

DEPARTMENT OF TAXATION

2022 Fiscal Impact Statement

1. **Patron** Sam Rasoul

3. **Committee** House Finance

4. **Title** Individual Income Tax: Family Caregiver Tax Credit

2. **Bill Number** HB 291

House of Origin:

X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would provide an individual income tax credit for expenses incurred by family caregiver that are directly related to the care of an eligible family member. The amount of the credit would be equal to 50 percent of the eligible expenditures incurred by the family caregiver. No family caregiver would be permitted to claim more than \$1,000 in credits for a taxable year. 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): Page 1, Revenue Estimates
274 and 276, Department of Taxation

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

7a. **Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2022-23	\$67,500	1	GF
2023-24	\$64,800	1	GF
2024-25	\$64,800	1	GF
2025-26	\$64,800	1	GF
2026-27	\$64,800	1	GF
2027-28	\$64,800	1	GF

8. **Fiscal implications:**

Administrative Costs

The Department of Taxation ("the Department") estimates that this bill would result in administrative costs of \$67,500 in Fiscal Year 2023, and \$64,800 in Fiscal Year 2024 and all subsequent years. These costs would be incurred for purposes of hiring one full time employee to administer the Department's responsibilities with respect to the credit, and additional ongoing operational expenses related to overseeing this credit program.

Revenue Impact

This bill would have an unknown negative General Fund revenue impact beginning in Fiscal Year 2023. It is unknown to what extent family caregivers would qualify for and claim this credit. Because the aggregate amount of credits that taxpayers may claim per taxable year would be uncapped, this credit may result in a significant negative General Fund revenue impact.

According to data for Taxable Year 2018, the existing Virginia Deduction for Child and Dependent Care Expenses was claimed on more than 200,000 returns in a total amount of \$557.7 million. Based on federal and state income tax data, approximately 127,000 returns were below the income limitations specified by this bill. If it is assumed that 20 percent of these returns had expenses for family members that would qualify under this legislation, this bill could have an estimated annual negative General Fund revenue impact of up to \$25 million. The actual impact would vary depending on how many taxpayers actually qualify and claim this credit.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Federal Tax Incentives for Caregivers

Medical Expense Deduction

For Taxable Year 2021, taxpayers are permitted to deduct expenses for medical care for themselves, their spouse, and their dependents that exceed 7.5 percent of their federal adjusted gross income. Deductible medical expenses are generally those amounts paid for the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body. Taxpayers may also deduct transportation expenses primarily for and essential to medical care; expenses for qualified long-term care services, or expenses for insurance covering medical care or for any qualified long-term care insurance contract.

For Virginia income tax purposes, taxpayers are permitted a deduction to the extent such expenses exceed 10 percent of their federal adjusted gross income.

Credit for Qualifying Dependents

A taxpayer is permitted to claim a nonrefundable income tax credit for any of the taxpayer's dependents who are not qualifying children under age 17. For Taxable Year 2021, the amount of the credit is equal to \$3,000 per qualifying dependent age 17 or younger and up to \$3,600 per qualifying dependent child under age 6. Generally, this credit will apply to qualifying children who are past child tax credit age, or qualifying

relatives, such as dependent parents. The credit is phased out beginning with taxpayers with federal adjusted gross income of \$200,000 (\$400,000 for married persons filing jointly).

Child and Dependent Care Expenses Credit

For Taxable Year 2021, taxpayers are permitted to claim a credit of up to 50 percent of the first \$8,000 dollars (\$16,000 for two or more qualified persons) in qualified child and dependent care expenses. Qualified child and dependent care expenses include certain household service and expenses for care of the qualified person. A taxpayer may claim this credit only if the care was provided so the taxpayer could work or look for work, the care was for one or more qualifying persons, and the person providing the care was not the taxpayer's spouse; the parent of the taxpayer's qualifying child; a dependent of the taxpayer's; or the taxpayer's child who is either a dependent of the taxpayer's or under the age of 19 by the end of the taxable year.

Virginia Deduction for Child and Dependent Care Expenses

Virginia permits a taxpayer that is eligible to claim the federal child and dependent care expenses credit to claim a deduction in an amount equal to the amount of employment-related expenses upon which the federal credit is based for household and dependent care services necessary for gainful employment.

Sunset Dates for New Income Tax Credits and Sales Tax Exemptions

Section 3-5.14 of the 2021 Appropriation Act provides that any new sales tax exemption or tax credit enacted by the General Assembly after the 2019 Session, but prior to the 2024 Session, must have a sunset date of not later than June 30, 2025.

Proposed Legislation

This bill would provide an individual income tax credit for expenses incurred by family caregiver that are directly related to the care of an eligible family member. The amount of the credit would be equal to 50 percent of the eligible expenditures incurred by the family caregiver. No family caregiver would be permitted to claim more than \$1,000 in credits for a taxable year. The credit would not be subject to an annual credit cap.

"Activities of daily living" or "ADLs" would be defined as "bathing, dressing, toileting, transferring or moving, bowel control, bladder control, and eating or feeding."

"Eligible expenditures" would be defined as "expenses incurred by a family caregiver that are directly related to the care of an eligible family member, including (i) improvements or alterations to the family caregiver's primary residence to permit the eligible family member to remain mobile, safe, and independent; (ii) the purchase or lease of equipment or technology that assists the eligible family member in carrying out one or more activities of daily living; or (iii) expenditures related to hiring a home care aide or personal care attendant, respite care, adult day care, transportation, and legal or financial services."

Eligible expenditures would not include expenses incurred in carrying out general household maintenance, including painting, plumbing, electrical repairs, or exterior maintenance.

"Eligible family member" would be defined as "an individual who (i) is at least 18 years of age during the taxable year; (ii) requires assistance with one or more ADLs, as certified by a licensed physician, physician assistant, nurse practitioner, or registered nurse; and (iii) qualifies as a dependent, or is related by blood, marriage, or adoption, or is in the care of the family caregiver as a legally appointed guardian."

"Family caregiver" would be defined as "an individual, or in the case of married persons, an individual and his spouse, who (i) provides care to one or more eligible family members during the taxable year and (ii) has federal adjusted gross income that is no greater than \$100,000 for an individual or \$200,000 for married persons."

The amount of the credit that may be claimed in any single taxable year would not be permitted to exceed the family caregiver's liability for income taxes for that taxable year. If the amount of the credit allowed under this section exceeds the family caregiver's tax liability for the taxable year in which the eligible expenditures occurred, the amount that exceeds the tax liability may be carried over for credit against the income taxes of the family caregiver in the next five taxable years or until the total amount of the tax credit has been taken, whichever is sooner.

This bill would require the Tax Commissioner to develop guidelines, exempt from the Administrative Process Act, for claiming this credit.

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

Similar Bills

Senate Bill 266 is identical to this bill.

House Bill 720 is substantially similar to this bill.

cc : Secretary of Finance

Date: 1/23/2022 RWC
HB291F161