DEPARTMENT OF TAXATION
2010 Fiscal Impact Statement

1. **Patron** Harry R. Purkey

2. **Bill Number** HB 119
House of Origin:
X **Introduced**
____ **Substitute**
____ **Engrossed**

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

3. **Committee** House Finance

4. **Title** Corporate Income Tax: Eliminates Virginia's Corporate Income Tax

5. **Summary/Purpose:**

This bill would eliminate the Virginia corporation income tax.

This bill would be effective for taxable years beginning on and after January 1, 2010.

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

6a. Expenditure Impact:

Fiscal Year	***Dollars***	***Fund***
2009-10	$0	GF
2010-11	$0	GF
2011-12	($186,000)	GF
2012-13	($186,000)	GF
2013-14	($186,000)	GF
2014-15	($186,000)	GF
2015-16	($186,000)	GF

6b. Revenue Impact:

Fiscal Year	***Dollars***	***Fund***
2009-10	($139.7 Million)	GF
2010-11	($1,299.7 Million)	GF
2011-12	($837.9 Million)	GF
2012-13	($872.2 Million)	GF
2013-14	($918.2 Million)	GF
2014-15	($955.2 Million)	GF
2015-16	($965.5 Million)	GF

7. **Budget amendment necessary:** Yes.
ITEM(S): Page 1, Revenue Estimates
262, Department of Taxation

8. Fiscal implications:

Administrative Costs

This bill would create an annual cost savings of $186,000 beginning in FY 2012 for TAX by reducing the amount of funding needed for data collection, systems maintenance and error resolution. In addition, this bill would result in the elimination of two full-time positions and one part-time position.

Revenue Impact

This bill would significantly reduce General Fund revenues by $139.7 million in FY 2010, $1,299.7 million in FY 2011, $837.9 million in FY 2012, $872.2 million in FY 2013, $918.2 million in FY 2014, $955.2 million in FY 2015, and $965.5 million in FY 2016. The impact in FY 2013 and later fiscal years equals the amounts reported in the Official Revenue Forecast, plus compliance revenue, which would no longer be collected.

The retroactive nature of this bill and its timing have significant impacts on the revenue estimates. If the bill were passed and signed by the Governor, this bill could increase the FY 2010 impact and decrease the FY 2011 impact if corporations act earlier to end estimated payments. If the bill were passed further along in the legislative process, it would decrease the FY 2010 impact but increase the FY 2011 impact.

This bill would also impact the flow of compliance revenue. TAX would continue to collect compliance revenue from previous tax years through FY 2012. However, it is estimated that the revenue would be reduced in FY 2013 and effectively cease in FY 2014. Based on historical collections, there would be a loss of $30 million in FY 2013 and annual losses of $60 million in FY 2014 and later.

9. Specific agency or political subdivisions affected:

Department of Taxation
State Corporation Commission

10. Technical amendment necessary: No.

11. Other comments:

Virginia Corporate Income Tax

The corporate income tax is imposed at the rate of six percent on the Virginia taxable income of domestic and foreign corporations doing business in Virginia. A "corporation" is any entity created as a corporation under the laws of any state or local domestic or foreign jurisdiction, and any association, joint stock company, or any other entity subject to corporate income tax under the Internal Revenue Code.

A corporation's taxable income is determined by allocation and apportionment when the income is derived from sources both within and without Virginia. Multistate corporations allocate and apportion federal taxable income after Virginia modifications are made to determine the amount of attributable to Virginia. There is no allocation or apportionment needed when the entire business of a corporation is conducted or transacted within Virginia. Instead, the Virginia corporate income tax is imposed upon the entire Virginia taxable income of the corporation for each taxable year.

The corporate income tax has become a major revenue source for Virginia. According to the Annual Report for Fiscal Year 2009, the corporate income tax produced $648 million in revenue. The corporate income tax produces the third highest amount of revenue behind the individual income tax and the state sales and use tax.

There are other business entities that are not subject to corporate income tax. Banks and trust companies are subject to a bank franchise tax, and insurance companies are subject to a premiums tax. Businesses organized as pass-through entities, such as partnerships, LLPs, LLCs, etc., are not taxed at the entity level, but their members are typically subject to the individual income tax. Individuals who operate businesses as sole proprietorships also are subject to the individual income tax. For Taxable Year 2007, over 170,000 pass-through entity returns were filed, as compared to under 71,000 corporate income tax returns. In addition, based on IRS data, there were 535,294 individual returns filed for Taxable Year 2007 in Virginia that were sole proprietorships. This number includes a broad range of businesses, from people selling products part-time, to tradesmen (plumbers, electricians, carpenters, etc.) running a full-time business.

Other States

Currently, the only states that do not impose a corporate income tax are Nevada, South Dakota, Washington, and Wyoming.

Proposed Legislation

This bill would eliminate the Virginia corporation income tax. It would also eliminate the minimum taxes on telecommunications companies and electric suppliers.

This bill would be effective for taxable years beginning on and after January 1, 2010.

Similar Legislation

Senate Bill 671 is similar to this bill, but it would be effective for taxable years beginning on and after July 1, 2012.

House Bill 94 would reduce the corporate income tax rate by one percent for small businesses that increase the number of their employees by a minimum of five percent over the number of employees in the immediately preceding year. The one percent tax rate reduction would be allowed for no more than three taxable years. The tax rate reduction would be effective for taxable years beginning on or after January 1, 2010.

House Bill 860 would reduce the corporate income tax rate from 6.0% to 5.75%.

House Bill 896 and Senate Bill 421 would reduce the corporate income tax rate from 6% to 5.4% for every small business.

Senate Bill 325 would reduce the corporate income tax rate from six percent to three percent for the first three years after a business establishes a new office or operation or expands an existing office or operation in a nonattainment area under the Clear Air Act, for taxable years beginning on or after January 1, 2010. The capital investment must be $250,000 or more and the tax reduction may not exceed that amount of the capital investment made by the corporation.

cc : Secretary of Finance

Date: 1/26/2010 TLG
HB119F161