

DEPARTMENT OF TAXATION

2008 Fiscal Impact Statement

1. **Patron** Brian J. Moran

2. **Bill Number** HB 1539

3. **Committee** House Finance

House of Origin:

 X **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. 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. In addition, taxpayers would be allowed to transfer any unused but otherwise allowable credits for use by another taxpayer on a Virginia income tax return.

This bill would be effective for taxable years beginning on or after January 1, 2008, and ending December 31, 2015.

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

6a. **Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2007-08	\$32,850	1	GF
2008-09	\$45,700	1	GF
2009-10	\$46,700	1	GF
2010-11	\$47,700	1	GF
2011-12	\$48,700	1	GF
2012-13	\$49,700	1	GF
2013-14	\$50,700	1	GF

6b. **Revenue Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2007-08	\$0	GF
2008-09	(\$220,000)	GF
2009-10	(\$220,000)	GF
2010-11	(\$220,000)	GF
2011-12	(\$220,000)	GF
2012-13	(\$220,000)	GF
2013-14	(\$220,000)	GF

7. Budget amendment necessary: Yes.

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8. Fiscal implications:

Administrative Costs

TAX would incur administrative costs of \$32,850 for FY 2008, \$45,700 for FY 2009, \$46,700 for FY 2010, \$47,700 for FY 2011, \$48,700 for FY 2012, \$49,700 for FY 2013, and \$50,700 for FY 2014. These costs represent the fact that TAX would need to hire an additional full-time employee in order to administer the transferable tax credit.

Revenue Impact

This bill would result in an estimated revenue loss of \$220,000 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 transferable 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. 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.

Taxpayers would be allowed to transfer any unused but otherwise allowable credits for use by another taxpayer on a Virginia income tax return. A taxpayer who chose to transfer any amount of this credit would be required to file a notification of the transfer with TAX in accordance with procedures and forms prescribed by the Tax Commissioner.

"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 one 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, and ending December 31, 2015.

Similar Legislation

House Bill 139 is similar to this bill, but the credit would be capped at \$5,000, it would not have an expiration date, and it would not be transferable.

cc : Secretary of Finance

Date: 1/24/2008 AMS
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