

# DEPARTMENT OF TAXATION

## 2019 Fiscal Impact Statement

1. **Patron** Michael P. Mullin

3. **Committee** House Finance

4. **Title** Individual and Corporate Income Tax; Credit  
for Providing Paid Leave to Certain Organ  
Donors

2. **Bill Number** HB 1672

**House of Origin:**

  X   **Introduced**

       **Substitute**

       **Engrossed**

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

### 5. **Summary/Purpose:**

This bill would provide an individual and corporate income tax credit equal to 35 percent of certain expenses incurred by an employer in providing paid leave to an employee for making an organ donation. The credit would be available for wages paid to an employee during his or her leave period and for wages paid to a temporary replacement worker during the employee's leave period. The credit would be limited to wages paid for up to 10 working days or the hourly equivalent of 10 working days per employee. In addition, expenses incurred on behalf of an employee who earns \$80,000 or more during the taxable year would not be eligible for the credit. The aggregate amount of credits that could be claimed per taxable year would be uncapped.

This bill would be effective for taxable years beginning on and after January 1, 2019, but before January 1, 2024.

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

7. **Fiscal Impact Estimates are:** Not available. (See Line 8.)

### 8. **Fiscal implications:**

#### Administrative Costs

Due to uncertainty about the systems and processing changes that may be required for the 2018 and 2019 income tax filing seasons, the Department is unable to assign administrative costs to this bill at this time. During 2017, Congress enacted the Tax Cuts and Jobs Act, which made substantial changes to federal tax law. At this time, it is uncertain what Virginia tax policy changes will be adopted in reaction to the federal law.

If substantial changes are enacted or required in response to state/federal law, it is possible that the Department may not have the ability to implement the changes set forth in this bill by the proposed effective date. Accordingly, the Department will reevaluate its costs once action is taken and may request additional funding or an amendment to delay the effective date of this legislation.

## Revenue Impact

This bill would have an unknown, negative General Fund revenue impact, beginning in Fiscal Year 2020. According to the United Network for Organ Sharing, there are an average of 16,027 organ donations in the United States. Of these, approximately 186 are in Virginia each year. It is unknown how many employers provide paid leave to employees for the purpose of making an organ donation or how many employees take paid leave for such purpose. In addition, because this credit would not be limited to an organ donation occurring in Virginia or to Virginia employees or businesses, it is unknown how many employers of organ donors would potentially qualify for 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.

### **9. Specific agency or political subdivisions affected:**

Department of Taxation

### **10. Technical amendment necessary: No.**

### **11. Other comments:**

#### Virginia's Deduction for Organ and Tissue Donation Expenses

Virginia does not currently provide any specific tax incentives for employers that provide paid leave to employees for making organ donations. Virginia does provide a deduction for unreimbursed expenses that are paid by a living donor of an organ or other living tissue that arose within 12 months of the donation and have not been claimed as a medical deduction on the taxpayer's federal income tax return. The amount of the deduction is the lesser of \$5,000 or the actual amount paid by the taxpayer. If filing a joint return, the deduction is limited to \$10,000 or the actual amount paid.

#### Paid Leave for Organ Donors in Other Jurisdictions

Approximately 19 states provide tax incentives to cover certain costs related to organ donations. Of these states, several offer credits to cover expenses related to paid leave provided to organ donors.

#### *District of Columbia*

The District of Columbia allows corporations a credit for providing employees paid leave to donate organs or bone marrow equal to 25 percent of the regular salary paid during the leave of absence, not exceeding 30 days for an organ donation and 7 days for a bone marrow donation.

#### *Pennsylvania*

Pennsylvania allows business firms a credit for providing employees paid leave to donate organs or bone marrow equal to the amount of employee compensation paid during the leave of absence, the cost off any temporary replacement help, and any miscellaneous

expenses authorized by regulation that are incurred in connection with the leave of absence period.

### Sunset Date of Income Tax Credits and Sales Tax Exemptions

Section 3-5.14 of the 2016-2018 Appropriation Act, as well as the Introduced Executive Budget, 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 no later than June 30, 2022.

### Proposed Legislation

This bill would provide an individual and corporate income tax credit equal to 35 percent of certain expenses incurred by an employer in providing paid leave to an employee for making an organ donation. The credit would be available for wages paid to an employee during his or her leave period and for wages paid to a temporary replacement worker during the employee's leave period. The credit would be limited to wages paid for up to 10 working days or the hourly equivalent of 10 working days per employee. In addition, expenses incurred on behalf of an employee who earns \$80,000 or more during the taxable year would not be eligible for the credit. The aggregate amount of credits that could be claimed per taxable year would be uncapped.

This bill would define the terms "employee," "employer," and "wages" the same as such terms are defined for Virginia income tax withholding purposes.

"Leave period" would be defined as a period, not exceeding 10 working days or the hourly equivalent of 10 working days per employee, during which an employer provides paid leave to an employee for the purpose of the employee's making an organ donation. "Leave period" would not include the use of annual leave or sick days to which the employee is otherwise entitled.

If the amount of credits exceeds the taxpayer's tax liability for the taxable year, the taxpayer would be allowed to carry over the excess for credit against income taxes for the next five years or until the total amount of the tax credit has been taken, whichever occurs first.

This bill would be effective for taxable years beginning on and after January 1, 2019, but before January 1, 2024.

cc : Secretary of Finance

Date: 1/12/2019 JLOF  
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