DEPARTMENT OF TAXATION
2012 Fiscal Impact Statement

1. Patron David L. Englin

2. Bill Number HB 1023

House of Origin:
X Introduced
_____ Substitute
_____ Engrossed

Second House:
_____ In Committee
_____ Substitute
_____ Enrolled

3. Committee House Finance

4. Title Tax credit for hiring certain individuals released from incarceration

5. Summary/Purpose:

This bill would create a new individual and corporate income tax credit for taxpayers that create new full-time jobs that pay an annual salary of at least $50,000 and that are filled by individuals released from incarceration. The credit would be equal to $500 per qualifying new full-time job.

This credit would be allowed in the first taxable year in which the new full-time job is continuously filled by an individual released from incarceration and for each of the four succeeding taxable years in which the requirements are met. No credit would be allowed for a taxable year in which the number of full-time jobs is less than base year employment.

This bill would also require the Tax Commissioner to develop guidelines implementing the new credit. The Department of Taxation would be required to provide a written report to the General Assembly in December 2015 detailing the number of taxpayers that claimed the credit in taxable years 2012 through 2016, the total dollar amount of such credits, and a statement explaining the public policy for the establishment of the credit.

The credit would be effective for taxable years beginning on or after January 1, 2012, but before January 1, 2017.

6. Budget amendment necessary: No.

7. Fiscal Impact Estimates are: Not available. (See Line 8.)

8. Fiscal implications:

Administrative Costs

The Department of Taxation ("the Department") has not assigned any administrative costs to this bill because the changes required by a single bill such as this can be implemented as part of the annual changes to our systems and forms. As stand-alone legislation, the

Department considers implementation of this bill as "routine," and does not require additional funding.

The Department will provide specific administrative costs on any legislation that is not "routine." Additionally, the Department will review all state tax legislation likely to be enacted prior to the passage by each house. If the aggregate number of routine bills likely to pass either house is unusually large, it is possible that additional resources will be required. If so, the Department will identify the costs at that time.

Revenue Impact

This bill would have an unknown revenue loss. The extent of the revenue impact would depend on the number of previously incarcerated individuals who would be qualified for new jobs, as well as the number of employers that would take advantage of this credit.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Federal Work Opportunity Tax Credit

The federal Work Opportunity Tax Credit is an income tax credit for employers that hire certain employees. The credit is equal to forty percent of the first-year wages paid or incurred by the employer to or for individuals who are members of one of several targeted groups. The amount of qualified first-year wages is generally limited to $6,000. Accordingly, the maximum per employee credit is generally $2,400.

One of the targeted groups for which the Work Opportunity Tax Credit may be earned includes qualified ex-felons. For purposes of this credit, a "qualified ex-felon" is defined as any individual who is certified by the designated local agency as having been convicted of a felony under the statute of the United States or any state and as having a hiring date that is not more than one year after the last date on which such individual was so convicted or released from prison. Under prior law, an ex-felon was only qualified if he or shee was the member of a family that had annualized income that was no more than 70 percent of the Bureau of Labor Statistics lower living standard. This requirement was eliminated under the 2006 Tax relief and Health Care Act.

State Tax Incentives for Hiring Criminal Offenders

California has a tax credit for any employer that hires a qualified employee, which includes an individual who was an ex-offender immediately preceding commencement of employment. For purposes of the credit, the individual is treated as convicted if he or she was placed on probation by a state court without a finding of guilty. The credit is equal to 50 percent of qualified wages in the first year of employment, 40 percent of qualified wages in the second year of employment, 30 percent of qualified wages in the third year of employment, 20 percent of qualified wages in the fourth year of employment, and 10 percent of qualified wages in the fifth year of employment.

Illinois allows a tax credit equal to 5 percent of qualified wages paid by the taxpayer to one or more Illinois residents who are qualified ex-offenders. The total credit may not exceed $600 for each qualified ex-offender. For purposes of this credit, a "qualified ex-offender" must have been sentenced to a period of incarceration in an Illinois adult correctional center and must be hired within one year after being released from such correctional center.

Iowa allows an income tax deduction for small business corporations that hire an individual who has been convicted of a felony in Iowa, any other state, or the District of Columbia or who is serving a parole or probation sentence or participating in a work release program. The deduction is equal to 65 percent of the wages paid during the first year of employment. The maximum deduction is $20,000 per employee.

Louisiana allows a tax credit for an employer who offers full-time employment of at least 30 hours per week to an individual who has been convicted of a first-time drug offense and who is less than 25 years old when initially employed. The credit is equal to $200 per taxable year per eligible employee for a maximum of two years. The credit is availablue upon certification by the employee's probation officer that the employee has successfully completed a court-ordered drug treatment or rehabilitation program and has worked 180 days full time for the employer.

Maryland offers a tax credit for wages paid to a qualified ex-felon employee. The credit is equal to 30 percent of the first $6,000 of wages paid during the first year of employment and 20 percent of the first $6,000 of wages paid during the second year of employment. To qualify, the ex-felon employee must meet the federal requirements for a "qualified ex-felon," including having a hiring date that is not more than one year after the last date on which such individual was convicted or released from prison.

Texas previously allowed a credit for wages paid by a corporation to an employee who was employed while participating in a work program. The credit was equal to 10 percent of the portion of the wages paid that the Department would apportion to the state as reimbursement for the cost of the participant's confinement. The credit was repealed effective in 2008.

<u>Virginia Job Creation Incentives</u>

Virginia currently offers several job creation incentives, including three job-related tax credits and the Enterprise Zone Job Creation grant program.

The Major Business Facility Job Tax Credit is an income tax credit for the creation of at least 50 new full-time jobs in connection with the establishment or expansion of a major business facility. If the major business facility is located in an enterprise zone or in an economically distressed area (as defined by the Virginia Economic Development Partnership), the threshold is reduced from 50 jobs to 25. The credit is equal to $1,000 for each qualifying new job in excess of 50 jobs (25 jobs for a taxpayer located in an enterprise zone or economically distressed area). The credit must be claimed ratably over two or three taxable years, depending on when the credit is claimed, beginning with the taxable year following the year in which the facility is established or expanded or the new qualifying jobs are added. Credits are recaptured proportionately if employment decreases during the five years following the initial credit year.

The Green Job Creation Tax Credit is a corporate and individual income tax credit for new "green jobs" that are created in Virginia. The amount of the credit is $500 for each position that is created and that has an annual salary of $50,000 or more. The tax credit is allowed in the first taxable year in which the job had been filled for at least one year, and for the four succeeding taxable years in which the job is continuously filled. The tax credit is allowed for up to 350 green jobs per taxpayer. Any unused credits may be carried over for five taxable years.

The International Trade Facility Tax Credit is an individual and corporate income tax credit for either capital investment in an international trade facility or increasing jobs related to an international trade facility. The amount of the credit is equal to $3,000 per new qualified full-time employee that results from increased qualified trade activities by the taxpayer or two percent of the amount of capital investment made by the taxpayer to facilitate the increased eligible trade activities. Taxpayers are permitted to elect either credit, but would not be entitled to claim both credits in the same taxable year. The amount of the credit is limited to 50 percent of the taxpayer's tax liability for the taxable year. Any unused credit amount may be carried forward for ten years. If the number of qualified full-time employees in any of the five years succeeding the credit year decreases below the average number of qualified full-time employees employed during the credit year, the credit is subject to recapture.

The Enterprise Zone Job Creation Grant program allows qualified business firms located in enterprise zones to receive grant funding. Such grants are available in an amount equal to either (i) $800 per year for up to five consecutive years for each grant eligible position that during such year is paid a minimum of 200 percent of the federal minimum wage and that is provided with health benefits, or (ii) $500 per year for up to five years for each grant eligible position that during such year is paid less than 200 percent of the federal minimum wage, but at least 175 percent of the federal minimum wage, and that is provided with health benefits. In areas with an unemployment rate that is one and one-half times or more the state average, the business firm is eligible to receive $500 per year for up to five years for each grant eligible position that during such year is paid at least 150 percent of the federal minimum wage and that is provided with health benefits. A business firm may receive grants for up to a maximum of 350 grant eligible jobs annually.

<u>Proposal</u>

This bill would create a new individual and corporate income tax credit for taxpayers that create new full-time jobs that pay an annual salary of at least $50,000 and that are filled by individuals released from incarceration. The credit would be equal to $500 per qualifying new full-time job. No credit would be allowed if the number of full-time jobs for the taxable year is less than the base-year employment.

For purposes of this credit, "individual released from incarceration" would mean a person currently not incarcerated and who was released from incarceration for conviction of a felony within the five years immediately preceding the date on which the person was hired into the full-time job.

"Full time job" would be defined as a job in the Commonwealth of an indefinite duration, for which the taxpayer is the employer and for which the standard fringe benefits are paid by the taxpayer, requiring a minimum of either (i) 35 hours of an employee's time per week for the entire normal year of such taxpayer's operations, which normal year must consist of at least 48 weeks, or (ii) 1,680 hours per week. Seasonal or temporary positions, and positions created when a job function is shifted from an existing location the Commonwealth would not qualify as full-time jobs.

"Base year employment" would be defined as the average annual number of full-time jobs for which the taxpayer is the employer for the immediately preceding three taxable years.

This credit would be allowed in the first taxable year in which the new full-time job is continuously filled by an individual released from incarceration and for each of the four succeeding taxable years in which the requirements are met. No credit would be allowed for a taxable year in which the number of full-time jobs is less than base year employment.

Taxpayers would not be permitted to claim this tax credit for any employee or job for which the taxpayer receives a Major Business Facility Job Tax Credit, a Green Job Creation Tax Credit, or an Enterprise Zone Job Creation Grant. Nothing in this bill would prohibit a taxpayer from claiming this credit and the International Trade Facility Tax Credit for the same jobs.

This credit would be nonrefundable. Any credit not usable for the taxable year for which the credit is allowed would be carried over for five taxable years.

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

This bill would also require the Tax Commissioner to develop guidelines implementing the new credit. The Department of Taxation would be required to provide a written report to the General Assembly in December 2016 detailing the number of taxpayers that claimed the credit in taxable years 2012 through 2015, the total dollar amount of such credits, and a statement explaining the public policy for the establishment of the credit.

The credit would be effective for taxable years beginning on or after January 1, 2012, but before January 1, 2017.

cc : Secretary of Finance

Date: 2/2/2012 KLC
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