

DEPARTMENT OF TAXATION

2020 Fiscal Impact Statement

1. **Patron** Ibraheem S. Samirah

3. **Committee** House Finance

4. **Title** Individual Income Tax; Refundable Credit for Coverage under Qualified Health Plan

2. **Bill Number** HB 531

House of Origin:

X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would provide a refundable individual income tax credit to certain taxpayers for a portion of the health care premium costs that they incur to purchase insurance through an Affordable Care Act marketplace. The credit would be limited to a taxpayer whose household income for the taxable year equals or exceeds 400 percent, but does not exceed 500 percent, of an amount equal to the poverty line for a family of the size involved. 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
Item 282 and 284, Department of Taxation

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

7a. **Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2020-21	\$151,175	0	GF
2021-22	\$21,710	0	GF
2022-23	\$19,730	0	GF
2023-24	\$19,730	0	GF
2024-25	\$19,730	0	GF
2025-26	\$19,730	0	GF

8. **Fiscal implications:**

Administrative Costs

This bill would result in administrative costs to the Department of Taxation ("the Department") of \$151,175 in Fiscal Year 2021; \$21,710 in Fiscal Year 2022; and \$19,730 in Fiscal Year 2023 and in each fiscal year thereafter. These costs would be incurred for

purposes of updating the Department's systems, forms and website content, as well as providing additional customer services support to taxpayers.

Revenue Impact

This bill would have an unknown, but potentially significant, negative General Fund revenue impact beginning in Fiscal Year 2021. According to data from the Kasier Family Foundation, it is estimated that approximately 233,000 Virginians claimed \$1.67 billion of premium tax credits for federal income tax purposes during 2019. Therefore, the average amount of credits claimed per taxpayer was \$7,167. Because the credit that this bill would provide would be available to a narrower group of taxpayers than may claim the federal premium tax credit, the Department anticipates that the potential negative revenue impact would be less, but could still be significant, especially since a portion of this credit would be refundable.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: Yes. The Department suggests technical amendments to address how this credit would apply to persons who are not Virginia residents. As currently drafted, nonresidents under this bill would be able to claim a fully refundable credit, even if they have minimal or no income from Virginia sources. To address this issue, the Department suggests the following amendments:

Line 35 after shall be allowed a
Strike: refundable

Line 55 after payment of tax credits.

Insert: E. 1. Except as provided in subdivision 2 of this subsection, the amount of the credit claimed pursuant to section for any taxable year shall not exceed the taxpayer's Virginia income tax liability.

2. The amount of credit claimed pursuant to this section in excess of a taxpayer's Virginia income tax liability shall be refundable if such taxpayer is a resident of Virginia and not a person to whom § 58.1-303 applies. The refundable portion of the credit shall be claimed on the Virginia income tax return and redeemed by the Tax Commissioner.

11. Other comments:

Federal Premium Tax Credits

The premium tax credit ("PTC") is a refundable credit that is intended to help eligible individuals and families cover the premiums for their health insurance purchased through a health insurance marketplace under the federal Affordable Care Act.

To be eligible for the PTC, a taxpayer is generally required to have household income of at least 100 percent, but no more than 400 percent, of the federal poverty line for their

family size. In addition, taxpayers may not claim the credit if they filed a tax return using the filing status of married filing separately or if they can be claimed as a dependent by another person. With respect to each month of the year, federal law allows taxpayers to claim the PTC only if the taxpayer or a family member:

- Had health insurance coverage through a Health Insurance Marketplace;
- Was not able to get affordable coverage through an eligible employer-sponsored plan that provides minimum value;
- Was not eligible for coverage through a government program, like Medicaid, Medicare, CHIP or TRICARE; and
- Paid the share of premiums not covered by the PTC.

The amount of the PTC equals an eligible taxpayer's:

- Annual premiums for the second-lowest cost silver plan in the area where the taxpayer lives; *minus*
- Amount that federal law expects the taxpayer to pay out-of-pocket each year for his or her premiums.

A silver health plan is one that pays, on average, roughly 70 percent of the enrollees' health care expenses. The enrollee is required to pay the other 30 percent through copayments, coinsurance, and deductibles.

The amount that federal law expects the taxpayer pay out-of-pocket each year depends on the taxpayer's household income. Generally, taxpayers with higher incomes are expected to pay more out-of-pocket. The exact amount that taxpayers are expected to pay each year is adjusted annually for inflation. The amounts for 2020 are as follows:

If the taxpayer earns	His or her expected contribution is
Up to 133% of the federal poverty level	2.06% of income
133%-150% of the federal poverty level	3.09%-4.12% of income
150%-200% of the federal poverty level	4.12%-6.49% of income
200%-250% of the federal poverty level	6.49%-8.29% of income
250%-300% of the federal poverty level	8.29%-9.78% of income
300%-400% of the federal poverty level	9.78% of income

For example, a single taxpayer with \$40,000 of income would be expected to pay \$3,912 annually in premiums (\$40,000 X 9.78 percent). If his or her annual premiums for the second-lowest cost silver plan in the area where he or she lives is \$5,000, the taxpayer would be entitled to claim a PTC of \$1,088 (\$5,000-\$3,912).

Proposed Legislation

This bill would provide a refundable individual income tax credit to certain taxpayers for a portion of the health care premium costs that they incur to purchase insurance through an Affordable Care Act marketplace. The credit would be limited to a taxpayer whose household income for the taxable year equals or exceeds 400 percent, but does not exceed 500 percent, of an amount equal to the poverty line for a family of the size involved.

The amount of the credit would be equal to the sum of the premium assistance amounts with respect to all coverage months of the taxpayer occurring during the taxable year. The premium assistance amount with respect to any coverage month would be the amount equal to the lesser of:

- The monthly premiums for such month for one or more qualified health plans offered in the individual market that cover the taxpayer, the taxpayer's spouse, or any dependent of the taxpayer and that were enrolled in through an exchange; or
- The excess, if any, of (i) the adjusted monthly premium for such month for the applicable second lowest cost silver plan with respect to the taxpayer over (ii) an amount equal to one-twelfth of the product of 10 percent and the taxpayer's household income for the taxable year.

The adjusted monthly premium for an applicable second lowest cost silver plan would be defined under federal tax law. Federal law generally defines such term to mean the monthly premium which would have been charged for the plan if each individual covered under a qualified health plan were covered by such silver plan and the premium was adjusted only for the age of each such individual.

The credit would not be subject to an annual credit cap.

The terms "adjusted monthly premium," "applicable second lowest cost silver plan," "coverage month," "dependent," "exchange," "household income," "individual market," and "poverty line" would be defined the same as such terms are defined under federal tax law.

This bill would require the Department to allow an individual to submit, at the time he or she files a Virginia individual income tax return, documents demonstrating that he or she is an applicable taxpayer that is eligible for the credit. This may include proof of coverage in the individual market, records of monthly premiums, and any other information as required by the Department. The Department would be required to include instructions for claiming this credit with the individual income tax instructions.

This bill would require the Department to administer this credit in accordance with the definitions, exceptions, indexing of amounts, procedures, restrictions, special rules, and other provisions of the federal premium tax credit and any rulings and regulations issued by the Internal Revenue Service related to such federal credit, mutatis mutandis. However, any credits issued would not be subject to the provisions of federal law regarding the advance determination of income eligibility and payment of tax credits.

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: 1/26/2020 JJS
HB531F161