

**DEPARTMENT OF TAXATION
2016 Fiscal Impact Statement**

1. **Patron** Bryce E. Reeves

2. **Bill Number** SB 151

3. **Committee** Senate Finance

House of Origin:
 Introduced
 Substitute
 Engrossed

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

Second House:
 In Committee
 Substitute
 Enrolled

5. Summary/Purpose:

This bill would create an individual income tax credit for any qualifying individual equal to the amount, not to exceed \$500, paid by such individual for materials used in teaching in the Commonwealth. The credit would be available, provided that the individual has not been reimbursed for such expenses or claimed a deduction for such expenses on his federal income tax return.

This bill would be effective for taxable years beginning on or after January 1, 2017.

6. **Budget amendment necessary:** Yes.
 Page 1, Revenue Estimates

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

7b. Revenue Impact:

| <i>Fiscal Year</i> | <i>Dollars</i> | <i>Fund</i> |
|--------------------|------------------|-------------|
| 2015-16 | \$0 | GF |
| 2016-17 | \$0 | GF |
| 2017-18 | (\$48.9 million) | GF |
| 2018-19 | (\$48.9 million) | GF |
| 2019-20 | (\$48.9 million) | GF |
| 2020-21 | (\$48.9 million) | GF |
| 2021-22 | (\$48.9 million) | GF |

8. Fiscal implications:

Administrative Costs

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

Revenue Impact

This bill would have an annual negative General Fund revenue impact of \$48.9 million beginning in Fiscal Year 2018. This revenue impact assumes that taxpayers currently claiming the full amount of the federal deduction for educator expenses would claim the maximum credit proposed by this bill. Based on the Internal Revenue Services Statistics of Income data, an average of 99,170 Virginians with adjusted gross income of \$25,000 or more claimed the federal deduction for educator expenses during Taxable Years 2010 through 2013, at an average deduction of \$248 per taxpayer. This data indicates that approximately 98 percent of such taxpayers are claiming the maximum \$250 federal deduction.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: Yes.

The *Code of Virginia*, § 30-19.1:11, states that no bill proposing to add a new state tax credit or renew an existing state tax credit may be reported from any committee of the General Assembly unless such bill contains an expiration date of not longer than five years from the effective date of the new or renewed state tax credit. Accordingly, the Department suggests the following technical amendment:

Line 20, after “2017,”
Insert: “but before January 1, 2022,”

11. Other comments:

Federal Income Tax Preferences for Educators

For federal income tax purposes, an eligible educator may deduct up to \$250 of any unreimbursed qualified expenses (otherwise deductible as a trade or business expense). If the taxpayers are married filing jointly and both of them are eligible educators, they may deduct up to \$500, but not more than \$250 each. The educator expense deduction may be claimed above-the-line and is not subject to the limitations of unreimbursed employee expenses claimed as an itemized deduction. “Qualified expenses” are amounts paid or incurred for books, supplies, computer equipment (including related software and services), other equipment, and supplementary materials used in the classroom. For courses in health and physical education, expenses for supplies are qualified expenses only if related to athletics. This deduction is for expenses paid or incurred during the taxable year.

An “eligible educator” is, with respect to any taxable year, an individual who is a kindergarten through grade 12 teacher, instructor, counselor, principal, or aide in a school for at least 900 hours during a school year.

Qualified expenses are deductible only to the extent the amount of such expenses exceed the following amounts for the taxable year:

- The interest on qualified U.S. savings bonds that was excluded from income because the taxpayer paid qualified higher education expenses,
- Any distribution from a qualified tuition program that was excluded from income,
- Any tax-free withdrawals from the taxpayer's Coverdell education savings accounts, and
- Any reimbursed expenses not reported on box 1 of a taxpayer's Form W-2.

On December 18, 2015, Congress passed the Protecting Americans from Tax Hikes ("PATH") Act of 2015, which extended several expiring tax provisions. Among other things, the PATH Act permanently extended the educator expense deduction. Beginning in 2016, the PATH Act also modifies the deduction to index the \$250 cap to inflation and include professional development expenses.

In addition to the federal educator expense deduction, a taxpayer may be able to deduct part of his unreimbursed expenses for school supplies as an unreimbursed employee business expense on his federal income tax return. However, such expenses are only deductible if, and to the extent, that the educator's miscellaneous itemized deductions (including his unreimbursed expenses for school supplies) exceed two percent of his adjusted gross income.

Virginia Tax Preferences for Educators

Because federal adjusted gross income is the starting point for computing an individual's Virginia tax liability, the federal above-the-line deduction for educator expenses is taken into account for Virginia income tax purposes. Additionally, any expenses deductible as an itemized deduction for federal income tax purposes (including a taxpayer's unreimbursed expenses for school supplies) are generally also deductible for Virginia tax purposes.

In addition, Virginia provides a deduction to teachers equal to 20 percent 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 federal income tax return. Such teacher must be employed as a primary or secondary school teacher licensed under Virginia law.

Virginia provides a sales tax holiday for certain school supplies, including, but not limited to, dictionaries, notebooks, pens, pencils, notebook paper, and calculators. While not aimed specifically at teachers, teachers may benefit from the sales tax holiday. The most recent sales tax holiday was held from August 7, 2015, through August 9, 2015.

Proposed Legislation

This bill would create an individual income tax credit for any qualifying individual equal to the amount paid by such individual for materials used in teaching in the Commonwealth. The credit would be available, provided that the individual has not been reimbursed for such expenses or claimed a deduction for such expenses on his federal income tax

return. The credit would be limited to the lesser of \$500 or the individual's tax liability, and would not contain a carryover provision.

The bill would define a "qualifying individual" as an individual who is a teacher, instructor, counselor, principal, or aide for at least 900 hours during a school year in a school that provides elementary or secondary education. "Materials used in teaching" would be defined as books; supplies; computer equipment, including related software and services; and other equipment and supplementary materials, used in the classroom.

This bill would be effective for taxable years beginning on or after January 1, 2017.

Similar Bills

Senate Bill 589, House Bill 1017, House Bill 1018, and House Bill 1019 would make various changes to the Education Improvement Scholarships Tax Credit. Such credit may be earned by taxpayers who make monetary or marketable securities donations to qualifying scholarship foundations for the benefit of certain non-public school students.

cc : Secretary of Finance

Date: 2/1/2016 JJS
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