DEPARTMENT OF TAXATION
2001 Fiscal Impact Statement

1. Patron Katzen

2. Bill Number HB 2542

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

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

3. Committee House Finance

4. Title Tax Benefit Certificate Program

5. Summary/Purpose:

This bill would create a program that allows technology and biotechnology companies that are unable to use any accrued income tax credits to sell the credits to other corporate taxpayers to reduce their tax liability. An amount equal to at least 75 percent of the value of the surrendered tax credit is to be paid to the technology and biotechnology company surrendering the credit by the corporation taxpayer that is the recipient of the corporation tax benefit certificate. No more than $50 million of tax credits may be transferred in FY 2002 and no more than $40 million of tax credits may be transferred in fiscal years thereafter.

This bill does not specify an effective date.

6. Fiscal Impact Estimates are: Unavailable. (See Line 8.)

6a. Expenditure Impact:

Fiscal Year	*Dollars*	*Positions*	*Fund*
2000-01	$0	0	GF
2001-02*	$51,666	1	GF
2002-03*	$51,666	1	GF

*** Does Not Include Systems Costs. See Line 8.**

7. Budget amendment necessary: Yes.
Item(s): 279 & 281 Department of Taxation

8. Fiscal implications:

While this bill does have costs associated with systems development, these cannot be ascertained at this time. The cost for implementing a **single** piece of legislation cannot be calculated precisely due to economies of scale. The actual cost to implement **all** legislation enacted during a given session will more than likely be less than the sum of the costs attributed to individual bills. Further, the ability to accurately predict costs is complicated because TAX is replacing its current database system. As a result, legislative changes may need to be made to both the current and the future system, depending on the effective date. Therefore, TAX is not providing specific systems costs for this bill, but will calculate the total for all tax bills once they have been acted upon favorably. TAX will incur other administrative costs with respect to this legislation of $51,666 in FY 02 and fiscal years thereafter for forms development and the creation of one full time position.

Taxpayers who are potential beneficiaries are not currently required to identify their number of employees, the exact nature of their business, or the percentage of their work force based in Virginia. Therefore, the data is not available to estimate the impact this bill would have on General Fund revenues. However, it is unlikely that the revenue loss estimate would approach the cap amounts of $40 million and $50 million.

9. Specific agency or political subdivisions affected:

Department of Taxation
Innovative Technology Authority

10. Technical amendment necessary: No.

11. Other comments:

The bill would authorize the Innovative Technology Authority ("ITA"), with the assistance of the Department of Taxation, to establish a program to allow technology or biotechnology corporations to sell unused tax credits to other corporations. These purchasing corporations would be able to use the credits to reduce their Virginia income tax.

A "Technology Company" would be a corporation having less than 100 employees (75% of whom work in Virginia) that employs highly educated or trained managers and workers, or both, who use sophisticated scientific research service or production equipment, processes or knowledge to discover, develop, test, transfer or manufacture a product or service in Virginia.

A "Biotechnology Company" would be a corporation having less than 100 employees (75% of whom work in Virginia) that is engaged in the research, development, production, or provision of biotechnology for the purpose of developing or providing products or processes for specific commercial or public purposes, including but not limited to, medical, pharmaceutical, nutritional, and other health-related, agricultural, and environmental purposes in Virginia.

ITA would receive, review and approve applications from technology or biotechnology corporations wishing to sell unused credits. Corporations wishing to purchase the tax credits would also apply to the ITA. ITA would facilitate negotiations for the transfer of the tax credits between the technology and biotechnology corporations and purchasing corporations. No transfer would be made without a written agreement stipulating the sales price of the transfer and any other terms the parties may deem necessary. The minimum sales price of such transfers would be 75% of the value of the tax credit. In other words, if a technology corporation earned a $100 credit, the minimum another corporation would have to pay for the credit is $75. No more than $50 million of tax credits may be transferred in FY 2002 and no more than $40 million of tax credits may be transferred in fiscal years thereafter.

Pursuant to the written agreement, ITA would issue a Corporation Tax Benefit Certificate to a purchasing corporation displaying the amount of the tax credit. Purchasing corporations would have to attach a copy of the certificate to their income tax returns in order to redeem the tax benefit.

The Tax Commissioner would promulgate rules and regulation in accordance with the Administrative Process Act to carry out the provisions of this bill.

Other Legislation

House Bill 1989 would be identical to this bill if the suggested amendments to that bill are adopted.

House Bill 2184 would create a tax credit equal to 50% of qualified research and development expenses incurred by technology and biotechnology corporations in Virginia and a tax credit equal to 50% of basic research payments for research and development done in the Commonwealth. Unused credits could be carried over for up to 10 taxable years. Unused research and development tax credits could be sold for at least 75% of face value.

Senate Bill 1260 would create a tax credit equal to 15% of qualified research and development expenses incurred by technology and biotechnology corporations in Virginia and a tax credit equal to 15% of a qualified investment in a technology or biotechnology corporation. Unused credits could be carried over for up to 10 taxable years. Unused research and development tax credits or NOL carry-overs could be sold for at least 75% of face value.

cc: Secretary of Finance

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