Department of Planning and Budget
2008 Fiscal Impact Statement

1. **Bill Number:** HB41

House of Origin	X	Introduced	___	Substitute	___	Engrossed
Second House	___	In Committee	___	Substitute	___	Enrolled

2. **Patron:** Scott, J.M.

3. **Committee:** Finance

4. **Title:** **Motor fuels tax; modifies rates of taxation thereof.**

5. **Summary:** This bill modifies the rates of taxation on motor fuels to be the greater of (i) the current specific cents-per-gallon rates or (ii) percentage rates, 7.7 percent for gasoline and gasohol, and 6.8 percent for diesel. The percentage rates would be applied against the average price per gallon of the fuel, less federal and state taxes, as determined by the Commissioner of the Department of Motor Vehicles (DMV) over rolling six-month periods.

   The tax on aviation fuel or alternative fuels used in highway vehicles would be the same as the tax on diesel fuel. Computation of the road tax would be changed to 3.5 cents plus the tax on diesel fuel, rather than 21 cents per gallon of fuel. The road tax would continue to apply to the use of motor fuel, diesel, or liquefied gases.

   The motor carrier road tax credit would be equivalent to the tax imposed on diesel fuel.

   The proposed 6.8 percent rate on diesel fuel would default to 6.25 percent on December 31 of any year in which revenues designated by general law for the Transportation Trust Fund or the Highway Maintenance and Operating Fund are diverted to non-transportation related purposes.

6. **Fiscal impact estimates:** Indeterminate.

7. **Budget amendment necessary:** No.

8. **Fiscal implications:** This bill would change the motor fuels tax to the greater of the current cents per gallon or a percentage of the average sales price less taxes. The average retail price per gallon of gas including taxes would have to be $2.63 or greater for the 7.7 percent rate proposed in this bill to provide increased revenues. The $2.63 includes 18.4 cents per gallon federal excise tax and 17.5 cents per gallon state excise tax. Thus, the 7.7 percent rate on gasoline and gasohol would be applied to a price per gallon equal to or greater than $2.271:

	$2.630	Total price per gallon
less	.184	Federal tax
less	.175	Virginia tax
To yield	$2.271	Basis for 7.7 percent tax

The average retail price per gallon including taxes of diesel would have to be $2.99 or greater for the revenue from the 6.85 percent rate proposed in this bill to provide increased revenues. The $2.99 includes 18.4 cents per gallon federal excise tax and 17.5 cents per gallon state excise tax. So, the 6.8 percent rate on diesel fuel would be applied to a price per gallon equal to or greater than $2.631:

	$2.990	Total price per gallon
less	.184	Federal tax
less	.175	Virginia tax
To yield	$2.631	Basis for 6.8 percent tax

The tax rates charged per gallon of gasoline and diesel would depend on the average self-service retail fuel price, as calculated by DMV. This will fluctuate, depending on external forces. As such, the exact revenue attributable to the motor vehicle fuels taxes cannot be determined. However, any gasoline price above $2.63 for gasoline and $2.99 for diesel would result in a higher tax rate per gallon and additional revenues for the state.

The bill would require the DMV Commissioner to set fuels tax rates based on average self-service retail fuel prices for specific fuel types for specific periods of time. DMV would incur some costs to acquire average fuel price data. The cost is unknown at this time, but is not expected to be significant. The leading and potentially sole supplier of statistical data of this nature is Oil Price Information Service (opisnet.com). Contact with this company reveals that data is not available for self-service versus full-service retail prices. At this point, DMV has been unable to identify a source for this information.

9. **Specific agency or political subdivisions affected:** Department of Motor Vehicles, Virginia Department of Transportation.

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

11. **Other comments:** This bill also has the potential to result in taxes being refunded or credited to certain motor carriers at a rate higher than they were initially collected. Under the bill the tax rates will be based on either 6.8% or 6.25% of the average retail fuel prices for each six month period, creating the potential for the rate used to calculate the carrier's tax liability to be lower than the rate used to calculate the carrier's tax credit, thereby crediting or ultimately refunding taxes that had not previously been remitted. For example, if Apex Trucking buys fuel at a tax rate of 20 cents per gallon, then applies for a credit or refund at a time when the rate was increased to 25 cents per gallon, the higher rate will apply to for the credit/refund. The converse is true as well, in which case Apex Trucking would be "short-changed" on their credit/refund.

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cc: Secretary of Transportation