DEPARTMENT OF TAXATION
2022 Fiscal Impact Statement

1. **Patron** Elizabeth R. Guzman

2. **Bill Number** HB 1104
   House of Origin:
   X **Introduced**
   ____ **Substitute**
   ____ **Engrossed**

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

3. **Committee** House Finance

4. **Title** Telework Expenses Tax Credit

5. **Summary/Purpose:**

   This bill would reinstate the Telework Expenses Tax Credit. The previous version of the credit was repealed on January 1, 2019.

   This bill would remove certain requirements that were in place under the previous version of the credit. This includes removing the requirement that the employee and employer to enter into a telework agreement. This also includes removing the requirement that taxpayers apply for and reserve credits in advance.

   This bill would be effective for taxable years beginning on and after January 1, 2022, but before January 1, 2031.

6. **Budget amendment necessary:** Yes.
   Item(s): 274 and 276, Department of Taxation

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

Fiscal Year	***Dollars***	***Positions***	***Fund***
2022-23	$67,500	1	GF
2023-24	$64,800	1	GF
2024-25	$64,800	1	GF
2025-26	$64,800	1	GF
2026-27	$64,800	1	GF
2027-28	$64,800	1	GF

8. **Fiscal implications:**

   Administrative Costs

   This bill would result in administrative costs to the Department of Taxation ("the Department") of $67,500 in Fiscal Year 2023 and $64,800 in Fiscal Year 2024 and thereafter. These costs would include hiring one new full-time employee and operational costs associated with administering the credit.

<u>Revenue Impact</u>

This bill would have an unknown negative General Fund revenue impact beginning in Fiscal Year 2023, not exceeding $1 million per fiscal year.

The number of returns and amount of the credit claimed for Fiscal Year 2014 through Fiscal Year 2020 are below.

Fiscal Year	Number of Returns	Amount Claimed
2014	7	$51,128
2015	10	$112,843
2016	9	$56,127
2017	7	$14,734
2018	13	$68,102
2019	4	$5,328
2020	5	$64,700

However, in addition to reinstating the credit, this bill would also remove some of the requirements that were in place under the previous version of the credit. These requirements include:

- *The telework agreement requirement*: This bill would no longer require that the employee and employer enter into a telework agreement.

- *The reservation requirement*: This bill would no longer require that credit claimants apply for and reserve credits in advance.

It is unknown the extent to which removing such requirements would increase the number and amount of credits claimed. It is also unknown the extent to which increased telework resulting from the COVID-19 pandemic would increase the number and amount of credits claimed. However, because the Telework Expense Tax Credit would be subject to a $1 million annual cap, the annual negative General Fund revenue impact of this bill would not exceed $1 million.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Expired Telework Expense Tax Credit

The Telework Expenses Tax Credit was an individual and corporate income tax credit for employers that incurred eligible telework expenses. There were two parts to the credit. Employers could claim a credit for eligible telework expenses incurred during the calendar year, not to exceed $1,200 per eligible teleworking employee. Employers could also claim up to $20,000 for the costs of conducting a telework assessment. The total amount of the Telework Expenses Tax Credit claimed by an employer could not exceed $50,000 in a calendar year. The portion of the credit for conducting a telework assessment could only be claimed once by an employer. The total amount of credits was capped at $1 million annually.

To qualify for a credit for eligible telework expenses, the employer was required to enter into a signed telework agreement with the teleworking employee on or after July 1, 2012, but before January 1, 2019. This telework agreement must be in accordance with policies set by the Department of Rail and Public Transportation.

To receive this credit, taxpayers were required to submit a reservation application to the Department between September 1 and October 31 of the year preceding the taxable year for which the tax credit is to be earned. If reservation applications for the year exceeded the $1 million credit cap, tentative credits were allocated to taxpayers on a pro rata basis. Once an employer had actually incurred eligible expenses, it was required to submit a final application to the Department in order to receive an actual credit allocation. If applications for credit allocations exceeded the credit cap, the Department allocated the credit to taxpayers on a pro rata basis. The amount of credit claimed could not exceed the tax liability of the taxpayer and unused credit amounts could not be carried forward to future taxable years. Taxpayers could not claim this credit if any other income tax credit were also claimed or if the qualified expenses were deducted by the taxpayer in any taxable year.

Legislation enacted during the 2019 Regular Session of the General Assembly advanced the sunset date of the credit from January 1, 2022 to January 1, 2019. Such legislation had the effect of repealing the credit on January 1, 2019.

Sunset Dates for Income Tax Credits and Sales Tax Exemptions

Section 3-5.14 of the Appropriation Act provides that the General Assembly may not advance the sunset date for any existing income tax credit or sales tax exemption beyond June 30, 2025. Any new income tax credit or sales tax exemption enacted by the General Assembly prior to the 2024 Session must have a sunset date not later than June 30, 2025. This requirement does not apply to sales tax exemptions related to nonprofit entities or to income tax credits or sales tax exemptions with sunset dates after June 30, 2022 that were enacted or advanced during the 2016 Session, or to the Motion Picture Production Tax Credit.

Proposed Legislation

This bill would reinstate the Telework Expenses Tax Credit. The previous version of the credit was repealed on January 1, 2019.

This bill would remove a requirement that the employee must enter into a telework agreement with his employer. Instead, this bill would require that the employee must have teleworked on a full-time basis for his employer for at least three months during the taxable year.

The bill would also remove a requirement that taxpayers must apply for and reserve credits in advance. Instead, this bill would require that the Department must develop procedures for applying for the credit after incurring eligible telework expenses. This bill would prohibit the Department from requiring an eligible employer to reserve or obtain advance approval for tax credits.

This bill would authorize the Department to impose any other requirements that it deems appropriate.

This bill would be effective for taxable years beginning on and after January 1, 2022, but before January 1, 2031.

cc : Secretary of Finance

Date: 1/23/2022 JLOF
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