DEPARTMENT OF TAXATION
2014 Fiscal Impact Statement

1. Patron K. Rob Krupicka

2. Bill Number HB 502
House of Origin:
X **Introduced**
_____ **Substitute**
_____ **Engrossed**

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

3. Committee House Finance

4. Title Employer Child Care Program Tax Credit

5. Summary/Purpose:

This bill would allow an individual and corporate income tax credit to an employer equal to 35 percent of the:

- Expenditures paid or incurred during the taxable year by the employer to operate a quality child care program in the Commonwealth used primarily by the children of the employer's employees;
- Payments made during the taxable year by the employer to an independent quality child care program in the Commonwealth in the name of and for the benefit of the employer's employee, which employee's children are kept at such program during the employee's working hours; or
- Payments made during the taxable year by the employer directly to an employee that are an employee benefit solely for quality child care program expenses paid or incurred by the employee for his children to attend an independent quality child care program in the Commonwealth.

The total amount of credits that could be granted in a fiscal year would be limited to $5 million. No employer would be permitted to claim more than $250,000 in credits for a taxable year.

This bill would be effective for taxable years beginning on or after January 1, 2014.

Notwithstanding that a child care program must participate in Virginia's Quality Rating and Improvement System in order for the employer to be allowed a credit, credit would be allowed for such child care expenditures or payments by an employer prior to January 1, 2016, if the child care program otherwise meets all other requirements for the credit.

6. Budget amendment necessary: No.

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

8. Fischal implications:

Administrative Cost

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 negative General Fund revenue impact, beginning in Fiscal Year 2015. However, the reduction in General Fund revenues could not exceed the $5 million credit cap in any fiscal year.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Federal Law

Under federal law, employers may claim credits equal to 25 percent of the qualified child care facility expenditures and 10 percent of the qualified child care resource and referral expenditures that they paid or incurred during the taxable year. No employer may claim more than $150,000 in credits for a taxable year.

Qualified child care expenditures are amounts paid or incurred:

- To acquire, construct rehabilitate, or expand property (i) which is to be used as part of a qualified child care facility of the taxpayer, (ii) with respect to which a deduction for depreciation or amortization is allowable, and (iii) which does not constitute part of the principal residence of the taxpayer or any employee of the taxpayer;
- For the operating costs of a qualified child care facility of the taxpayer, including costs related to the training of employees, to scholarship programs, and to the providing of increased compensation to employees with higher levels of child care training; or

- Under a contract with a qualified child care facility to provide child care services to employees of the taxpayer.

Qualified child care resource and referral expenditures are amounts paid or incurred under a contract to provide child care resource and referral services to employees of the taxpayer.

Other States

Eighteen states and the District of Columbia allow credits to employers for providing child care assistance to employees. Such states include Arkansas, California, Colorado, Connecticut, Georgia, Illinois, Kansas, Louisiana, Maryland, Maine, Mississippi, Montana, New Mexico, Oklahoma, Oregon, Rhode Island, South Carolina, and Vermont.

Virginia Day-Care Facility Investment Tax Credit

Prior to the 2014 taxable year, employers could claim the Virginia Day-Care Facility Investment Tax Credit, in an amount equal to 25 percent of all expenditures paid or incurred for planning, site preparation, construction, renovation, or acquisition of facilities for the purpose of establishing a child day-care facility to be used primarily by the children of such taxpayer's employees, and equipment installed for permanent use within or immediately adjacent to such facility, including kitchen appliances, to the extent that such equipment or appliances are necessary in the use of such facility for purposes of child day-care. The credit was allowed only if:

- The child day-care facility was operated under the authority of a license issued by the Commissioner of Social Services;
- An application for a building permit for the facility was made after July 1, 1996; and
- The Tax Commissioner approved the taxpayer's credit application.

The credit was capped at $100,000 per fiscal year. No employer could claim more than $25,000 in credits for a taxable year.

During the 2013 Session, the Virginia General Assembly enacted Senate Bill 1296, which requires that any credits that have not been claimed during the preceding five calendar years be deemed obsolete. Because no taxpayers claimed the Day-Care Facility Investment Tax Credit during Fiscal Years 2008 through 2012, the credit was deemed obsolete, effective for the 2014 taxable year (see 2014 Report Document No. 53, 2013 Obsolete Tax Credit Report). As a result, no taxpayers may claim the credit in taxable years beginning on and after January 1, 2014 without the expressed authorization of the General Assembly.

Proposed Legislation

This bill would allow an individual and corporate income tax credit to an employer equal to 35 percent of the:

- Expenditures paid or incurred during the taxable year by the employer to operate a quality child care program in the Commonwealth used primarily by the children of the employer's employees;
- Payments made during the taxable year by the employer to an independent quality child care program in the Commonwealth in the name of and for the benefit of the employer's employee, which employee's children are kept at such program during the employee's working hours; or
- Payments made during the taxable year by the employer directly to an employee that are an employee benefit solely for quality child care program expenses paid or incurred by the employee for his children to attend an independent quality child care program in the Commonwealth.

An employer would be allowed to include as part of the payment for purposes of computing the credit any administrative cost associated with the employer's payment to the independent quality child care program not to exceed 2 percent.

The total amount of credits that could be granted in a fiscal year would be limited to $5 million. No employer could claim more than $250,000 in credits for a taxable year.

"Quality child care program" would be defined as a center-based or similar program that is participating in Virginia's Quality Rating and Improvement System.

"Virginia's Quality Rating and Improvement System" would be defined as a system, coordinated through the Department of Social Services, used to identify the quality features of child care programs to support a child's development and preparation for kindergarten.

No credit would be allowed for the taxable year unless the Tax Commissioner approves the employer's application for credit and issues the credit. Proper applications submitted to the Department for the credit would be approved in the order received.

As a condition to allowing credits for payments made by an employer to an independent quality child care program, such payments could not exceed the amount charged to other children of like age and abilities of individuals not employed by the employer.

The amount of credit claimed by any employer could not exceed the total amount of tax imposed upon the employer for the taxable year. Any tax credit not usable for the taxable year in which the employer's application for credit was approved by the Tax Commissioner would be allowed to be carried over to the extent usable for the next three taxable years or until the total amount of the credit has been taken, whichever is sooner.

The amount of any credit attributable to a partnership, electing small business corporation (S corporation), or limited liability company would be allocated to the individual partners, shareholders, or members in proportion to their ownership or interest in such business entities.

Employers would be required to make and keep such records as may be deemed reasonably necessary by the Tax Commissioner to document their eligibility and expenditures in regard to the credit.

The Tax Commissioner would be required to develop guidelines, exempt from the Administrative Process Act, implementing the provisions of this credit.

This bill would be effective for taxable years beginning on or after January 1, 2014.

Notwithstanding that a child care program must participate in Virginia's Quality Rating and Improvement System in order for the employer to be allowed a credit, credit would be allowed for such child care expenditures or payments by an employer prior to January 1, 2016, if the child care program otherwise meets all other requirements for the credit.

cc : Secretary of Finance

Date: 1/23/2014 MTH
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