

DEPARTMENT OF TAXATION

2008 Fiscal Impact Statement

1. **Patron** Christopher K. Peace

2. **Bill Number** HB 139

House of Origin:

 Introduced

 Substitute

 Engrossed

3. **Committee** Passed House and Senate

4. **Title** Individual and Corporate Income Tax: Tax
Credit for Biodiesel Fuels Producers

Second House:

 In Committee

 Substitute

 X **Enrolled**

5. **Summary/Purpose:**

This bill would create an individual and corporate income tax credit for producers of biodiesel fuels during the first three years of production. The credit would be equal to \$0.01 per gallon of biodiesel fuels produced; but the total credit for each taxpayer could not exceed \$5,000 annually. The credit would not be allowed to exceed the tax liability of the taxpayer. Any unused amounts could be carried forward for the next three taxable years; and taxpayers would also be allowed to transfer unused but otherwise allowable credits for use by other taxpayers on Virginia income tax returns.

This bill would be effective for taxable years beginning on or after January 1, 2008.

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

6b. **Revenue Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2007-08	\$0	GF
2008-09	(\$5,800)	GF
2009-10	(\$5,800)	GF
2010-11	(\$5,000)	GF
2011-12	\$0	GF
2012-13	\$0	GF
2013-14	\$0	GF

7. **Budget amendment necessary:** Yes.

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8. **Fiscal implications:**

Administrative Costs

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

Revenue Impact

This bill would result in negative revenue impact of \$5,800 for FY 2009 and 2010, and \$5,000 for FY 2011. Information available from an industry trade association indicates that two facilities in Virginia would initially qualify for the proposed credit. While the revenue loss would grow with the construction of new production facilities, the data that is currently available does not indicate that there is any planned construction in the Commonwealth. To the extent the \$5,000 tax credit provided by this bill is incentive to construct more facilities in Virginia, the revenue impact would increase in future years.

9. Specific agency or political subdivisions affected:

Department of Taxation
Department of Mines, Minerals, and Energy

10. Technical amendment necessary: No.

11. Other comments:

Proposal

This bill would create an individual and corporate income tax credit for producers of biodiesel fuels during the first three years of production. The credit would be equal to \$0.01 per gallon of biodiesel fuels produced; but the total credit for each taxpayer could not exceed \$5,000 annually. The credit would not, however, be allowed to exceed the tax liability of the taxpayer. Any unused amounts could be carried forward for the next three taxable years; and taxpayers would also be allowed to transfer unused but otherwise allowable credits for use by other taxpayers on Virginia income tax returns.

"Biodiesel fuels" would be defined as biodiesel or green diesel that is a renewable, biodegradable and combustible liquid fluid fuel from agricultural or silvicultural plants, animal fats or other renewable resources including residue and waste generated from the production, processing, and marketing of agricultural products, silvicultural products, and other renewable resources that meets American Society for Testing and Materials (ASTM) specifications for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels, ASTM specifications for green diesel for highway transportation use, or applicable fuel specifications for other use. Included would be fuel produced from soybeans, corn, and other farm products.

A "producer" would be any person, entity, or agricultural cooperative association that, in a calendar year, produced in the Commonwealth up to two million gallons of biodiesel fuels using feedstock originating domestically within the United States.

The Department of Mines, Minerals and Energy would be required to certify that the biodiesel fuels producer has satisfied the requirements for the taxable year in which the credit would be allowed. In addition, the taxpayer would be required to submit with his income tax return all documentation, as required by TAX.

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

This bill would be effective for taxable years beginning on and after January 1, 2008.

cc : Secretary of Finance

Date: 2/26/2008 AMS
HB139FER161