

DEPARTMENT OF TAXATION

2026 Fiscal Impact Statement

1. **Patron** Jeremy S. McPike

3. **Committee** Senate Finance and Appropriations

4. **Title** Individual Income Tax: Virginia Free File Program

2. **Bill Number** SB 591

House of Origin:

X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

The bill would repeal Chapter 535 of the Acts of Assembly of 2010 which required the Department to enter into an agreement with the Free File Alliance to establish the Virginia Free File program based on the IRS Free File program.

The Department of Taxation ("the Department") is required to develop and offer a modern free electronic tax return filing services program directly to Virginia individual income taxpayers. The bill would require that the program be available for taxable years beginning on and after January 1, 2028.

If enacted during the regular session of the 2026 General Assembly, this bill would become effective July 1, 2026.

6. **Budget amendment necessary:** No.

7. **No Fiscal Impact** (See Line 8.)

8. **Fiscal implications:**

Administrative Costs

The 2025 Appropriation Act (House Bill 1600, Acts of Assembly Chapter 725) provided funding for the Department to replace its existing tax processing system, the Integrated Revenue Management System ("IRMS"). This funding was contingent upon the contract for the IRMS replacement program including the development of a free electronic filing system for all Virginians. Because of the funding already provided for replacement of the Department's system, which includes the functionality for a free electronic filing system, the Department considers this bill as routine, and does not require additional funding.

Because of the implementation and release schedule for the IRMS replacement project, this legislation will not be impacted by such project if enacted during the 2026 Regular Session of the General Assembly. For more information on the new system

implementation releases, see the [2025 Status Report on the Replacement of the Integrated Revenue Management System](#) (IRMS).

Revenue Impact

This bill would have no impact on General Fund revenues.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: Yes.

The Patron's intent may be to ensure that the criteria for Virginia's free electronic filing program be less restrictive than the 2025 Direct File criteria to align with Item 260 E of 2025 Appropriations Act (House Bill 1600, *Acts of Assembly* Chapter 725) which requires the program be for all Virginians. If this is the Patron's intent, the Department would recommend the following technical amendment:

Line 32, before "less restrictive"
Strike: "not"

11. Other comments:

Federal Free Individual Income Tax Electronic Filing Programs:

IRS Free File Agreement

The Internal Revenue Service entered into an agreement on October 30, 2002 with the Free File Alliance, a consortium of companies in the electronic tax preparation and filing industry. The Agreement was established to facilitate the offer of free, online tax return preparation and filing services to low-income taxpayers. As part of the agreement, the Free File Program offers free services to taxpayers meeting the qualifications for free offerings. Such offerings, when taken in the aggregate, are currently intended to provide free services to be available to 70 percent or more of taxpayers with the lowest adjusted gross incomes.

The agreement requires the IRS to provide taxpayers with links to the free services offered through the Free File Program on the IRS's website. In addition, the original Federal Free File Agreement contained certain restrictions regarding online filing programs that may be offered by the IRS, which prohibit the IRS from competing with the Free File Program in providing free, online tax return preparation and filing services to taxpayers.

In 2019, when the IRS extended the Free File program, several reforms were made as part of the extension. These changes included the prohibition of some practices the IRS deemed deceptive as well as the removal of the provision that had prohibited the IRS from competing with the Free File Program in providing free online tax return preparation and filing services to federal taxpayers. Shortly after this extension, certain software vendors

announced they would be leaving the Free File Alliance. According to the IRS in the 2025 filing season, 2 percent of all taxpayers used the Free File program to file their federal income tax returns.

IRS Direct File Program

Partially funded by the Inflation Reduction Act of 2022, the IRS launched the Direct File program for the 2024 filing season in 12 states. As a condition for participating in the program, the IRS required any states that impose a state income tax to provide a state-level free filing program that can interface with the federal Direct File program. Four of the states that participated in the Direct File program during the 2024 filing season had a state individual income tax (Arizona, California, Massachusetts, and New York), while the other eight states did not impose an individual income tax (Florida, New Hampshire, Nevada, Tennessee, Texas, South Dakota, Washington, and Wyoming). The number of participating states increased to 25 for the 2025 filing season, consisting of the 9 states that do not impose an individual income tax and 16 states that impose a state individual income tax.

For the 2025 filing season IRS Direct File was available to taxpayers who:

- Claimed the standard deduction
- Had income not exceeding \$200,000 for single filers and \$250,000 for joint filers;
- Did not have certain types of income such as rental or gig income;
- Only took certain tax credits/deduction that were supported such as the earned income tax credit and the child tax credit;
- Had a valid identification number such as a Social Security number or individual taxpayer identification number; and
- Were a resident for the entire taxable year.

After a two-year pilot, the Direct File program was discontinued for the 2026 filing season, with the Treasury Department opting to focus on other free-file options.

Virginia Free Individual Income Tax Electronic Filing Programs

Virginia iFile Program

Prior to Taxable Year 2010, the Department provided a free online filing and payment system called iFile. iFile was an application developed by the Department and was available to most Virginia taxpayers, regardless of income. iFile was not available for certain taxpayers that claim credits, which excluded approximately 3 percent of Virginians from using iFile.

Virginia Free File Program

During the 2010 Session, the General Assembly enacted legislation (House Bill 1349, Chapter 535 of the 2010 *Acts of Assembly*) that required the Department to establish a Virginia Free File program based on the IRS Free File program for the Taxable Year 2010 filing season. To implement this program, the Commonwealth was required to enter into an agreement with the Free File Alliance, which would offer online tax return preparation

and filing services to 70 percent of Virginia taxpayers with the lowest incomes. The Virginia Free File agreement was required to be established based on the agreement between the IRS and the Free File Alliance that was signed by the IRS Commissioner on October 30, 2002 and that was modified and extended on November 5, 2009. The 2002 and 2009 IRS agreements specifically prohibited competition with the Free File Alliance.

Consequently, Virginia's agreement with the Free File Alliance also prohibited the Department from offering any competing electronic free filing system for Virginia state individual income tax filers, and in compliance with the agreement the Department eliminated the iFile program. This prohibition on Virginia competing with the Free File Alliance is similar to the restriction that was included in the original IRS agreement for the federal Free File Program which was removed by the IRS in 2019.

2025 Appropriations Act Item 260 E

Item 260E of the 2025 Appropriation Act (House Bill 1600, *Acts of Assembly* Chapter 725), provided funding to the Department to replace the outdated IRMS system. This appropriation was contingent on the Department including in its contract with the selected vendor an electronic filing system for individual income tax that can be used by all Virginians for taxable years beginning on and after January 1, 2028.

The Department is required to report by September 1, of each year to the Chairs of the Money Committees on the current status of the IRMS replacement, the funding expended in the prior fiscal year, project milestones achieved in the prior fiscal year, and any potential concerns that may impact the project's timeline and success.

The Notice of Award was posted on July 7, 2025, and a contract for the replacement of IRMS, which included a provision for a new electronic filing system for individual income taxpayers, was signed on July 10, 2025.

Proposal

The bill would repeal Chapter 535 of the Acts of Assembly of 2010 which required the Department to enter into an agreement with the Free File Alliance to establish the Virginia Free File program based on the IRS Free File program.

The Department is required to develop and offer a modern electronic tax return filing services program directly to Virginia individual taxpayers free of charge. The bill would require that the program be available to Virginia individual taxpayers in taxable years beginning on and after January 1, 2028.

The bill would also require the Department to:

- Consider the compatibility, security, and integration of the program with the publicly available source code of the IRS Direct File Program as it existed during the 2025 tax filing season;
- Consult with other states that have developed free electronic filing services for individual taxpayers in the past five years as necessary; and

- Develop eligibility criteria that are not less restrictive than the criteria established for participation in the IRS Direct File program as it existed during the 2025 tax filing season.

This bill would require the Tax Commissioner to develop eligibility criteria for the program, establish and ensure that the new program is updated as needed for compatibility with any free direct tax e-file system offered by the federal government.

If enacted during the regular session of the 2026 General Assembly, this bill would become effective July 1, 2026.

Similar Bills

HB 1180 is identical to this bill.

cc : Secretary of Finance

Date: 01/26/2026 ALS
SB591F161