DEPARTMENT OF TAXATION
2022 Fiscal Impact Statement

1. **Patron** Joseph P. McNamara

2. **Bill Number** HB 273
House of Origin:
X **Introduced**
_____ **Substitute**
_____ **Engrossed**

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

3. **Committee** House Finance

4. **Title** Income Tax; Paycheck Protection Program Loan Deduction and Rebuild Virginia Program Grant Subtraction

5. **Summary/Purpose:**

This bill would repeal the limitation on the Virginia-specific deduction for Paycheck Protection Program ("PPP") loan forgiveness recipients and the Virginia-specific subtraction for Rebuild Virginia grant recipients for Taxable Year 2020. Under current law, both the deduction and subtraction are limited to a maximum of $100,000. This bill would also permit taxpayers to claim both of these incentives, without limitation, for Taxable Year 2019. Under current law, taxpayers are permitted to do so only with respect to Taxable Year 2020.

If this bill is enacted during the 2022 Regular Session of the General Assembly, it would become effective July 1, 2022.

6. **Budget amendment necessary:** Yes.
Item(s): Page 1, Revenue Estimates

7. **Impact Estimates are:** Preliminary. (See Line 8.)
7b. Revenue Impact:

Fiscal Year	***Dollars***	***Fund***
2021-22	$0	GF
2022-23	($174.7 million)	GF
2023-24	$0	GF
2024-25	$0	GF
2025-26	$0	GF
2026-27	$0	GF
2027-28	$0	GF

8. **Fiscal implications:**

Administrative Costs

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

Revenue Impact

This bill would have an estimated negative General Fund revenue impact of $174.7 million in Fiscal Year 2023. This impact is attributable to repealing the limitation on the amount of business expenses funded by forgiven PPP loan proceeds that may be deducted, and allowing taxpayers to claim the deduction for Taxable Year 2019.

The portion of this bill that would repeal the limitation on the subtraction for Rebuild Virginia Grant recipients is not anticipated to have a revenue impact. In Taxable Year 2020, the maximum Rebuild Virginia Grant that any business could receive was $100,000. Repealing the limitation would only have an impact to the extent that taxpayers own multiple businesses or incurred such expenses during Taxable Year 2019.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Federal CARES ACT

On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security ("CARES") Act (H.R.748) was signed into law. The CARES Act provided for PPP loans for small businesses with 500 or fewer employees. Such loans may be forgiven, in whole or in part, to the extent a business uses loan funds on the payment of:

- Payroll costs;
- Interest on certain mortgage obligations;
- Certain rent obligations; and
- Certain utility payments.

Loan forgiveness is generally taxable for federal income tax purposes. As a result, when a loan is forgiven, taxpayers are generally required to recognize income in the amount of the forgiven debt. However, the CARES Act excludes such loan forgiveness on certain PPP loans from taxation.

On April 30, 2020 the Internal Revenue Service ("IRS") released Notice 2020-32 in which it ruled that the PPP loan forgiveness would trigger the prohibition on taking deductions against tax-free income. As a result, borrowers were prohibited from claiming business expense deductions for expenditures paid for with funds from forgiven PPP loans.

Federal Consolidated Appropriations Act, 2021

On December 27, 2020, the Consolidated Appropriations Act, 2021 (H.R.133) ("the CAA") was signed into law. The CAA allows a taxpayer to claim deductions for expenses funded by a forgiven PPP loan. Therefore, there is no longer a prohibition on claiming both the exclusion for PPP loan forgiveness and deductions for expenses paid using the funds from such forgiven loans.

In addition, this legislation expanded the scope of expenses that qualify for purposes of loan forgiveness to include covered:

- Operations expenditures;
- Property damage costs;
- Supplier costs; and
- Worker protection expenditures.

Virginia PPP Deduction

During the 2021 Session, the General Assembly enacted legislation that partially deconformed from the full federal deductibility of business expenses funded by forgiven PPP loan proceeds. Instead, for Taxable Year 2020 only, Virginia allowed an individual and corporate income tax deduction of up to $100,000 for business expenses funded by forgiven PPP loan proceeds.

Certain taxpayers that file on a fiscal year basis had business expenses that were funded by forgiven PPP loan funding during Taxable Year 2019. However, because Virginia's $100,000 deduction for business expenses funded by forgiven PPP loan proceeds was for Taxable Year 2020 only, they were not permitted to claim such expenses on their Taxable Year 2019 returns.

Rebuild Virginia Grants

Businesses with less than $10 million in gross revenue or fewer than 250 employees were generally eligible to apply for Rebuild Virginia grants if they could show that their normal operations were directly or indirectly impacted by certain COVID-related restrictions, or they were a supply-chain partner of a business whose normal operations were impacted by the pandemic. The maximum grant award for the Rebuild Virginia grant program was $100,000.

During the 2021 Session, the General Assembly enacted legislation that provided an individual and corporate income tax subtraction for Taxable Year 2020 only for up to $100,000 of all grant funds received by a taxpayer under the Rebuild Virginia program.

Proposed Legislation

This bill would repeal the limitation on the Virginia-specific deduction for PPP loan forgiveness recipients and the Virginia-specific subtraction for Rebuild Virginia grant recipients for Taxable Year 2020. Under current law, both the deduction and subtraction are limited to a maximum of $100,000. This bill would also permit taxpayers to claim both of these incentives, without limitation, for Taxable Year 2019. Under current law, taxpayers are permitted to do so only with respect to Taxable Year 2020.

If this bill is enacted during the 2022 Regular Session of the General Assembly, it would become effective July 1, 2022.

<u>Similar Bills</u>

House Bill 971 would advance Virginia's date of conformity to the Internal Revenue Code and would permit taxpayers to claim the Virginia-specific deduction for PPP loan forgiveness recipients and the Virginia-specific subtraction for Rebuild Virginia grant recipients for Taxable Year 2019, but would maintain the $100,000 limitation for Taxable Years 2019 and 2020.

Senate Bill 583 would advance Virginia's date of conformity to the Internal Revenue Code and would also increase the maximum Taxable Year 2020 deduction for business expenses funded with forgiven PPP loans from $100,000 to $1 million.

cc : Secretary of Finance

Date: 2/1/2022 JLOF
HB273F161