DEPARTMENT OF TAXATION
2024 Fiscal Impact Statement

1. **Patron** Mark L. Earley

2. **Bill Number** HB 1234
House of Origin:
X **Introduced**
_____ **Substitute**
_____ **Engrossed**

Second House:
_____ **In Committee**
_____ **Substitute**
_____ **Enrolled**

3. **Committee** House Finance

4. **Title** Individual Income Tax; Eligible Educator Deduction and Home School Instruction Tax Credit

5. **Summary/Purpose:**

This bill would increase the individual income tax deduction for eligible educator qualifying expenses from $500 to $1,500 beginning in Taxable Year 2024. It would also extend the sunset date for this deduction from January 1, 2025, to January 1, 2027.

This bill would also establish a nonrefundable individual income tax credit for taxable years beginning on and after January 1, 2024, but before January 1, 2029, for children receiving home instruction in an amount equal to the lesser of the amount actually paid for (i) instruction-related materials, including textbooks, workbooks, and supplies, or (ii) courses or programs used in home instruction or $3,000.

The provisions of this bill regarding the eligible educator deduction would be effective for taxable years beginning on and after January 1, 2024, but before January 1, 2027. The provisions regarding the Home School Instruction Tax Credit would be effective for taxable years beginning on and after January 1, 2024, but before January 1, 2029.

6. **Budget amendment necessary:** Yes.
Item(s): 257 and 258, Department of Taxation

7. **Impact Estimates:** Preliminary (See Line 8.)
7a. Expenditure Impact:

Fiscal Year	***Dollars***	***Positions***	***Fund***
2024-25	$212,037	0	GF
2025-26	$16,611	0	GF
2026-27	$13,611	0	GF
2027-28	$13,611	0	GF
2028-29	$13,611	0	GF

8. **Fiscal implications:**

Administrative Costs

The provisions of this bill creating the Home School Instruction Tax Credit would result in administrative costs to the Department of $212,037 in Fiscal Year 2025, $16,611 in Fiscal Year 2026, and $13,611 in Fiscal Year 2027 and thereafter. Such costs would primarily consist of updating and maintaining the Department's systems to implement the new tax credit that would be provided by this bill. The provisions of this bill regarding the Eligible Educator Deduction would be considered routine and would not require additional funding.

Revenue Impact

This bill would have an unknown negative General Fund revenue impact beginning in Fiscal Year 2025.

It is uncertain to what extent eligible educators would claim the increased eligible educator expense deduction provided by this bill. The amount of eligible expenses actually paid or incurred by such educators is unknown. In addition, it is uncertain to what extent educators would be ineligible by virtue of having relevant expenses reimbursed or claiming such expenses as a federal income tax deduction. Assuming each eligible educator would claim an additional $1,000 deduction, the estimated General Fund revenue loss from increasing the maximum deduction would be approximately $7.4 million annually. However, it is unknown whether eligible educators would have sufficient expenses to claim the full $1,500 deduction allowed by this bill.

The negative General Fund revenue impact of the Homeschool Instruction Tax Credit would be unknown, but likely significant. Based on data from the Virginia Department of Education, there are currently 53,522 homeschooled students in Virginia. If the maximum $3,000 credit was claimed for all these students, the estimated revenue loss would be approximately $160 million annually. However, the actual impact of this bill is unknown and would likely be less since not all homeschooled students would likely incur the maximum $3,000 of eligible expenses.

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

Department of Taxation

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

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 therefore can be claimed by educators who claim the standard deduction or elect to claim their itemized deductions. "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
- Certain reimbursed expenses.

Before Taxable Year 2018, an educator who had unreimbursed educator expenses in excess of $250 and who itemized his or her deductions was able to claim such expenses as part of his or her federal miscellaneous itemized deductions. However, such expenses were only deductible if, and to the extent, that the educator’s total miscellaneous itemized deductions (including his unreimbursed expenses for school supplies) exceeded two percent of his or her adjusted gross income. The Tax Cuts and Jobs Act repealed miscellaneous itemized deductions beginning with Taxable Year 2018. The repeal of miscellaneous itemized deductions is currently scheduled to sunset after December 31, 2025.

<u>Virginia’s Individual Income Tax Modifications</u>

Federal Adjusted Gross Income

Virginia’s Individual Income Tax substantially conforms to federal income tax law by using federal adjusted gross income (“FAGI”) as the starting point for computing Virginia income taxes. Virginia law then provides various modifications to FAGI that must be taken into account that figure in determining Virginia taxable income.

Virginia Adjusted Gross Income

When completing a Virginia individual income tax return, a taxpayer starts with the amount of FAGI reported on his federal return. A taxpayer then calculates Virginia adjusted gross income by making two types of adjustments: (1) “additions” which increase the amount of income taxable by Virginia and (2) “subtractions” which reduce such amount. These adjustments are made only to the extent that they have not already been included or excluded from FAGI.

Virginia Taxable Income

The taxpayer calculates his Virginia taxable income by making another type of modification referred to as “deductions,” which further reduce the amount of income taxable by Virginia. These modifications are made regardless of federal treatment unless specifically stated otherwise in the provision.

Please find below an illustration of how taxable income is computed for federal and Virginia income tax purposes and how they interrelate:

Federal Income Tax	Virginia Income Tax
+Wages and Other Income	*=Federal Adjusted Gross Income ("FAGI")*
+Federal Adjustments	+Virginia Additions (only if not included in FAGI)
-Federal Adjustments	-Virginia Subtractions (only if not excluded from FAGI)
=Federal Adjusted Gross Income ("FAGI")	*=Virginia Adjusted Gross Income ("VAGI")*
-Federal Standard Deduction or Itemized Deductions	-Virginia Standard Deduction or Federal Itemized Deductions (depends on federal election)
-QBI Deduction	-Deduction for Virginia Exemptions
	-Virginia Deductions (regardless of federal treatment)
=Federal Taxable Income	*=Virginia Taxable Income*

Because this bill would increase the eligible educator deduction, the amount allowed under this bill could be taken whether the taxpayer choses to take the Virginia standard deduction or itemized their deductions.

Proposed Legislation

This bill would increase the individual income tax deduction for the amount actually paid or incurred for eligible educator qualifying expenses from $500 to $1,500 beginning in Taxable Year 2024. This bill would also extend the sunset date for this deduction from January 1, 2025, to January 1, 2027.

This bill would establish a nonrefundable tax credit for taxable years beginning on and after January 1, 2024, but before January 1, 2029, for amounts paid by an individual or married couple filing jointly for their child receiving home instruction for (i) instruction-related materials, including textbooks, workbooks, and supplies, or (ii) courses or programs used in home instruction. This credit would be equal to the lesser of the amount actually paid during the year for such costs or $3,000.

The provisions of this bill regarding the eligible educator deduction would be effective for taxable years beginning on and after January 1, 2024, but before January 1, 2027. The provisions regarding the Home School Instruction Tax Credit would be effective for taxable years beginning on and after January 1, 2024, but before January 1, 2029.

Similar Legislation

HB 1180 would establish an individual income tax credit for parents or legal guardians of a child receiving home instruction or attending private schools in Virginia equal to either fifty or eighty percent of the state SOQ depending on the taxpayer’s VAGI.

HB 1275 would establish an individual income tax credit up to $2,500 for parents or legal guardians of a child receiving home instruction or attending a private school in Virginia.

cc : Secretary of Finance

Date: 1/28/2024 SJH
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