

**DEPARTMENT OF TAXATION
2024 Fiscal Impact Statement**

1. **Patron** Vivian E. Watts

3. **Committee** House Finance

4. **Title** Income Tax

2. **Bill Number** HB 887

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. Summary/Purpose:

This bill would establish a seven percent tax bracket for individual taxpayers with income in excess of \$600,000, and two new tax credits: the Virginia Child and Dependent Care Tax Credit and the Family Caregiver Tax Credit. Both credits would be refundable for taxpayers that are Virginia residents for the full taxable year, and nonrefundable in the case of Virginia nonresidents and part-year residents. Neither credit would be subject to an annual credit cap.

The Virginia Child and Dependent Care Tax Credit would be an individual income tax credit equal to 50 percent of the federal tax credit allowed for employment-related expenses for household and dependent care services. For taxable years beginning on and after January 1, 2024, this bill would replace the current Virginia deduction based on the same federal tax credit.

The Family Caregiver Tax Credit would be an individual income tax credit equal to 50 percent of the eligible expenditures incurred by a family caregiver in caring for an eligible family member up to \$1,000. Only taxpayers that have federal adjusted gross income that is no greater than \$100,000 for individuals or \$200,000 for married persons filing jointly would be eligible to receive the credit.

The portions of this bill that establishes the new individual income tax bracket and repeals the deduction for child and dependent care employment-related expenses would be effective for taxable years beginning on and after January 1, 2024. The portions of this bill that would establish the Child and Dependent Care Tax Credit and the Family Caregiver Tax Credit would be effective for taxable years beginning on and after January 1, 2024, but before January 1, 2029.

6. Budget amendment necessary: Yes.

Item(s): Page 1, Revenue Estimates

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>
2023-24	\$32,510	0	GF
2024-25	\$520,456	1	GF
2025-26	\$191,327	1	GF
2026-27	\$95,206	1	GF
2027-28	\$97,209	1	GF
2028-29	\$99,336	1	GF
2029-30	\$101,464	1	GF

8. Fiscal implications:

Administrative Costs

The Department of Taxation (“the Department”) estimates that this bill would result in administrative costs of \$32,510 in FY 2024, \$520,456 in FY 2025, \$191,327 in FY 2026, \$95,206 in FY 2027, \$97,209 in FY 2028, \$97,209 in FY 2029, and \$101,464 in FY 2030. These costs would be incurred for purposes of hiring one full time employee to administer the Department’s responsibilities with respect to the Family Caregiver Tax Credit, and additional ongoing operational expenses related to overseeing that credit program. These costs would also include the expenses associated with implementing the other provisions of this bill, including updating technology, forms, and systems.

Revenue Impact

This bill would have an unknown positive General Fund revenue impact. The portion of the bill that would establish a seven percent bracket for individual taxpayers with income in excess of \$600,000, would have an estimated positive General Fund revenue impact as follows:

Fiscal Year	Estimated Impact 7% Tax Bracket
2025	\$712.41
2026	\$510.19
2027	\$545.08
2028	\$582.25
2029	\$622.68
2030	\$666.14

This positive revenue impact would be partially offset by the provisions of the bill that would create two new individual income tax credits. The amount of this offset is unknown, but could be approximately \$42 million annually.

Child and Dependent Care Tax Credit

The Virginia Child and Dependent Care Tax Credit would result in an unknown negative General Fund revenue impact beginning in FY 2025. Based upon published Internal

Revenue Service data, the average federal credit was \$560 for Taxable Year 2020. Because the credit under this bill would be equal to fifty percent of the federal credit, the Department estimates that the average state credit would be \$280. Assuming that all 177,000 taxpayers who claimed the existing Virginia Child and Dependent Care Deduction in Taxable Year 2021 claimed a \$280 state credit under this bill, the impact of the proposed credit would be approximately \$50 million annually. However, this impact would be partially offset by the elimination of the Virginia Child and Dependent Care Deduction, which is estimated to result in a positive General Fund revenue impact of approximately \$28 million per fiscal year. Therefore, the net effect would be approximately \$22 million per fiscal year. However, the actual net impact would vary depending on how many taxpayers qualify for and claim this credit as compared to the existing deduction.

Family Caregiver Tax Credit

The Family Caregiver Tax Credit would result in an unknown negative General Fund revenue impact beginning in Fiscal Year 2025 and continuing each year thereafter. It is unknown to what extent family caregivers would qualify for and claim this credit. If it is assumed that 20 percent of the 177,000 returns that claimed the existing Virginia Deduction for Child and Dependent Care Expenses in Taxable Year 2021 had expenses for family members that would qualify for the proposed Family Caregiver Tax Credit, this bill could have an estimated annual negative General Fund revenue impact of up to \$21 million. The actual impact would vary depending on how many taxpayers qualify for and claim this credit.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Virginia’s Individual Income Tax

Under current law, the Virginia individual income tax is imposed at the following rates:

Virginia Taxable Income	Virginia Tax Rates
\$3,000 and less	2 percent
\$3,001 to \$5,000	3 percent
\$5,001 to \$17,000	5 percent
\$17,001 or more	5.75 percent

In 1971, when Virginia studied conforming to the federal income tax law, Virginia originally considered having only the first three tax brackets shown above. Therefore, the top marginal tax rate would have been 5 percent, applicable to Virginia taxable income of \$5,001 or more. However, by 1972, when the General Assembly voted to conform to federal income tax law, it enacted four tax brackets at the same tax rates as under current law.

The amount of Virginia taxable income subject to Virginia’s top marginal tax rate was last modified during the 1987 Session, in response to the 1986 federal tax reform.

Year	Taxable Income Subject to 5.75 percent Tax Rate
1972—1986	\$12,001 or more
1987	\$14,001 or more
1988	\$15,001 or more
1989	\$16,001 or more
1990—Present	\$17,001 or more

Since the changes adopted during the 1987 Session adjusting the top bracket to the current income level for Taxable Year 1990 and thereafter, the General Assembly has not enacted any legislation affecting Virginia individual income tax rates or brackets and the brackets are not currently indexed for inflation. The federal individual income tax rate brackets are indexed for inflation.

Federal and Virginia Incentives for Dependents Expenses

Federal Child and Dependent Care Expenses Credit

For Taxable Year 2021, taxpayers are permitted to claim a credit of up to 50 percent of the first \$8,000 dollars (\$16,000 for two or more qualified persons) in qualified child and dependent care expenses. Qualified child and dependent care expenses include certain household service and expenses for care of the qualified person. A taxpayer may claim this credit only if the care was provided so the taxpayer could work or look for work, the care was for one or more qualifying persons, and the person providing the care was not the taxpayer’s spouse; the parent of the taxpayer’s qualifying child; a dependent of the taxpayer’s; or the taxpayer’s child who is either a dependent of the taxpayer’s or under the age of 19 by the end of the taxable year.

Virginia Deduction for Child and Dependent Care Expenses

Virginia permits a taxpayer that is eligible to claim the federal child and dependent care expenses credit to claim a deduction in an amount equal to the amount of employment related expenses upon which the federal credit is based for household and dependent care services necessary for gainful employment.

Federal Tax Incentives for Caregivers

Medical Expense Deduction

For Taxable Year 2021, taxpayers are permitted to deduct expenses for medical care for themselves, their spouse, and their dependents that exceed 7.5 percent of their federal adjusted gross income. Deductible medical expenses are generally those amounts paid for the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body. Taxpayers may also deduct transportation

expenses primarily for and essential to medical care; expenses for qualified long-term care services, or expenses for insurance covering medical care or for any qualified long-term care insurance contract.

For Virginia income tax purposes, taxpayers are permitted a deduction to the extent such expenses exceed 10 percent of their federal adjusted gross income.

Credit for Qualifying Dependents

A taxpayer is permitted to claim a nonrefundable income tax credit for any of the taxpayer's dependents who are not qualifying children under age 17. For Taxable Year 2021, the amount of the credit is equal to \$3,000 per qualifying dependent age 17 or younger and up to \$3,600 per qualifying dependent child under age 6. Generally, this credit will apply to qualifying children who are past child tax credit age, or qualifying relatives, such as dependent parents. The credit is phased out beginning with taxpayers with federal adjusted gross income of \$200,000 (\$400,000 for married persons filing jointly).

Caregivers may also qualify for the federal Child and Dependent Care Expense Credit discussed above.

Proposed Legislation

This bill would establish a seven percent tax bracket for individual taxpayers with income in excess of \$600,000, and two new tax credits: the Virginia Child and Dependent Care Tax Credit and the Family Caregiver Tax Credit. Both credits would be refundable for taxpayers that are Virginia residents for the full taxable year. In the case of Virginia nonresidents and part-year residents, the credit would be limited to the individual's or married persons' Virginia income tax liability, but the excess amount could be carried forward for credit against the income taxes of the individual or married persons in the next five taxable years or until the total amount of the tax credit has been taken, whichever is sooner. Neither credit would be subject to an annual credit cap.

The Virginia Child and Dependent Care Tax Credit would be an individual income tax credit equal to 50 percent of the federal tax credit allowed for employment-related expenses for household and dependent care services. For taxable years beginning on and after January 1, 2024, this bill would replace the current Virginia deduction based on the same federal tax credit.

The Family Caregiver Tax Credit would be an individual income tax credit equal to 50 percent of the eligible expenditures incurred by a family caregiver in caring for an eligible family member up to \$1,000. Taxpayers that have federal adjusted gross income that is greater than \$100,000 for individuals or \$200,000 for married persons filing jointly would not be eligible to claim the credit.

For purposes of the Family Caregiver Tax Credit:

"Activities of daily living" or "ADLs" would be defined as bathing, dressing, toileting, transferring or moving, bowel control, bladder control, and eating or feeding.

"Eligible expenditures" would be defined as expenses incurred by a family caregiver that are directly related to the care of an eligible family member, including (i) improvements or alterations to the family caregiver's primary residence to permit the eligible family member to remain mobile, safe, and independent; (ii) the purchase or lease of equipment or technology that assists the eligible family member in carrying out one or more activities of daily living; or (iii) expenditures related to hiring a home care aide or personal care attendant, respite care, adult day care, transportation, and legal or financial services. Eligible expenditures would not include expenses incurred in carrying out general household maintenance, including painting, plumbing, electrical repairs, or exterior maintenance. If the family caregiver receives any compensation or reimbursement for the eligible expenditures, they would not qualify for the credit.

"Eligible family member" would be defined as an individual who (i) is at least 18 years of age during the taxable year; (ii) is a resident of the Commonwealth; (iii) requires assistance with one or more ADLs, as certified by a licensed physician, physician assistant, nurse practitioner, or registered nurse; and (iv) qualifies as a dependent of the family caregiver or is in the care of the family caregiver as a legally appointed guardian.

"Family caregiver" would be defined as an individual, or in the case of married persons, an individual and his spouse, who (i) provides care to one or more eligible family members during the taxable year and (ii) has federal adjusted gross income that is no greater than \$100,000 for an individual or \$200,000 for married persons.

The portions of this bill that establishes the new individual income tax bracket and repeals the deduction for child and dependent care employment-related expenses would be effective for taxable years beginning on and after January 1, 2024. The portions of this bill that would establish the Child and Dependent Care Tax Credit and the Family Caregiver Tax Credit would be effective for taxable years beginning on and after January 1, 2024, but before January 1, 2029.

Similar Legislation

House Bill 969 would provide a Virginia Child Tax Credit for individuals whose households include dependents younger than the age of 18.

House Bill 1078 would provide a similar Family Caregiver Tax Credit that would not be refundable for Virginia full year residents.

cc : Secretary of Finance

Date: 2/3/2024 JLOF
HB887F161