

**DEPARTMENT OF TAXATION
2024 Fiscal Impact Statement**

1. **Patron** Delores L. McQuinn

2. **Bill Number** HB 240

3. **Committee** House Finance

House of Origin:
 Introduced
 Substitute
 Engrossed

4. **Title** Individual and Corporate Income Tax;
Virginia College Savings Plan Accounts

Second House:
 In Committee
 Substitute
 Enrolled

5. Summary/Purpose:

This bill would (i) phase in an increase of the maximum individual income tax deduction for Virginia 529 contributions from \$4,000 to \$15,000 per year; (ii) establish an individual and corporate income tax deduction of up to \$4,000 for child day centers making contributions to the Virginia 529 accounts of customers; and (iii) establish an individual and corporate income tax credit of up to \$500 (\$1,000 for employees that are not highly compensated) for expenses incurred by a business for contributions into the Virginia 529 account of a qualified employee.

The provisions of the bill pertaining to the increase in the individual Virginia 529 deduction and establishing the Virginia 529 deduction for day care providers would be effective for taxable years beginning on and after January 1, 2024. The provisions of the bill pertaining to the Virginia 529 Tax Credit for Employers would be effective for taxable years beginning on and after January 1, 2024, but before January 1, 2029. If enacted during the 2024 Regular Session of the General Assembly, all other provisions of this bill would become effective July 1, 2024.

6. Budget amendment necessary: Yes.

Item(s): Page 1, Revenue Estates
Item 274 and 276, 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>
2024-25	\$283,573	1	GF
2025-26	\$75,898	1	GF
2026-27	\$75,898	1	GF
2027-28	\$75,898	1	GF
2028-29	\$75,898	1	GF
2029-30	\$75,898	1	GF

8. Fiscal implications:

Administrative Costs

The Department of Taxation (“the Department”) estimates that this bill would result in administrative costs of \$283,573 in FY 2025 and \$75,898 in each fiscal year thereafter. These costs include the addition of one full-time employee and the expenses associated with creating a new tax credit program, including updating technology, forms, and systems.

Revenue Impact

This bill would have an unknown, but potentially significant, negative General Fund revenue impact beginning in Fiscal Year 2025 and continuing each year thereafter.

Individual Income Tax Virginia 529 Deduction

The negative impact of the proposed increases to the existing deduction for amounts paid or contributed to a Virginia College Savings Plan is unknown. Based on 2021 return information, approximately 116,000 taxpayers claimed the existing deduction. After applying the income limitations and indexing set forth in this bill, applying the applicable growth rate, and assuming all 116,000 taxpayers claimed the maximum deductions for which they were eligible under this bill, the estimated negative General Fund revenue impact of the increased deduction over the current deduction would be \$29.4 million in FY 2025, \$31.6 million in FY 2026, \$32.4 million in FY 2027, \$33.4 million in FY 2028, \$34.4 million in FY 2029, and \$35.3 million in FY 2030. However, the actual revenue impact is unknown and could be less because it is unlikely that most taxpayers would claim the full amount of the increased deduction amounts allowed by this bill.

Virginia 529 Deduction for Day Care Providers

The negative impact of the new deduction for day care providers is unknown. It is unknown how many day care providers may make additional contributions to Virginia 529 accounts that would qualify for the deduction.

Virginia 529 Tax Credit for Employers

The negative impact of the tax credit proposed by this bill is unknown, but would be limited to \$5 million annually beginning in Fiscal Year 2025. It is unknown to what extent employers would contribute to their employees’ Virginia College Savings Plan accounts and claim this tax credit. However, the negative revenue impact would be limited by the \$5 million annual credit cap.

9. Specific agency or political subdivisions affected:

Department of Taxation
Virginia College Savings Plan

10. Technical amendment necessary: Yes. It is unclear how the increased individual income tax deduction phase in amounts for Taxable Years 2024, 2025, and 2026 would be indexed

for inflation, as a new amount is specified each year. To eliminate confusion, the Department suggests a technical amendment that states the indexing provisions would begin for Taxable Year 2027:

Lines 72 and 255, after “January 1,”
Strike: 2024
Insert: 2027

Lines 102 and 285, after “August 31”
Strike: 2023
Insert: 2026

11. Other comments:

Virginia College Savings Plan

In 1996, Congress enacted Internal Revenue Code § 529, which allowed taxpayers to set up tax-advantaged college savings plans, also referred to as qualified tuition plans or Section 529 plans. Such plans are generally exempt from federal income tax. To qualify as a Section 529 plan, the plan must be operated by a state or educational institution. The Virginia College Savings Plan is an independent agency of the Commonwealth that administers Section 529 plans. Currently, the Virginia College Savings Plan only offers *Invest 529* which is a savings plan that allows account owners to choose from a variety of investment options, including age-based evolving and non-evolving portfolios to meet a variety of investment objectives, risk tolerances, and college savings time horizons. Previously, Virginia College Savings Plan allowed prepaid tuition plans, but these plans are no longer available.

Because Virginia conforms to federal income tax law, Section 529 plans are also generally exempt from the Virginia income tax. As long as funds withdrawn from Section 529 plans are used for a qualifying educational purposes, including tuition for Kindergarten through 12th grade beneficiaries, account owners do not pay income tax on the gains accumulated in Section 529 accounts. Virginia law also allows a subtraction for any income attributable to a distribution of benefits or a refund from a prepaid tuition contract or savings trust account with the Virginia College Savings Plan, provided that any income attributable to a refund is due to a beneficiary’s death, disability, or receipt of a scholarship.

In addition, Virginia provides an individual income tax deduction for the purchaser or contributor for the amount paid or contributed during the taxable year for a prepaid tuition contract or savings trust account entered into with the Virginia College Savings Plan. The amount deducted on any individual income tax return is generally limited to \$4,000 per prepaid tuition contract or savings trust account.

Proposed Legislation

Individual Income Tax Virginia 529 Deduction

This bill would increase the maximum individual income tax deduction for amounts paid or contributed to a prepaid tuition contract or college savings trust account entered into with

the Virginia College Savings Plan from \$4,000 per prepaid tuition contract or college savings trust account to:

- \$7,500 for Taxable Year 2024,
- \$11,000 for Taxable Year 2025, and
- \$15,000 for Taxable Year 2026 and thereafter.

These amounts would be adjusted each year for inflation. However, the deduction would be limited to the current amount of \$4,000 (not adjusted for inflation) per prepaid tuition contract or college savings trust account for taxpayers with federal adjusted gross income that is greater than \$100,000 (\$200,000 for married persons filing a joint return).

Virginia 529 Deduction for Day Care Providers

For taxable years beginning on and after January 1, 2024, this bill would also establish a nonrefundable individual and corporate income tax deduction for the amount that a child day center or child day program paid or contributed to a customer's or client's prepaid tuition contract or college savings trust account entered into with the Virginia College Savings Plan. Such deduction would be limited to \$4,000 per customer's or client's prepaid tuition contract or college savings trust account.

"Child day center" would be defined as a child day program offered to (i) two or more children under the age of 13 in a facility that is not the residence of the provider or of any of the children in care or (ii) 13 or more children at any location.

"Child day program" would be defined as a regularly operating service arrangement for children where, during the absence of a parent or guardian, a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child under the age of 13 for less than a 24-hour period.

Virginia 529 Tax Credit for Employers

For taxable years beginning on or after January 1, 2024, but before January 1, 2029, this bill would provide an individual and corporate income tax credit equal to 35 percent of the expenses incurred by a business during the taxable year for contributions to a Virginia College Savings Plan account owned by a qualified employee of such business. The amount of the credit would generally be limited to \$500 per qualified employee. However, the maximum credit would increase to \$1,000 per employee for contributions to an Account owned by an employee deemed not highly compensated.

The credit would be subject to an annual credit cap of \$5 million. If applications for credits exceed \$5 million for any taxable year, the credits would be allocated on a pro rata basis.

"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 a normal fiscal year of the business's operations if the standard fringe benefits are paid by the business for the employee and the employee currently resides in Virginia. Seasonal or temporary employees, owners, or relatives would not be included as qualified employees.

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

“Relative” would be defined as a spouse, child, grandchild, parent, or sibling of an owner.

“Not highly compensated” would be defined as a qualified employee whose income is less than Virginia’s median wage, as reported by the Virginia Employment Commission, in the taxable year prior to a business’s applying for the credit.

The amount of the credit claimed in any single taxable year would be limited to the taxpayer’s income tax liability for the taxable year. If the amount of credits exceeds the taxpayer’s tax liability for the taxable year in which the contributions were made, 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. No credits would be permitted to be applied retroactively to taxable years prior to the taxable year in which the contributions were made.

Credits granted to a partnership, electing small business corporation (S corporation), or limited liability company would be required to be allocated to the individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entity.

This bill would require the Tax Commissioner, in consultation with the Virginia College Savings Plan, to develop guidelines, exempt from the Administrative Process Act, for claiming the credit. This bill would also require the Department to submit an annual report to the Chairmen of the House Finance Committee and Senate Finance and Appropriations Committee regarding the status and implementation of the credit.

The provisions of the bill pertaining to the increase in the individual Virginia 529 deduction and establishing the Virginia 529 deduction for day care providers would be effective for taxable years beginning on and after January 1, 2024. The provisions of the bill pertaining to the Virginia 529 Tax Credit for Employers would be effective for taxable years beginning on and after January 1, 2024, but before January 1, 2029. If enacted during the 2024 Regular Session of the General Assembly, all other provisions of this bill would become effective July 1, 2024.

Similar Legislation

House Bill 1305 and **Senate Bill 501** would establish a Virginia College Opportunity Fund, establish a new individual and corporate income tax deduction for amounts donated to the fund, and add the fund to the list of voluntary contributions that may be added to the individual income tax return.

cc : Secretary of Finance
Date: 2/4/2024 JLOF
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