

DEPARTMENT OF TAXATION

2020 Fiscal Impact Statement

1. **Patron** William C. Wampler, III
2. **Bill Number** HB 1146
House of Origin:
 X **Introduced**
 Substitute
 Engrossed
3. **Committee** House Finance
4. **Title** Individual and Corporate Income Tax; Credit
for Existing Business Growth
- Second House:**
 In Committee
 Substitute
 Enrolled

5. Summary/Purpose:

This bill would provide an individual and corporate income tax credit for certain existing businesses in Virginia that have filed a Virginia income tax return for at least two years prior to the credit year and meet certain employment requirements. The amount of the credit would be equal to 5 percent of the total individual or corporate income taxes imposed on the existing business during the two-year period during which employment would be measured for purposes of determining eligibility for this credit. An existing business would be permitted to claim the credit only once during such two-year period. The credit would not be subject to an annual credit cap.

This bill would be effective for taxable years beginning on and after January 1, 2020 but before January 1, 2040.

6. **Budget amendment necessary:** Yes.
Item(s): 282 and 284, Department of Taxation

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

7a. Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2020-21	\$72,750	1	GF
2021-22	\$70,050	1	GF
2022-23	\$70,050	1	GF
2023-24	\$70,050	1	GF
2024-25	\$70,050	1	GF
2025-26	\$70,050	1	GF

8. Fiscal implications:

Administrative Costs

The Department of Taxation ("the Department") estimates that it would incur administrative costs of \$72,750 in Fiscal Year 2021 and \$70,050 in Fiscal Year 2022 and

all subsequent fiscal years. These costs would include hiring one additional full-time employee to help with the administration of the credit.

Revenue Impact

This bill would have an unknown, potentially significant, negative General Fund revenue impact beginning in Fiscal Year 2022. It is unclear to what extent Virginia businesses with less than 100 employees would qualify for and claim this credit.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Current Law

Virginia does not currently provide any tax credits that generally apply to all existing businesses that increase their number of full-time employees. However, Virginia does provide several tax incentives for specific industries that require increased employment or the maintenance of certain employment levels. Such incentives include, but are not limited to:

- Major Business Facility Job Tax Credit;
- Motion Picture Production Tax Credit;
- Green Job Creation Tax Credit;
- Apportionment for manufacturing companies; and
- Certified Company Apportionment.

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, 2022. Any new income tax credit or sales tax exemption enacted by the General Assembly prior to the 2021 Session must have a sunset date not later than June 30, 2022. 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.

Further, during the 2012 Session, the General Assembly enacted House Bill 246, which prohibits legislation from adding a new credit or renewing an existing credit unless the legislation contains a sunset date of not longer than five years from the effective date of the new or renewed credit.

Proposed Legislation

This bill would provide an individual and corporate income tax credit for certain existing businesses in Virginia that have filed a Virginia income tax return for at least two years prior to the credit year and meet certain employment requirements. The amount of the credit would be equal to five percent of the total individual or corporate income taxes imposed on the existing business during the two-year period during which employment would be measured for purposes of determining eligibility for this credit. An existing business would be permitted to claim the credit only once during such two-year period.

The credit would be available to:

- An existing business with at least one but no more than five employees for the taxable year in which a qualifying period ends that adds at least one new full-time employee during such qualifying period;
- An existing business with more than five but no more than 10 employees for the taxable year in which a qualifying period ends that adds at least five new full-time employees during such qualifying period;
- An existing business with more than 10 but no more than 25 employees for the taxable year in which a qualifying period ends that adds at least seven new full-time employees during such qualifying period;
- An existing business with between more than 25 but no more than 50 employees for the taxable year in which a qualifying period ends that adds at least 15 new full-time employees during such qualifying period; and
- An existing business with more than 50 but no more than 100 employees for the taxable year in which a qualifying period ends that adds at least 25 new full-time employees during such qualifying period.

"Existing business" would be defined as a Virginia company in existence and that has filed Virginia income tax returns for at least two years prior to the taxable year in which it is claiming a credit under this section. A company that becomes an existing business during a qualifying period would be subject to the same temporal limitations and hiring thresholds in this section as if such company had been an existing business at the start of such qualifying period.

"Full-time employee" would be defined as a permanent, full-time position that requires a minimum of 35 hours of an employee's time a week for the entire normal year of the eligible company's operations, so long as such normal year consists of at least 48 weeks, or 1,680 hours per year.

"Qualifying period" would be defined as each two-year period, beginning in taxable year 2020, during which time increased employment of new full-time employees shall be measured and for which an existing business may claim a credit pursuant to this section.

The credit would not be subject to an annual credit cap.

If the amount of credits exceeds the taxpayer's tax liability for the taxable year, the taxpayer would be allowed to carry over the excess for credit against income taxes for the next five taxable years or until the total amount of the tax credit has been taken, whichever occurs first.

Credits granted to a partnership, limited liability company, or electing small business 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 require the Department to develop guidelines, exempt from the Administrative Process Act, establishing procedures for claiming the credit

This bill would be effective for taxable years beginning on and after January 1, 2020 but before January 1, 2040.

cc : Secretary of Finance

Date: 2/1/2020 JLOF
HB1146F161