

DEPARTMENT OF TAXATION

2021 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 2243

House of Origin:

X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would provide parents or legal guardians of a child receiving home instruction in Virginia or attending an accredited private school in Virginia with an individual income tax credit equal to the amount paid with respect to such child for:

- Instruction-related materials, including textbooks, workbooks, and supplies;
- Courses or programs used in home instruction; or
- Private school tuition.

The credit would be limited to the lesser of the amount paid for such expenses or half of the average state standards of quality funding per student per year.

No taxpayer would be permitted to claim credits with respect to the same child for more than two taxable years. The credit would not be subject to an annual credit cap.

This bill would be effective for taxable years beginning on and after January 1, 2021, but before January 1, 2026.

6. **Budget amendment necessary:** Yes.

Item(s): 282 and 284, Department of Taxation

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

7a. **Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2021-22	\$212,037	0	GF
2022-23	Routine	0	GF
2023-24	Routine	0	GF
2024-25	Routine	0	GF
2025-26	Routine	0	GF

8. Fiscal implications:

Administrative Costs

This bill would result in administrative costs to the Department of Taxation of \$212,037 in Fiscal Year 2022. Such costs would primarily consist of updating the Department's systems to implement the new tax credit that would be provided by this bill. Any costs thereafter would be considered routine.

Fiscal Impact

This bill would have an unknown, but potentially significant, negative General Fund revenue impact beginning in Fiscal Year 2022. It is unknown to what extent taxpayers incur or will incur expenses that qualify for purposes of this credit. As a result of the COVID-19 pandemic, public school enrollment is down by more than 45,000 students when compared to the 2019-2020 school year. It is likely this has and will continue to result in a significant increase in expenses related to home instruction.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: None.

11. Other comments:

529 Accounts and Primary and Secondary Education Expenses

Taxpayers are permitted to make cash contributions to a qualified tuition program, commonly known as a "529 account," on behalf of a student or future student. Contributions to 529 accounts are not deductible for federal income tax purposes. In contrast, up to \$4,000 in such contributions are deductible for Virginia income tax purposes each year if made to an account established with the Virginia College Savings Plan. Any earnings on these contributions are tax-free for both federal and Virginia income tax purposes. A distribution under a 529 plan that does not exceed the "qualified higher education expenses" of the designated beneficiary generally is tax-free for both federal and Virginia income tax purposes. Such expenses include tuition, fees, books, etc., required for the enrollment or attendance of a designated beneficiary at an eligible educational institution.

On December 22, 2017, the federal Tax Cuts and Jobs Act modified the term "qualified higher education expenses" to include expenses for tuition in connection with the enrollment or attendance at an elementary or secondary public, private, or religious school. However, this law also limited the amount of cash distributions for elementary and secondary school tuition from all 529 accounts to a single beneficiary to \$10,000 per year.

Sunset Dates for Income Tax Credits and Sales Tax Exemptions

Section 3-5.14 of the Appropriation Act provides that the General Assembly may not advance the sunset date for any existing income tax credit or sales tax exemption beyond June 30, 2025. Any new income tax credit or sales tax exemption enacted by the General Assembly prior to the 2024 Session must have a sunset date not later than June 30, 2025. This

requirement does not apply to sales tax exemptions related to nonprofit entities or to income tax credits or sales tax exemptions with sunset dates after June 30, 2022 that were enacted or advanced during the 2016 Session, or to the Motion Picture Production Tax Credit.

Proposed Legislation

This bill would provide parents or legal guardians of a child receiving home instruction in Virginia or attending an accredited private school in Virginia with an individual income tax credit equal to the amount paid with respect to such child for:

- Instruction-related materials, including textbooks, workbooks, and supplies;
- Courses or programs used in home instruction; or
- Private school tuition.

The credit would be limited to the lesser of the amount paid for such expenses or half of the average state standards of quality funding per student per year.

No taxpayer would be permitted to claim credits with respect to the same child for more than two taxable years. The credit would not be subject to an annual credit cap.

In order to claim the credit, the individual filing a return or married persons filing a joint return would be required to include with their Virginia income tax return:

- The name of the child receiving home instruction and the school division to which notice was provided; or
- The name of the child attending private school and certification of such enrollment from the private school.

Taxpayers claiming the credit would also be required to provide information demonstrating that the child for whom the credit is claimed did not receive home instruction or attend a private school for the previous year in the Commonwealth. If two parents or legal guardians of the same child file separately, only one of the two parents or legal guardians may claim the credit that would be provided under this bill.

Any unused credits would be permitted to be carried over for the next five taxable years, or until the total amount of the credit has been utilized, whichever is sooner. The Tax Commissioner would develop guidelines implementing the tax credit and such guidelines would be exempt from the provisions of the Administrative Process Act.

This bill would be effective for taxable years beginning on and after January 1, 2021, but before January 1, 2026.

cc : Secretary of Finance

Date: 1/25/2021 RWC
HB 2243F161