DEPARTMENT OF TAXATION
2010 Fiscal Impact Statement

1. Patron Ryan T. McDougle

2. Bill Number SB 671

House of Origin:
X **Introduced**
___ **Substitute**
___ **Engrossed**

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

3. Committee Senate 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 July 1, 2012.

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	$0	GF
2012-13	$0	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	$0	GF
2010-11	$0	GF
2011-12	$0	GF
2012-13	($615.3 Million)	GF
2013-14	($1,157.1 Million)	GF
2014-15	($950.6 Million)	GF
2015-16	($974.7 Million)	GF

7. Budget amendment necessary: Yes.
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8. Fiscal implications:

Administrative Costs

This bill would create an annual cost savings of $186,000 beginning in FY 2014 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 $615.3 million in FY 2013, $1,157.1 million in FY 2014, $950.6 million in FY 2015, and $974.7 million in FY 2016. The impact in the remaining fiscal years would grow based on the current economic outlook incorporated into the official revenue forecast. The impact includes compliance revenue that would no longer be collected.

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 § 7701.

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 also eliminate the following tax credits that can be claimed by individuals and may in some cases also be applied to the bank franchise tax and the insurance premiums tax. These tax credits are as follows:

- Low-income housing credit;
- Tax credit for vehicle emissions testing equipment, clean-fuel vehicles and certain refueling property;
- Major business facility job tax credit;
- Day-care facility investment tax credit;
- Worker retraining tax credit;
- Tax credit for purchase of machinery and equipment for processing recyclable materials;
- Tax credit for certain employers hiring recipients of Temporary Assistance for Needy Families;
- Tax credit for purchase of waste motor oil burning equipment;
- Employees with disabilities tax credit; and
- Biodiesel and green diesel fuels producers tax credit.

This bill would be effective for taxable years beginning on and after July 1, 2012.

Similar Legislation

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 beginning on or after January 1, 2010.

House Bill 119 would eliminate the corporate income tax for taxable years beginning on and 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
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