

# DEPARTMENT OF TAXATION

## 2022 Fiscal Impact Statement

1. **Patron** Dave A. LaRock

2. **Bill Number** HB 784

3. **Committee** House Finance

**House of Origin:**

  X   **Introduced**

       **Substitute**

       **Engrossed**

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

**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, 2022, but before January 1, 2027.

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

**Item(s):** 274 and 276, Department of Taxation

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

#### 7a. **Expenditure Impact:**

<i><b>Fiscal Year</b></i>	<i><b>Dollars</b></i>	<i><b>Positions</b></i>	<i><b>Fund</b></i>
2022-23	\$212,037	0	GF
2023-24	Routine	0	GF
2024-25	Routine	0	GF
2025-26	Routine	0	GF
2026-27	Routine	0	GF

## **8. Fiscal implications:**

### Administrative Costs

This bill would result in administrative costs to the Department of Taxation (“the Department”) 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.

### Revenue Impact

This bill would have an unknown, but potentially significant, negative General Fund revenue impact beginning in FY 2023. It is unknown to what extent taxpayers will incur expenses that qualify for purposes of this credit.

The amount of the credit would be limited to the lesser of the amount paid for qualifying expenses or half of the average state standards of quality funding per student per year. According to the Joint Legislative Audit and Review Commission’s report entitled, “State Spending on the K-12 Standards of Quality: 2021 Update,” the average per-pupil spending in FY 2021 was \$5,481 per student. According to data from the National Center for Education Statistics, there were 111,427 students enrolled in private schools in Virginia during Fiscal Year 2020. In addition, according to Department of Education data, there are 55,749 home schooled students in Virginia during Fiscal Year 2022. Therefore, credits could be claimed for up to 170,000 students at a maximum of approximately \$5,500 per student. Assuming that credits were claimed by half of qualifying students at the maximum credit amount, the total impact could exceed \$450 million.

It is unknown how many taxpayers would actually claim the credit for qualifying expenses and it is unknown to what extent the prohibition on claiming the credit more than twice per student would limit the impact in later years. In addition, it is unknown to what extent the COVID-19 pandemic has and will continue to cause increased expenses with respect to home instruction and other expenses that would qualify for the credit that this bill would provide.

## **9. Specific agency or political subdivisions affected:**

Department of Taxation

## **10. Technical amendment necessary: No.**

## **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, taxpayers 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.

If two parents or legal guardians of the same child file separately, only one of the parents or legal guardians would be permitted to claim the credit.

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 used, whichever is sooner. The Department would be required to develop guidelines, exempt from the Administrative Process Act, implementing the tax credit.

This bill would be effective for taxable years beginning on and after January 1, 2022, but before January 1, 2027.

cc : Secretary of Finance

Date: 1/23/2022 JLOF  
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