

# DEPARTMENT OF TAXATION

## 2019 Fiscal Impact Statement

1. **Patron** Kathy J. Byron

3. **Committee** House Finance

4. **Title** Sunsets the Worker Retraining Tax Credit  
and Creates the Worker Training Tax Credit

2. **Bill Number** HB 2539

**House of Origin:**

  X   **Introduced**

      **Substitute**

      **Engrossed**

**Second House:**

      **In Committee**

      **Substitute**

      **Enrolled**

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

This bill would sunset the Worker Retraining Tax Credit for taxable years beginning on and after January 1, 2019.

This bill would provide the new Worker Training Tax Credit to a business in an amount equal to 35 percent of the expenses it incurs for eligible worker training during the taxable year. A business would be permitted to claim this credit against the individual income tax, estates and trusts tax, corporate income tax, bank franchise tax, insurance premiums license tax, and license tax on telegraph, telephone, water, heat, light, power, and pipeline companies. A business would be able to claim a credit of up to \$500 for training related to each qualified employee or \$1,000 for training related to each non-highly compensated worker.

This bill would also provide the Worker Training Tax Credit to a manufacturing business that currently qualifies for the Worker Retraining Tax Credit for conducting orientation, instruction, and training in Virginia related to its manufacturing activities. The requirements for such taxpayers to qualify for the new credit would be substantially similar to the requirements currently utilized for purposes of the Worker Retraining Tax Credit.

The annual aggregate credit cap for the Worker Training Tax Credit would be \$1 million.

The portion of this bill regarding the credit for eligible worker training would be effective for taxable years beginning on or after January 1, 2019, but before January 1, 2024. The portion of this bill regarding the credit for certain manufacturing businesses would be effective for taxable years beginning on or after January 1, 2019, but before January 1, 2022.

**This is an Executive Bill.**

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

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

## **8. Fiscal implications:**

### Administrative Costs

The Department of Taxation (“the Department”) considers implementation of this bill as routine, and does not require additional funding.

### Revenue Impact

This bill would have unknown General Fund revenue impact beginning Fiscal Year 2020. It is unknown whether taxpayers would claim this new credit in amounts greater or less than they currently claim the Worker Retraining Tax Credit. In Fiscal Year 2018, taxpayers claimed \$302,818 of Worker Retraining Tax Credits. Because the new credit is subject to an annual credit cap of \$1 million, the negative revenue impact of this bill would be limited to the extent of such cap.

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

Department of Taxation  
Department of Education

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

## **11. Other comments:**

### Worker Retraining Tax Credit

The Worker Retraining Tax Credit allows an employer to claim a tax credit against the individual income tax, estates and trusts tax, corporate income tax, bank franchise tax, insurance premiums license tax, and license tax on telegraph, telephone, water, heat, light, power, and pipeline companies, for the costs of providing eligible worker retraining to qualified employees. The tax credit is equal to 30 percent of all expenditures paid or incurred by the employer during the taxable year for eligible worker retraining, but cannot exceed \$200 per qualified employee per year if the eligible worker retraining consists of courses conducted at a private school, or \$300 per qualified employee annually if the eligible worker retraining includes retraining in a STEM or STEAM discipline including, but not limited to, industry-recognized credentials, certificates, and certifications.

The Worker Retraining Tax Credit also allows a taxpayer primarily engaged in manufacturing to claim an individual income tax or corporate income tax credit equal to 35 percent of its direct costs incurred during the taxable year for conducting orientation, instruction, and training in Virginia relating to the manufacturing activities undertaken by such taxpayer. Taxpayers may only claim up to \$2,000 in credits per taxable year for conducting orientation, instruction, and training. This credit is only permitted for programs that:

- Provide orientation, instruction, and training solely to students in grades 6 through 12;
- Are coordinated with the local school division; and

- Are conducted either at a plant or facility owned, leased, rented, or otherwise used by the business or at a public middle or high school in Virginia.

The program must be approved by the local school division and certified by the Virginia Economic Development Partnership Authority. A taxpayer is permitted to include in its direct costs the following expenditures:

- Salaries or wages paid to instructors and trainers, prorated for the period of instruction or training;
- Costs for orientation, instruction, and training materials;
- Amounts paid for machinery and equipment used primarily for such instruction and training; and
- The cost of lease or rented spaced used primarily for conducting the program.

No business is eligible to claim a credit for worker retraining or orientation, instruction, and training undertaken by any program operated, administered, or paid for by Virginia.

This annual credit cap for the Worker Retraining Tax Credit is \$1 million in aggregate for both portions of the credit.

The Worker Retraining Tax Credit is currently scheduled to expire for taxable years beginning on or after January 1, 2022.

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

Section 3-5.14 of the 2016 Appropriations 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 no later than June 30, 2022. This requirement does not apply to sales tax exemption with sunset dates after June 30, 2022 that were enacted or advanced during the 2016 Session.

#### Proposed Legislation

This bill would sunset the Worker Retraining Tax Credit for taxable years beginning on and after January 1, 2019.

This bill would provide the new Worker Training Tax Credit to a business in an amount equal to 35 percent of the expenses it incurs for eligible worker training during the taxable year. A business would be permitted to claim this credit against the individual income tax, estates and trusts tax, corporate income tax, bank franchise tax, insurance premiums license tax, and license tax on telegraph, telephone, water, heat, light, power, and pipeline companies. A business would be able to claim a credit of up to \$500 for training related to each qualified employee or \$1,000 for training related to each non-highly compensated worker. A business would only be permitted to claim this portion of the Worker Training Tax Credit for those programs that have been approved for including in the Commonwealth's Eligible Training Provider List. The Workforce Innovation Opportunity

Act Title I Administrator would be required to provide the Tax Commissioner with the approved list annually.

This bill would also provide the Worker Training Tax Credit to a business that currently qualifies for the Worker Retraining Tax Credit for being primarily engaged in manufacturing and conducting orientation, instruction, and training in Virginia related to its manufacturing activities. The requirements for such taxpayers to qualify for the new credit would be substantially similar to the requirements currently utilized for purposes of the Worker Retraining Tax Credit. This bill would provide this portion of the credit only for certain programs approved by the Department of Education. This approval responsibility is currently within the purview of the Virginia Economic Development Authority.

The annual aggregate credit cap for the Worker Training Tax Credit would be \$1 million.

“Eligible worker training” would be defined as the training of a qualified employee or non-highly compensated worker in the form of:

- Credit or noncredit courses at any institution recognized on the Eligible Training Provider List that results in the qualified employee or non-highly compensated worker receiving a workforce credential; or
- Instruction or training that is part of an apprenticeship agreement approved by the Commissioner of Labor and Industry.

“Industry-recognized” would be defined as demonstrating competency or proficiency in the technical and occupational skills identified as necessary for performing functions of an occupation based on standards developed or endorsed by employers or industry organizations.

“Non-highly compensated worker” would be defined as a worker whose income is less than Virginia’s median wage, as reported by the Virginia Employment Commission, in the taxable year prior to applying for the credit. “Non-highly compensated worker” would not include an owner or relative of an owner.

“Owner” would be defined as an individual who owns, directly or indirectly, more than a 5 percent interest in the business claiming the credit.

“Qualified employee” would be defined as an employee of a business eligible for this credit in a full-time position requiring a minimum of 1,680 hours in the entire normal year of the business’ operations if the standard fringe benefits are paid by the business for the employee. Seasonal or temporary employees, owners, are relatives would not qualify as qualified workers.

“Workforce credential” would be defined as an industry-recognized certification, certificate, or degree.

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 three years or until the total amount of the tax credit has been taken, whichever occurs first. If a business that is subject to the tax liability limitation is allowed another tax

credit under Virginia law or has a credit carryover from a preceding taxable year, it would be considered to have first utilized any credit allowed that does not have a carryover provision, and then any credit which is carried forward from a preceding taxable year, prior to the utilization of any credit allowed pursuant to this bill.

No business would be permitted to claim this credit for eligible worker training or manufacturing orientation, instruction, and training undertaken by any program operated, administered, or paid for by Virginia.

This bill would require the Department to develop guidelines, exempt from the Administrative Process Act, establishing procedures for claiming the Worker Training Tax Credit and providing for the allocation of credits among businesses requesting credits in the event that the amount of credits requested exceeds the available amount of credits in any year.

This bill would require the Department to submit an annual report to the Chairmen of the House and Senate Committees on Finance regarding the status and implementation of the credit.

The portion of this bill regarding the credit for eligible worker training would be effective for taxable years beginning on or after January 1, 2019, but before January 1, 2024. The portion of this bill regarding the credit for certain manufacturing businesses would be effective for taxable years beginning on or after January 1, 2019, but before January 1, 2022.

#### Similar Legislation

**House Bill 2216** and **Senate Bill 1532** would provide an individual income tax and corporate income tax credit for businesses that host a junior or senior in certain schools in the Richmond Public school system as an intern in a STEM or high-demand field for a semester during the 2019-2020 or 2020-2021 academic year.

cc : Secretary of Finance

Date: 1/20/2019 JLOF  
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