

DEPARTMENT OF TAXATION

2012 Fiscal Impact Statement

1. **Patron** Benjamin L. Cline

2. **Bill Number** HB 246

3. **Committee** House Finance

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

4. **Title** Sunset provisions on state tax credits and estimates of revenue loss by state Tax Commissioner

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would prohibit legislation from adding a new state tax credit or renewing an existing state tax credit unless the bill contains an expiration date of not longer than five years from the effective date of the new or renewed state tax credit.

This bill would also require the Tax Commissioner to undertake an annual study of the most recent annual revenue loss of each state tax credit that is scheduled to sunset in the following two calendar years.

The effective date of this bill is not specified.

6. **Budget amendment necessary:** No.

7. **No Fiscal Impact.** (See Line 8.)

8. **Fiscal implications:**

Administrative Costs

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

Revenue Impact

This bill would have no revenue impact. However, the requirements for sunset dates on legislation and for reports on expiring credits may impact future legislative action, which could subsequently impact revenue.

9. **Specific agency or political subdivisions affected:**

Department of Taxation

10. **Technical amendment necessary:** No.

11. Other comments:

JLARC Tax Preferences Study

The 2010 General Assembly passed Senate Joint Resolution 21, which required the Joint Legislative Audit and Review Commission (JLARC) to conduct a two-year examination of Virginia individual income tax, corporate income tax, and retail sales and use tax preferences. In its report, JLARC was required to do the following:

- Determine which individual income, corporate income, and sales and use tax preferences are being claimed or taken and to what extent;
- Provide an estimate of the fiscal impact of all such tax preferences claimed or taken;
- Examine the public policies for which the tax preferences were established and whether the desired public policies have been achieved;
- Report on whether other states routinely provide a sunset date for their tax preferences; and
- Establish a proposed mechanism or processes for the ongoing evaluation of the effectiveness of such tax preferences in bringing about the desired public policies for which the tax preferences were established.

JLARC was required to complete its meetings for the first year by November 30, 2010 and for the second year by November 30, 2011. A Commission Draft of the report was published November 14, 2011 and the final report will be submitted to the General Assembly during the 2012 session.

In its report, JLARC provided an overview of Virginia's tax preferences and the overall fiscal impact of these preferences. JLARC then divided existing preferences into various categories and determined the utilization of preferences within each category. The report identified several factors that hinder the effectiveness of certain tax preferences, including the limited use of sunset dates in tax preference bills and the lack of a formal process for evaluating the effectiveness of tax preferences.

The report concluded with the suggestion that the General Assembly establish a joint subcommittee to oversee an ongoing evaluation process. This subcommittee would direct the Department of Taxation to conduct routine evaluations and would assemble a technical advisory group to provide guidance and review findings. JLARC mentioned in its report that, if such a subcommittee were established, the Department would require additional staff, but the number of additional positions required would depend upon the scope of evaluations established by the joint subcommittee.

Current Tax Credit Reports

The Department issues an annual Corporate Tax Preferences Report to the members of the House Appropriations, House Finance, and Senate Finance Committees. Among other data, this report includes the dollar amount of corporate income credits claimed by

corporations. This report also includes summary information regarding the types of taxpayers that claim corporate income tax relief. The most recent report is R.D. 238.

Beginning in 2011, the Department publishes an annual fiscal year tax credit report as part of its annual report. This report shows the number of individual and corporate taxpayers that claim each tax credit and the dollar amount of tax credits that are claimed each fiscal year. The most recent report can be found on the Department's website at www.tax.virginia.gov.

Proposal

This bill would prohibit legislation from adding a new state tax credit or renewing an existing state tax credit unless the bill contains an expiration date of not longer than five years from the effective date of the new or renewed state tax credit.

This bill would also require the Tax Commissioner to undertake an annual study of the most recent annual revenue loss of each state tax credit that is scheduled to sunset in the following two calendar years.

Depending on the period of time before a particular tax credit sunsets, there may be insufficient data on new tax credits to provide the information required by this bill. For example, if a new credit is enacted in 2013 that provides a credit for the 2013 and 2014 taxable years, one complete year of data would not be available until January 2015, after the credit sunsets.

The effective date of this bill is not specified.

Similar Legislation

House Bill 1032 would prohibit any committee of the General Assembly from reporting any bill that proposes to establish, increase, or expand a state or local tax exemption, credit, deduction or any other reduction in tax liability, unless the bill contains an expiration date of not longer than five years from the effective date of the bill.

House Bill 68 would prohibit any bill from being introduced that refers to a tax by any word or words other than "tax."

House Bill 146 would establish a commission to oversee the evaluation of Virginia's tax preferences.

House Bill 777 would establish a joint subcommittee to oversee the evaluation of Virginia's tax preferences.

House Joint Resolution 52 would establish a joint subcommittee to study reforming Virginia's tax structure.

House Bill 664 would require the Tax Commissioner to publish an annual list of certain tax credits that would include the names of all taxpayers claiming a tax credit of at least \$1,000 and the dollar amount of such tax credits.

cc : Secretary of Finance

Date: 1/27/2012 KLC
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