Department of Planning and Budget
2022 Fiscal Impact Statement

1. **Bill Number:** HB1371

House of Origin	☒	Introduced	☐	Substitute	☐	Engrossed
Second House	☐	In Committee	☐	Substitute	☐	Enrolled

2. **Patron:** Scott, P.A.

3. **Committee:** Education

4. **Title:** Education Savings Account Program established; Education Improvement Scholarships Tax Credits.

5. **Summary:** Establishes the Education Savings Account Program, to be administered by the Department of Education, whereby the parent of any individual who is a resident of the Commonwealth and who is eligible to enroll in a public elementary or secondary school may apply for an Education Savings Account for his child into which the Department of Education deposits certain state and local funds and from which the parent makes certain enumerated qualifying expenses to educate his child in a setting and a manner other than full-time education in a public school. The bill requires the Program to be fully implemented prior to the beginning of the 2023–2024 school year. The bill also increases the value of the Education Improvement Scholarships income tax credit for a donation to a scholarship foundation from 65 percent to 100 percent of the donation. The bill removes the aggregate limit on tax credits per year, which under current law is $25 million, and removes individual minimum and maximum required donation amounts. The bill raises the threshold for students to qualify for scholarships from 300 percent of the current poverty guidelines to 1,000 percent of free or reduced-price lunch standards or, for eligible students with a disability, from 400 percent of the current poverty guidelines to 1,200 percent of such standards. The bill grants scholarship foundations the discretion to determine what expenses may be funded by tax-credit-subsidized scholarships. Under current law, such expenses are limited by statute. The bill expands eligibility for scholarships to any student who is a resident of the Commonwealth and eligible to enroll in a public elementary or secondary school in the Commonwealth. Current law restricts eligibility to certain categories of students. The bill removes the requirement that scholarship-funded schools report test results of scholarship-funded students. The provisions of the bill pertaining to the Education Improvement Scholarships income tax credits apply starting with taxable year 2023.

6. **Budget Amendment Necessary**: Yes, Item 3-2.01 to support a working capital advance.

7. **Fiscal Impact Estimates:** Preliminary, see Item 8.

8. **Fiscal Implications:** The start-up costs of the Education Savings Account Program established by this bill may be supported by a working capital advance in fiscal year 2024 to be repaid by administrative fees generated by the program once operational.

This bill imparts several new responsibilities on the Department of Education (DOE) for the development, administration, and review of the Education Savings Account Program. Based on the start-up tasks and additional ongoing responsibilities required of DOE and the current work load that DOE experiences with the tax credit programs as a benchmark, DOE estimates the need to hire three additional staff members to satisfy the requirements of this bill. Additional staff include a program manager at an estimated cost of $157,968 for salary, benefits, and technology costs, a program specialist at an estimated cost of $139,192 for salary, benefits, and technology costs, and a clerical position at an estimated cost of $101,638 for salary, benefits, and technology costs.

This bill requires DOE to contract with private institutions to develop and implement both a payment system and a parent rating system. DOE anticipates one-time start-up costs of $2.0 million in fiscal year 2024 to develop a payment system between parents and educational service providers. DOE also anticipates a one-time cost of $300,000 in fiscal year 2024 to develop a system that would allow parents to rate and share data related to providers.

In total, DOE anticipates the need for a working capital advance of $2,698,798 in fiscal year 2024 to initiate the Education Savings Account Program, to be repaid by administrative fees generated by the program once operational. The bill allows DOE to withhold a percentage of deposits for administration of the program, up to five percent in the first two years and three percent thereafter. Additional support may be required in outgoing years, depending on the number of students who participate and actual administrative charges versus expenses.

It is unclear how some funding would be distributed based on the provisions of this bill. The bill indicates that accounts for students with disabilities, who are English language learners, who are homeless, and who are low-income shall include weighted funding, but it is not clear how the weighting should be calculated. The bill also directs DOE to deposit into each account an amount based on average state and local spending on public school students in each division. Average spending would need to be based on data collected in the Annual School Report, which divisions submit to DOE on September 30th each year and is typically not certified until the next calendar year. In order to make payments based on average spending, DOE would either have to delay deposits until the third quarter of the fiscal year or rely on previous year data. Since the bill directs DOE to deposit an amount equal to both state and local spending, the state cost per student would be much larger than the current state funding provided to local school divisions per student, which only includes the state share of cost. The bill does not require the locality to contribute the local share of cost for these students. Any actual increase in state cost is indeterminate and would depend on the number of students that participate and the locality in which participating students reside.

The bill allows any student who is eligible to enroll in a public school in Virginia to participate in the Education Savings Account program. Students who are not currently included in Average Daily Membership would be eligible to participate in the program which could result in a large increase in state cost. Any actual impact is indeterminate at this time.

This bill also modifies the Education Improvement Scholarship Tax Credit Program. Changes proposed to this program could negatively impact general fund revenues. The

Official General Fund Revenue Forecast currently assumes a $25 million revenue loss for this program, which is the existing credit cap per fiscal year. This bill removes the $25 million cap on the total amount of tax credits that may be issued for this program each year. The bill expands eligibility for the tax credit to students who are eligible to attend a public school in Virginia and who meet 1,000 percent of the federal free or reduced price lunch standards. If use of the tax credit increases due to these changes above the current forecast, there would be an additional general fund revenue loss. The changes to the tax credit program would apply to taxable years beginning January 1, 2023, which could impact anticipated revenues in the current biennium. Any actual impact is indeterminate at this time.

Based on the current workload, if the program experiences significant growth due to expanded eligibility, DOE would require one additional staff member, at an annual general fund cost of $138,192, including salary, benefits, and technology, would be required to administer the Education Improvement Scholarship Tax Credit Program. Any actual impact is indeterminate at this time.

The Department of Taxation considers implementation of this bill as routine and does not require additional funding.

9. **Specific Agency or Political Subdivisions Affected:** Department of Education, Department of Taxation, local school divisions

10. **Technical Amendment Necessary:** No

11. **Other Comments:** The bill requires that the Education Savings Accounts shall be fully implemented in advance of the 2023-2024 school year. According to DOE, it is not possible to meet this requirement. DOE does not have sufficient time to hire staff, develop guidelines, or implement a new system before the 2023-2024 school year. Additionally, the process to procure, develop, and test an IT system for payments could take up to two years to complete.

    This bill is identical to HB1396 and SB1191.