DEPARTMENT OF TAXATION
2009 Fiscal Impact Statement

1. Patron L. Louise Lucas

2. Bill Number SB 1141

House of Origin:
_____ **Introduced**
__X__ **Substitute**
_____ **Engrossed**

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

3. Committee Senate Finance

4. Title Individual and Corporate Renewable Energy Property Tax Credit and Individual Motor Vehicle Purchase Tax Credit

5. Summary/Purpose:

TAX understands that an amendment in the nature of a substitute will be introduced for this bill in addition to the amendment in the nature of a substitute that has previously been introduced. This fiscal impact statement is applicable to the second substitute version.

This bill would create two new income tax credits. The first would be an individual and corporate income tax credit for the purchase of qualifying renewable energy property that is placed in service during the taxable year. This credit would be effective for taxable years beginning on and after January 1, 2009.

The credit would not exceed $2,000 for each kilowatt of a solar photovoltaic system; $1,500 for each kilowatt of a wind-powered electrical generator; and $1,000 for each kilowatt equivalent of a solar thermal system. In addition, each credit would be limited to the total cost of the system or a specified dollar amount, whichever was less. For individuals, the specified dollar amounts would be $8,000 for a solar photovoltaic system; $6,000 for a wind-powered electrical generator; and $4,000 for a solar thermal system. For corporations, the specified dollar amounts would be $20,000 for a solar photovoltaic system; $15,000 for a wind-powered electrical generator; and $10,000 for a solar thermal system.

The aggregate of all eligible tax credits would be capped at $2 million per taxable year, with $1 million allocated to individual taxpayers and the remaining $1 million allocated to corporate taxpayers. This bill would provide that the credits would be granted on a first come, first serve basis by the Department of Mines, Minerals and Energy (“DMME”).

The credit would not be allowed to exceed the tax liability of the taxpayer. Taxpayers could carry over unused amounts of the credit for three taxable years. In addition, this bill would allow the taxpayer to transfer unused allowable tax credits for use by another taxpayer.

This bill would also create a tax credit for individuals who purchase a motor vehicle during the taxable year, which would be equal to 10% of the sales price paid for the motor vehicle. The credit could not, however, exceed $2,500 for the purchase of any motor vehicle.

The amount of credit that could be claimed in any taxable year could not exceed the lesser of the individual's income tax liability for such taxable year or $500. Unused amounts of the credit could be carried over for seven taxable years.

This credit would be effective for taxable years beginning on or after January 1, 2009, but before January 1, 2011.

This bill would also provide that neither of these tax credits could become effective unless a national economic stimulus law is passed by the United States Congress and enacted into law during February of 2009, and the stimulus law provides direct financial assistance to Virginia in an amount that is at least equal to any anticipated negative fiscal impact on the revenues of the Commonwealth from these credits.

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

7. **Budget amendment necessary:** Yes.
   Page 1, <u>Revenue Estimates</u>

8. **Fiscal implications:**

   <u>Department of Mines, Minerals, and Energy Administrative Costs</u>

   The Department of Mines, Minerals, and Energy would administer the renewable energy property tax credits with existing resources.

   <u>Department of Taxation Administrative Costs</u>

   As stand-alone legislation, TAX considers implementation of this bill as "routine," and does not require additional funding.

   <u>Revenue Impact</u>

   The introduced Executive Budget incorporates the fiscal impact of the renewable energy property tax credit portion of this bill. The total amount of credits that could be claimed would be limited to $2 million per year. Therefore, if this bill is not passed, then General Fund revenue would be increased by $2 million for FY 2010 through FY 2015.

   The revenue loss associated with the portion of this bill that would provide an income tax credit for the purchase of certain motor vehicles is unknown, but likely substantial. Based on the forecasted numbers of new car sales (including light trucks and motorcycles), as well as the average price per vehicle, the amount of credits earned in Taxable Years 2009 and 2010 could potentially exceed $150 million per year.

9. **Specific agency or political subdivisions affected:**

Department of Taxation
Department of Mines, Minerals, and Energy

10. **Technical amendment necessary:** Yes.

In order to clarify that DMME will be exempt from the Administrative Process Act in allocating and awarding the renewable energy property tax credits, the following technical amendment is suggested:

Page 5, Line 124, after shall be
Strike: except
Insert: exempt

11. **Other comments:**

<u>Proposal</u>

This bill would provide that neither of the tax credits described below could become effective unless a national economic stimulus law is passed by the United States Congress and enacted into law during February of 2009, and the stimulus law provides direct financial assistance to Virginia in an amount that is at least equal to any anticipated negative fiscal impact on the revenues of the Commonwealth from these credits.

On January 28, 2009, the U.S. House of Representatives approved a stimulus act titled the American Recovery and Reinvestment Act (HR 1). The U.S. Senate must now consider the legislation. In addition to the House legislation, the Senate has developed its own stimulus proposal. Currently, there are major differences that will have to be resolved before Congress sends a final bill to President Obama. Swift action is expected, however, as a stimulus package is a priority for both Congress and President Obama.

Renewable Energy Property Tax Credit

This bill would create two new income tax credits. The first would be an income tax credit for individuals and corporations that purchase qualifying renewable energy systems and place them in service during the taxable year. The credit would not exceed $2,000 for each kilowatt of a solar photovoltaic system; $1,500 for each kilowatt of a wind-powered electrical generator; and $1,000 for each kilowatt equivalent of a solar thermal system.

In addition, each credit would be limited to the total cost of the system or a specified dollar amount, whichever was less. For individuals, the specified dollar amounts would be $8,000 for a solar photovoltaic system; $6,000 for a wind-powered electrical generator; and $4,000 for a solar thermal system. For corporations, the specified dollar amounts would be $20,000 for a solar photovoltaic system; $15,000 for a wind-powered electrical generator; and $10,000 for a solar thermal system.

The aggregate of all eligible tax credits would be capped at $2 million per taxable year, with $1 million allocated to individual taxpayers and the remaining $1 million allocated to corporate taxpayers. This bill would provide that the credits would be granted on a first come, first serve basis by DMME.

Under the provisions of this bill, DMME would be required to establish guidelines and forms for the applicant. In addition, DMME would be required to review the applications for the credits and make a determination within a fourteen day period.

The credit would not be allowed to exceed the tax liability of the taxpayer. Taxpayers could carry over unused amounts of the credit for three taxable years. In addition, this bill would allow the taxpayer to transfer unused allowable tax credits for use by another taxpayer.

This bill would specify that credits attributable to a partnership, electing small business corporation, or limited liability company be allocated to the partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entity.

“Renewable energy property” would mean solar photovoltaic system, solar water thermal system, or wind-powered electrical generator.

“Solar photovoltaic system” would mean an energy system or solar panel that collects or absorbs sunlight for conversion into electricity and that has been certified as meeting all applicable safety standards of Underwriters Laboratories. Systems that are interconnected with the utility grid would be required to comply with performance and safety standards established by the Virginia State Corporation Commission.

“Solar thermal system” would mean a solar energy system that collects or absorbs solar energy to generate hot water or air for space heating or water heating. Solar water heating systems would be required to meet the operational guidelines for an OG-300 certified solar water heating system as established by the Solar Rating and Certification Corporation. Solar space heating panels that heat air would be required to meet the operational guidelines for an OG-100 certified solar panel.

“Wind-powered electrical generator” would mean an electrical generating unit that (i) has a capacity of not more than 10 kilowatts, (ii) uses wind as its total source of fuel, (iii) is intended primarily to offset all or part of the owner's electricity requirements, (iv) meets all applicable performance and quality standards specified by the DMME, and (v) for units that are interconnected with the utility grid, complies with performance and safety standards established by the Virginia State Corporation Commission.

Tax Credit for Purchase of Certain Motor Vehicles

This bill would also create a tax credit for individuals who purchase a motor vehicle during the taxable year, which would be equal to 10% of the sales price paid for the motor vehicle. The credit could not, however, exceed $2,500 for the purchase of any motor vehicle.

The amount of credit that could be claimed in any taxable year could not exceed the lesser of the individual's income tax liability for such taxable year or $500. Unused amounts of the credit could be carried over for seven taxable years.

Individuals claiming this credit would be required to attach to the Virginia individual income tax return documents required by the Tax Commissioner to provide evidence that the purchase of the motor vehicle qualified for credit. The Tax Commissioner would be required to develop guidelines for the purposes of implementing the provisions of the credit. The development of these guidelines would be exempt from the Administrative Process Act.

"Motor vehicle" would mean any motorcycle, passenger car, or pickup or panel truck (i) that is model year 2008 or later, and (ii) for which a certificate of title has not been issued prior to the time of purchase.

"Motorcycle" would mean every motor vehicle designed to travel on not more than three wheels in contact with the ground and is capable of traveling at speeds in excess of 35 miles per hour. The term "motorcycle" would not include any "electric personal assistive mobility device," "electric power-assisted bicycle," "farm tractor," "golf cart," "moped," "motorized skateboard or scooter," "utility vehicle" or "wheelchair or wheelchair conveyance" as defined in this section.

"Passenger car" would mean every motor vehicle other than a motorcycle designed and used primarily for the transportation of no more than 10 persons including the driver.

"Pickup or panel truck" would mean every motor vehicle designed for the transportation of property and having a registered gross weight of 7,500 pounds or less.

"Sales price" would mean the total price paid for a motor vehicle and all attachments thereon and accessories thereto, as determined by the Commissioner, exclusive of any federal manufacturers' excise tax. Any allowance or deduction for trade-ins would be included for purposes of determining the sales price.

This credit would be effective for taxable years beginning on or after January 1, 2009, but before January 1, 2011.

<u>Other Legislation</u>

House Bill 2094 is similar to this bill, but it would not allow a tax credit for the purchase of certain motor vehicles.

House Bill 2572 would create an income tax deduction for taxable years beginning on or after January 1, 2010, to individuals who purchase energy-efficient equipment, on or after January 1, 2009, used for heating, cooling, and providing electricity to their residences. The amount of the deduction equals 50% of the equipment expenditures, but not more than $7,500 total.

House Bill 2573 would create an individual and corporate income tax credit for a taxpayer who purchases qualifying energy-efficient equipment that is installed in the taxpayer's commercial property. The credit would be equal to 25% of the expenditures made, up to $7,500, on or after January 1, 2009 for the energy-efficient equipment.

Senate Bill 1216 would exempt from the retail sales and use tax solar photovoltaic systems, solar thermal systems, and wind-powered electrical generators purchased for installation in or on residential real property.

Senate Bill 1231 would create an individual income tax credit for a taxpayer who purchases qualifying energy-efficient equipment that is installed in the personal residence of the taxpayer. The credit would be equal to 5% of the expenditures made, up to $2,500, on or after January 1, 2009, for the energy-efficient equipment.

cc : Secretary of Finance

Date: 2/2/2009 TLG
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