

DEPARTMENT OF TAXATION

2023 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 2480

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 a nonrefundable 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 be subject to a limitation of 1,000 children. A lottery system would be used to select the taxpayers who will receive the credit.

This bill would be effective for taxable years beginning on and after January 1, 2023, but before January 1, 2028.

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

Item(s): Page 1, Revenue Estimates

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

8. **Fiscal implications:**

Administrative Costs

The Department of Taxation ("the Department") considers implementation of this bill to be routine and does not require additional funding. The Department of Education ("DOE") may incur unknown administrative costs as a result of this bill.

Revenue Impact

This bill would have an unknown, but potentially significant, negative General Fund revenue impact beginning in FY 2024. Based on data from the Department of Education, there were 50,713 homeschooled students in Virginia in 2022-2023. Accordingly, it is likely that more than 1,000 taxpayers would apply for the proposed credit. However, the amount of the credit would depend on the amount of expenses incurred.

9. Specific agency or political subdivisions affected:

Department of Taxation
Department of Education

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 be subject to a limitation of 1,000 children.

In order to claim the credit, taxpayers would be required to submit an application to DOE for consideration, which shall include:

- The name of the child receiving home instruction for the year 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.

The bill also requires the parent or legal guardian to provide information demonstrating that the child was not home schooled or sent to private school for the previous year in the Commonwealth. The credit would be allowed through a lottery process developed by DOE to those individuals or married persons who submit a properly completed application.

The bill would require DOE to inform the Department of the individuals or married persons selected for this credit by such lottery process. Any savings resulting from the credit of less than a student's full state Standards of Quality funding to an individual or married couple shall be deposited into the School Construction Fund established pursuant to § 22.1-140.1.

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.

The amount of the credit that may be claimed in any single taxable year may not exceed the total amount of individual income tax liability for the taxable year in which the expenses are incurred. 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.

The bill would also provide that, simultaneous with its enactment, Chapter 8 of the 2022 Acts of Assembly, Special Session I, ("Chapter 8") shall also become effective. Chapter 8 required DOE, in consultation with the Department of General Services, to develop or adopt and maintain a data collection tool to assist each school board to determine the relative age of each public school building in the local school division and the amount of maintenance reserve funds that are necessary to restore each such building. Chapter 8 also required each school board to provide to DOE in a timely fashion the local data that is necessary to ensure that such tool remains relevant and useful for the determination of maintenance reserve needs. Chapter 8 also established the School Construction Fund.

This bill would be effective for taxable years beginning on and after January 1, 2023, but before January 1, 2028.

cc : Secretary of Finance

Date: 1/29/2023 VB
HB2480F161