amendment.

This bill would allow the parent or legal guardian of a child receiving home instruction or a child attending an accredited private school to claim a credit against the individual income tax for amounts paid for such child's (i) instruction-related materials, including textbooks, workbooks, and supplies; (ii) courses or programs used in the home instruction; or (iii) private school tuition. The amount of the credit would equal the lesser of the amount actually paid in the taxable year for such costs or half of average state standards of quality ("SOQ") funding per student per year. The credit could only be claimed for children who were not home schooled or sent to private school for the previous year in the Commonwealth. The credit would be available for two years per child over the course of a child's schooling.

This bill would be effective for taxable years beginning on or after January 1, 2014.

6. **Budget amendment necessary:** No.

7. **Fiscal Impact Estimates are:** Unknown. (See Line 8).

8. **Fiscal implications:**

Administrative Costs

The Department of Taxation ("the Department") 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, the Department considers implementation of this bill as "routine," and does not require additional funding.

The Department will provide specific administrative costs on any legislation that is not “routine.” Additionally, the Department 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, the Department will identify the costs at that time.

Revenue Impact

This bill would result in an unknown negative impact on General Fund revenue because it is unknown how many taxpayers would qualify for and claim this credit. The credit could only be claimed for children who were not home schooled or sent to private school for the previous year in the Commonwealth, and it is unknown how many children who are currently not home schooled or attending private school who would start to do so.

According to a 2012-2013 report on home-schooled students published by the Virginia Department of Education, there are 29,886 such students in the Commonwealth. Based on estimates obtained from the Home School Legal Defense Association, the average annual cost per home-schooled student is \$585.

According to data published by the National Center for Education Statistics (“NCES”), as of 2009, there were approximately 128,140 private school students in Virginia. Additional data published by NCES reports that the average private school tuition for K-12 education as of July 2013 was \$10,045.

For Fiscal Year 2013, average statewide SOQ funding per student was \$4,307. If the bill is amended so that the credit amount is limited to half of average state SOQ funding per student per year, the maximum credit allowed per child would be \$2,154.

Expenditure Impact

To the extent that children who are currently in the public school system would move to a private school or begin homeschooling, the potential revenue impact from this bill could be partially offset by a decrease in education expenditures. This offsetting effect would depend on the number and timing of students leaving the public school system, as well as the location of such students. State funding is distributed to local school divisions on a per pupil basis using the number of students enrolled, and the per pupil funding amounts and composite index calculated for the division. Due to the composite index, state per pupil funding varies across school divisions.

Finally, it should be noted that state appropriated amounts for public schools are likely to increase in the future, regardless of the enactment of this legislation due to increases in prevailing per pupil cost and enrollment. To the extent that this legislation induces additional home schooling or utilization of private schools, it will result in future funding increases being less for public education than would otherwise be the case.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: Yes.

Under this bill, the maximum credit amount would be limited to half of average state spending per student per year based on the most recent published Annual School Report. The Department understands that it is the Patron's intent to limit the maximum credit amount to half of average state SOQ funding per student per year. To address this issue, the Department suggests the following technical amendments.

Line 21: after state

Strike: spending

Insert: standards of quality ("SOQ") funding

Line 21: after year

Strike: based on the most recent published Annual School Report

11. Other comments:

Education Improvement Scholarships Tax Credit

In 2012, the Virginia General Assembly enacted the Education Improvement Scholarships Tax Credit, which may be claimed by taxpayers who make donations to qualifying scholarship foundations. Scholarship foundations that receive tax-credit-derived donations must then use at least 90 percent of the funds to provide scholarships for eligible students to attend private schools.

Under the Education Improvement Scholarships Tax Credit Program, scholarship foundations are required to provide scholarships for qualified educational expenses only to students whose family's annual household income is not in excess of 300 percent of the current poverty guidelines or eligible students with a disability. Scholarships cannot be limited to students of one school.

To receive a tax credit-derived scholarship from a scholarship foundation, a student must be a resident of Virginia and meet one of the following criteria:

- Be enrolled in Virginia's public schools for the year prior to receiving a scholarship foundation scholarship,
- Be a prior recipient of a scholarship foundation scholarship,
- Be eligible to enter kindergarten or first grade, or
- Not have been domiciled in Virginia during the preceding year and not have attended a nonpublic school in Virginia for more than half of the school year.

The Education Improvement Scholarship Tax Credit is equal to 65 percent of the monetary or marketable securities donation made to a qualifying scholarship foundation, and may be applied against the Individual Income Tax, Corporate Income Tax, Bank Franchise Tax, Insurance Premiums License Tax, or tax on public service corporations. Tax credits are awarded to taxpayers on a first-come, first-served basis, and the total amount of tax credits available in any given fiscal year is capped at \$25 million.

Proposed Legislation

This bill would allow the parent or legal guardian of a child receiving home instruction or a child attending an accredited private school to claim a credit against the individual income tax for amounts paid for such child's (i) instruction-related materials, including textbooks, workbooks, and supplies; (ii) courses or programs used in the home instruction; or (iii) private school tuition. The amount of the credit would equal the lesser of the amount actually paid in the taxable year for such costs or half of average state standards of quality ("SOQ") funding per student per year.

The amount of the credit would be limited to the total amount of income tax imposed upon the parent or legal guardian for the taxable year. Any unused amounts would be carried over for the next four succeeding taxable years or until the total amount of the tax credit has been taken, whichever is sooner. The credit would be available for two years per child over the course of a child's schooling.

In order to claim the tax credit, the parent or legal guardian would provide with his income tax return (i) the name of the child receiving home instruction for the year and the local school division to which notice was provided or (ii) the name of the child attending private school and certification of such enrollment from the private school. The parent or legal guardian would further provide information demonstrating that the child was not home schooled or sent to private school for the previous year in the Commonwealth.

The Department would be required to develop guidelines implementing the provisions of this bill. Such guidelines would be exempt from the Administrative Process Act.

Nothing in this bill would prevent a parent claiming a tax credit for the educational expenses of a student who receives a scholarship under the Education Improvement Scholarships Tax Credit program. However, this credit could only be claimed for the expenses actually paid by the parent or legal guardian, and would not include any expenses that are paid by a scholarship foundation or another third party.

This bill would be effective for taxable years beginning on or after January 1, 2014.

Similar Legislation

House Bill 239 would allow the parent or legal guardian of a child receiving home instruction to claim a credit against the individual income tax for the amounts paid for a child's home instruction-related materials and services used in the home instruction.

cc : Secretary of Finance

Date: 01/30/2014 mjm
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