DEPARTMENT OF TAXATION
2020 Fiscal Impact Statement

1. Patron Sam Rasoul

2. Bill Number HB 361

House of Origin:
_____ **Introduced**
__X__ **Substitute**
_____ **Engrossed**

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

3. Committee House Finance

4. Title Individual Income Tax; Family Caregiver Tax Credit

5. Summary/Purpose:

The Department of Taxation ("the Department") understands that the Patron intends to amend this bill to reduce the income thresholds within the definition of "family caregiver." This fiscal impact statement is drafted based on the amended version of this bill.

This bill provide an individual income tax credit to certain family caregivers who provide care to eligible family members. The amount of the credit would be equal to 50 percent of the eligible expenditures incurred by such family caregiver. No family caregiver would be permitted to claim more than $500 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, 2020, but before January 1, 2025.

6. Budget amendment necessary: Yes.
Item(s): Page 1, Revenue Estimates
282 and 284, Department of Taxation

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

Fiscal Year	*Dollars*	*Positions*	*Fund*
2020-21	($67,500)	1	GF
2021-22	($64,800)	1	GF
2022-23	($64,800)	1	GF
2023-24	($64,800)	1	GF
2024-25	($64,800)	1	GF
2025-26	($64,800)	1	GF

8. Fiscal implications:

Administrative Costs

The Department of Taxation ("the Department") would incur estimated administrative costs of $67,500 in Fiscal Year 2021 and $64,800 in Fiscal Year 2022 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 2021. 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 preliminary data for Taxable Year 2017, the existing Virginia Deduction for Child and Dependent Care Expenses was claimed on more than 200,000 returns in a total amount of $589.4 million. If 82,000 returns met the bill's income requirements and 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 approximately $8 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 2019, 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.

Credit for Qualifying Dependents

A taxpayer is permitted to claim a nonrefundable $500 income tax credit for any of the taxpayer's dependents who are not qualifying children under age 17. 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

Taxpayers are permitted to claim a credit of up to 35 percent of the first $3,000 dollars ($6,000 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 (unless a special exception for full-time students applies), 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.

A "qualified person" for the purposes of the child and dependent care expenses credit is generally required to be:

- A taxpayer's under-age-13 dependent;
- A taxpayer's dependent who is physically or mentally incapable of self care and who has the same principal place of abode as the taxpayer for more than half the tax year; or
- The taxpayer's spouse, if the spouse is physically or mentally incapable of self care and has the same principal place of abode as the taxpayer for more than half the tax 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 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, 2022. Any new income tax credit or sales tax exemption enacted by the General Assembly prior to the 2021 Session must have a sunset date not later than June 30, 2022. 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.

Proposed Legislation

This bill provide an individual income tax credit to certain family caregivers who provide care to eligible family members. The amount of the credit would be equal to 50 percent of the eligible expenditures incurred by such family caregiver. No family caregiver would be permitted to claim more than $500 in credits for a taxable year. The credit would not be subject to an annual credit cap.

"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:

- Improvements or alteration to the family caregiver's primary residence to permit the eligible family member to remain mobile, safe and independent;
- 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
- 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 general household maintenance such as painting, plumbing, electrical repairs, or exterior maintenance.

"Eligible family member" would be defined as an individual who:

- Is at least 18 years of age during the taxable year;
- Requires assistance with one or more ADLs, as certified by a licensed physician, physician assistant, or nurse practitioner; and
- Qualifies as a dependent, spouse, parent, or other relation by blood or marriage, including an in-law, grandparent, grandchild, step-parent, aunt, uncle, niece, or nephew, of the family caregiver.

"Family caregiver" would be defined as an individual, or in the case of married persons, an individual and his spouse, who:

- Provides care to one or more eligible family member during the taxable year;
- Has federal adjusted gross income that is no greater than $50,000 for individuals or $100,000 for married persons; and
- Resides in the same primary residence in Virginia as the eligible family member for no fewer than 183 days during the taxable year.

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

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, 2020, but before January 1, 2025.

cc : Secretary of Finance

Date: 1/23/2020 JJS
HB361F161