

**DEPARTMENT OF TAXATION  
2008 Fiscal Impact Statement**

1. **Patron** Christopher K. Peace

2. **Bill Number** HB 139

3. **Committee** House Finance

**House of Origin:**

**Introduced**

**Substitute**

**Engrossed**

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

**Second House:**

**In Committee**

**Substitute**

**Enrolled**

**5. Summary/Purpose:**

This bill would create an individual and corporate income tax credit for producers of biodiesel fuels. 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.

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            | (\$15,000)     | GF          |
| 2009-10            | (\$15,000)     | GF          |
| 2010-11            | (\$15,000)     | GF          |
| 2011-12            | (\$15,000)     | GF          |
| 2012-13            | (\$15,000)     | GF          |
| 2013-14            | (\$15,000)     | GF          |

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

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**8. Fiscal implications:**

Administrative Costs

TAX has not assigned any administrative costs to this bill because the changes required by a single bill such as this can be implemented as part of the annual changes to our systems and forms. As stand-alone legislation, TAX considers implementation of this bill as "routine," and does not require additional funding.

TAX will provide specific administrative costs on any legislation that is not "routine." Additionally, TAX will review all state tax legislation likely to be enacted prior to the passage by each house. If the aggregate number of routine bills likely to pass either house is unusually large, it is possible that additional resources will be required. If so, TAX will identify the costs at that time.

Revenue Impact

This bill would result in an estimated revenue loss of \$15,000 per year beginning in FY 2009. Information available from an industry trade association indicates that three facilities in Virginia would currently 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. 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. This would mean that a producer would need to produce at least 500,000 gallons of biodiesel fuels in order to qualify for the full amount of the credit. 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.

"Biodiesel fuels" would be defined as a renewable, biodegradable, mono-alkyl ester combustible liquid fluid fuel from agricultural plant oils or animal fats that meets American Society for Testing and Materials (ASTM) specifications for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels. 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 at least two million gallons of biodiesel fuels using feedstock originating domestically within the United States. Because producers must produce at least two million gallons of biodiesel fuels in order to qualify for the credit, but only 500,000 gallons in order to be qualify for the full amount of the credit, any taxpayer who did qualify for the credit would also qualify for the full \$5,000 amount.

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: 1/12/2008 AMS  
HB139F161