DEPARTMENT OF TAXATION
2023 Fiscal Impact Statement

1. **Patron** Jennifer L. McClellan

2. **Bill Number** SB 1324
House of Origin:
__X__ **Introduced**
_____ **Substitute**
_____ **Engrossed**

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

3. **Committee** Senate Finance and Appropriations

4. **Title** Child Tax Credit

5. **Summary/Purpose:**

This bill would establish a refundable individual income tax credit for individuals whose households include dependents younger than the age of 18. The amount of the credit would be $500 per qualifying child for an individual or married persons filing a joint return whose family Virginia adjusted gross income does not exceed $100,000.

This bill would be effective for taxable years beginning on and after January 1, 2023, but before January 1, 2028.

6. **Budget amendment necessary:** Yes.
Items: Page 1, Revenue Estimates
274 and 276, Department of Taxation

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

Fiscal Year	***Dollars***	***Positions***	***Fund***
2023-24	$299,356	1	GF
2024-25	$73,331	1	GF
2025-26	$74,731	1	GF
2026-27	$76,131	1	GF
2027-28	$77,531	1	GF
2028-29	$78,931	1	GF

8. **Fiscal implications:**

Administrative Costs

This bill would result in administrative costs to the Department of Taxation ("the Department") of $299,356 in Fiscal Year 2024, $73,331 in Fiscal Year 2025, $74,731 in Fiscal Year 2026, $76,131 in Fiscal Year 2027, $77,531 in Fiscal Year 2028, and $78,931 in Fiscal Year 2029. These costs would be incurred for purposes of hiring one full time employee to administer the credit, system updates, and additional ongoing operational expenses related to overseeing this credit program.

Revenue Impact

This bill would have a significant unknown negative General Fund revenue impact beginning in Fiscal Year 2024. According to data from the Department's most recent Annual Report, approximately 1.4 million persons were claimed as dependents on Virginia individual income tax returns reporting income of less than $100,000. This includes all persons claimed as dependents, including dependents who are age 18 and older. If it is assumed that 90 percent of such dependents were minor children, the annual impact of this credit would be $627 million. However, the actual impact could vary.

In addition, this bill would not limit the refundability of the credit to Virginia residents. This would increase the magnitude of the revenue loss because nonresidents could file returns in Virginia to claim the refundable credit even if they the bill could be amended to limit nonresidents to claiming a nonrefundable credit (see Line 10).

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: Yes.

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. If this is not the intent, the following technical amendments would address this issue:

Line 15 after "allowed a"
Strike: refundable

Line 20 after B.
Strike: If
Insert: 1. If the taxpayer is a resident of Virginia and not a person to whom § 58.1-303 applies and if

Line 23 end of line
Insert: 2. Except as provided in subdivision B 1, the amount of the credit claimed pursuant to this section for any taxable year shall not exceed the individual's or married individuals' Virginia income tax liability.

11. Other comments:

Sunset Dates for New Income Tax Credits and Sales Tax Exemptions

Section 3-5.14 of the 2022 Appropriation Act provides that any new sales tax exemption or tax credit enacted by the General Assembly after the 2019 Session, but prior to the 2024 Session, must have a sunset date of not later than June 30, 2025.

Federal Child Tax Credit

Under federal law, a taxpayer may claim a $2,000 child tax credit against the individual income tax for each qualifying child for whom the taxpayer is allowed a dependency deduction. For purposes of the child tax credit, the term “qualifying child” is defined the same as that for claiming a dependency exemption except that the child must not have attained age 17 by the end of the taxable year. Generally, a “qualifying child” is the taxpayer’s child, stepchild, adopted child, eligible foster child, sibling, step sibling, or a descendant of any such individual, who lives with the taxpayer for more than half of the taxable year and does not provide more than half of his own support.

For taxpayers with modified adjusted gross income (“MAGI”) above certain thresholds, the otherwise allowable child tax credit is phased out. Specifically, the amount of the credit is reduced by $50 for each $1,000, or fraction thereof, by which the taxpayer’s MAGI exceeds the applicable threshold amount. The threshold amounts are as follows: $400,000 for married taxpayers filing a joint return, and $200,000 for all other filers.

Federal Credit for Child and Dependent Care Expenses

Under federal law, a nonrefundable credit is allowed for a portion of qualifying child and dependent care expenses paid for the purpose of allowing the taxpayer to be gainfully employed. To be eligible for the credit, the taxpayer must incur employment-related expenses in providing care for one or more qualified individuals.

For purposes of this credit, the term “qualifying individual” means a dependent of the taxpayer who has not attained age 13; a dependent of the taxpayer who is physically or mentally incapable of caring for himself or herself and who has the same principal place of abode as the taxpayer for more than half of the taxable year; or the taxpayer’s spouse, if the spouse is incapable of caring for himself or herself and has the same principal place of abode as the taxpayer for more than half of the taxable year.

Qualifying employment-related expenses include expenses paid for household services and for the care of a qualifying individual that allow the taxpayer to work or look for work. Services rendered outside the home qualify if they involve the care of a qualified individual who regularly spends at least eight hours per day in the taxpayer’s home.

The maximum amount of employment-related expenses to which the credit may be applied is $3,000 for one qualifying individual or $6,000 for two or more qualifying individuals, less the amount excludable by the taxpayer for any employer-provided dependent care assistance. The amount of the credit is equal to the amount of qualified expenses multiplied by the applicable percentage, as determined by the taxpayer’s adjusted gross income (“AGI”). Taxpayer’s with an AGI of $15,000 or less use the highest applicable percentage of 35 percent. For taxpayer’s with an AGI over $15,000, the credit is reduced by one percentage point for each $2,000 of AGI, or fraction thereof, in excess of $15,000. The minimum applicable percentage of 20 percent is used by taxpayers with an AGI greater than $43,000. Thus, the maximum dependent care credit amount is $1,050 for one qualifying individual and $2,100 for two or more qualifying individuals.

Qualifying employment-related expenses are considered in determining the credit only to the extent of earned income. For married taxpayers, expenses are limited to the earned income of the lower-earning spouse. Generally, if one spouse is not working, no credit is allowed. However, if the nonworking spouse if physically ill or mentally incapable of caring for himself or herself or is a full-time student at an educational institution for at least five calendar months during the year, the law imputes an earned income amount, for each month of disability or school attendance, of $250 if there is one qualifying individual or of $500 if there is two or more qualifying individuals

Virginia Deduction for Child and Dependent Care Expenses

In Virginia, taxpayers may deduct the amount of employment-related expenses on which the federal child and dependent care credit is based. The amount of employment-related expenses that may be deducted is limited to the amount actually used in computing the federal child and dependent care credit. As a general rule, taxpayers are limited to a maximum deduction of $3,000 for one child and $6,000 for two or more dependents, or the earned income of the spouse having the lowest income, whichever is less.

Proposed Legislation

This bill would establish a refundable individual income tax credit for individuals whose households include dependents younger than the age of 18. The amount of the credit would be $500 for an individual or married persons filing a joint return whose family Virginia adjusted gross income does not exceed $100,000. If the amount of the credit exceeds a taxpayer's liability for the taxable year, the excess would be refunded to the taxpayer.

This bill would require the Department to develop guidelines, exempt from the Administrative Process Act, implementing the credit. This bill would be effective for taxable years beginning on and after January 1, 2023, but before January 1, 2028.

Similar Legislation

House Bill 2205 is identical to this bill.

cc : Secretary of Finance

Date: 1/22/2023 JLOF
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