DEPARTMENT OF TAXATION
2016 Fiscal Impact Statement

1. Patron Sam Rasoul

2. Bill Number HB 1050

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

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

3. Committee House Finance

4. Title Income Tax; Solar Thermal System Tax Credit

5. Summary/Purpose:

This bill would create an individual or corporate income tax credit for any person who has constructed, purchased, or leased a solar thermal system and placed such system in service in the Commonwealth during the taxable year. The tax credit would be equal to 30 percent of the installed cost of the system. The tax credit would only be allowed to the ultimate consumer or user of the solar thermal system. In the case of a solar thermal system that serves a single-family dwelling, the tax credit would be claimed for the taxable year in which the property is placed in service. For all other solar thermal systems, the tax credit would be claimed in five equal annual installments beginning with the taxable year in which the property is placed in service and for the next four succeeding taxable years.

No tax credit would be allowed to the extent that the cost of the solar thermal system was provided or reimbursed by public funds. The tax credit would not exceed (1) $500,000 for each solar thermal system placed in service for any purpose other than use for a single-family dwelling or placed in service and having in excess of 120 square feet of collector area or (2) $2,500 for every other solar thermal system placed in service.

This bill would be effective for taxable years beginning on or after January 1, 2016, but before January 1, 2021.

6. Budget amendment necessary: Yes.
Page 1, Revenue Estimates
Item 275, Department of Taxation

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

7a. Expenditure Impact:

Fiscal Year	*Dollars*	*Positions*	*Fund*
2015-16	$0	0	GF
2016-17	$36,850	0	GF
2017-18	$68,300	1	GF
2018-19	$68,300	1	GF
2019-20	$68,300	1	GF
2020-21	$68,300	1	GF
2021-22	$68,300	1	GF

7b. Revenue Impact:

Fiscal Year	*Dollars*	*Fund*
2015-16	$0	GF
2016-17	($500,000)	GF
2017-18	($700,000)	GF
2018-19	($800,000)	GF
2019-20	($1 million)	GF
2020-21	($1.2 million)	GF
2021-22	($700,000)	GF

8. Fiscal implications:

Department of Taxation's Administrative Costs

The Department of Taxation ("the Department") would require additional funding of $36,850 in Fiscal Year 2017 and $68,300 in each fiscal year thereafter in order to implement the provisions of this bill. Such funding would include funding for one FTE to determine whether applicants qualify for the tax credit.

Department of Mines, Minerals and Energy's Administrative Costs

This bill would have no impact on the Department of Mines, Minerals and Energy's ("DMME") administrative costs.

Revenue Impact

This bill would have a negative General Fund revenue impact of $500,000 in Fiscal Year 2017; $700,000 in Fiscal Year 2018; $800,000 in Fiscal Year 2019; $1 million in Fiscal Year 2020; $1.2 million in Fiscal Year 2021; and $700,000 in Fiscal Year 2022. The credit must be claimed in five equal annual installments for solar energy systems serving other than single-family dwellings. For this reason, the revenue impact will be staggered, increasing every year until Fiscal Year 2021 when the credit is scheduled to expire.

9. Specific agency or political subdivisions affected:

Department of Taxation; Department of Mines, Minerals and Energy

10. Technical amendment necessary: No.

11. Other comments:

Federal Business Energy Investment Tax Credit

Under federal law, businesses may claim a tax credit equal to 30 percent of the costs of qualified fuel cell property; equipment which uses solar energy to generate electricity, heat or cool a structure, or provide solar process heat; equipment which uses solar energy to illuminate the inside of a structure using fiber-optic distributed sunlight; and qualified small wind energy property.

Businesses may claim a credit equal to 10 percent of the costs of any other energy property. Other types of energy property include equipment used to produce, distribute, or use energy derived from a geothermal deposit; qualified microturbine property; combined heat and power system property; and equipment which uses the ground or ground water as a thermal energy source to heat a structure or as a thermal energy sink to cool a structure.

To qualify for the credit, the original use of the property must begin with the taxpayer, or the property must be constructed by the taxpayer. Additionally, the property must be depreciable or amortizable and the property must meet the performance and quality standards set forth in the Treasury Regulations.

No credit is allowed with respect to property for the taxable year in which a grant is made under § 1603 of the American Recovery and Reinvestment Tax Act of 2009 or any subsequent taxable year. A recapture provision applies if a credit is determined for any taxable year before which a grant is made.

The credit was scheduled to be reduced to 10 percent after December 31, 2016. However, on December 18, 2015, the President signed into law the Consolidated Appropriations Act of 2016 (H.R. 2029). Pursuant to that legislation, the tax credit will remain at 30 percent for qualifying projects for which construction begins prior to January 1, 2020 and which are placed in service before January 1, 2024. The credit will be reduced to:

- 26 percent for projects for which construction begins in 2020 and which are placed in service before January 1, 2024;
- 22 percent for projects for which construction begins in 2021 and which are placed in service before January 1, 2024; and
- 10 percent for projects for which construction begins after December 31, 2021 or which are placed in service after January 1, 2024.

Federal Residential Energy Efficient Property Tax Credit

Under federal law, individual taxpayers may claim a nonrefundable tax credit equal to 30 percent of qualified solar electric property, solar water heating property, fuel cell property, small wind energy property, and geothermal heat pump property expenditures made during the taxable year. The tax credit cannot exceed the sum of the taxpayer's regular tax liability less any nonrefundable personal credits; foreign tax credits; and Puerto Rico and possession tax credits for the taxable year. Any unused tax credit may be carried over to the following taxable year and added to the residential energy efficient property tax credit for that year.

The credit was scheduled to expire after December 31, 2016. While the tax credit will generally not apply with respect to property placed in service after December 31, 2016, the Consolidated Appropriations Act of 2016 extends the residential energy efficient tax credit with respect to certain solar electric and water heating property. Such extension applies to property placed in service before January 1, 2022, subject to a phase-out that reduces the credit from 30 percent to 26 percent and 22 percent for property placed in service in 2020 and 2021, respectively.

Virginia Renewable Energy Incentives

Virginia does not currently have any income tax incentives for renewable energy property. However, Virginia has or has had various renewable energy incentives for individuals and businesses:

Solar Energy Equipment Exempt from Local Taxation

Enacted in 2014, House Bill 1239 (2014 *Acts of Assembly* Chapter 737) and Senate Bill 418 (2014 *Acts of Assembly* Chapter 259) provide a mandatory exemption from local taxation for solar energy equipment, facilities and devices owned or operated by a business that collect, generate, transfer, or store thermal or electric energy, whether or not such property has been certified to the Department by a state certifying authority. The exemption for solar photovoltaic systems applies only to projects equaling 20 megawatts or less, as measured in alternating current ("AC") generation capacity. This legislation also defined certified solar energy equipment, facilities, and devices that the governing body of any locality is authorized to exempt or partially exempt as equipment, facilities and devices designed and used primarily for the purpose of collecting, generating, transferring, or storing thermal or electric energy.

Machinery and Tools Tax for Renewable Energy Production

Enacted in 2015, House Bill 1297 (2015 *Acts of Assembly* Chapter 230) creates a separate class of property for purposes of the Machinery and Tools Tax for machinery and tools owned by a business and used directly in producing or generating renewable energy. For the purposes of this legislation, "renewable energy" is defined as energy derived from sunlight, wind, falling water, biomass, sustainable or otherwise, energy from waste, landfill gas, municipal solid waste, wave motion, tides, or geothermal power, but does not include energy derived from coal, oil, natural gas, or nuclear power. Localities are authorized to levy a tax on this separate class of property at a different rate from that levied on other machinery and tools, but not exceeding the rate imposed on the general class of machinery and tools in the locality. This rate of tax does not apply to machinery and tools owned by public service corporations, unless such rate of tax results in a lower property tax on such machinery and tools. Generally, machinery and tools used in manufacturing, mining, water well drilling, processing or reprocessing, radio and television broadcasting, dairy, dry cleaning or a laundry business are segregated as a separate class of tangible personal property and are subject to local taxation only. The tax rate imposed on machinery and tools may not exceed that imposed on other classes of tangible personal property.

Sales Tax Holiday for Certain Energy Efficient Qualified Products

Virginia provides a sales tax holiday for qualified products designated as Energy Star or WaterSense with a sales price of $2,500 or less per product purchased for noncommercial home or personal use. The most recent sales tax holiday was held from August 7, 2015, through August 9, 2015.

Virginia Energy Efficiency Rebate Program

The Virginia Energy Efficiency Rebate Program was a federally funded program that was administered through the Department of Mines, Minerals and Energy (DMME). Through this program, homeowners were eligible for rebates equal to 20 percent of the costs of qualifying energy conserving products and services, up to $2,000. Commercial consumers were eligible for rebates equal to 20 percent of qualifying costs, up to $4,000. Home and business owners were also able to qualify for an additional $250 for the cost of energy audits. Qualifying costs included the costs of upgrading heating and air conditioning equipment, adding insulation, replacing leaky windows, and other improvements to existing homes and businesses that reduced energy consumption and utility costs.

This program was funded through the American Recovery and Reinvestment Act of 2009. The first round of funding for efficiency rebates was approximately $10 million and this amount was reserved within three weeks of the start of the program. Applicants were able to reserve a rebate for a qualifying system by applying to the DMME and would then have 180 days to complete the work and redeem their reservation for a rebate check. Once reservations depleted available funds, applications were placed on a waiting list. Another round of funding was available in March 2010 in the amount of $6.5 million, which allowed wait-listed applicants to receive rebate reservations as unclaimed rebate funds became available. The Energy Efficiency Rebate Program was closed on April 29, 2011, after paying out nearly 7,700 rebates and dispersing $10.4 million to Virginia homeowners and businesses.

Virginia Energy Income Tax Credit

Virginia previously allowed an energy income tax credit, which was effective for taxable years beginning on and after January 1, 1983 through December 31, 1987. The credit was available to individuals and corporations for their renewable energy source expenditures, as defined under federal law. The amount of the credit varied through the years. For the three most recent years, a credit was allowed in the amount of:

- Twenty percent of renewable energy source expenditures made during 1985;
- Fifteen percent of renewable energy source expenditures made during 1986; and
- Ten percent of renewable energy source expenditures made during 1987.

Proposed Legislation

This bill would create an individual or corporate income tax credit for any person who has constructed, purchased, or leased a solar thermal system and placed such system in service in the Commonwealth during the taxable year. The tax credit would be equal to 30 percent of the installed cost of the system. The tax credit would only be allowed to the ultimate consumer or user of the solar thermal system. In the case of a solar thermal system that serves a single-family dwelling, the tax credit would be claimed for the taxable year in which the property is placed in service. For all other solar thermal systems, the tax credit would be claimed in five equal annual installments beginning with the taxable year in which the property is placed in service and for the next four succeeding taxable years.

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Upon the request of a person who leases a solar thermal system, the lessor of the system would be required to give the person a statement that describes the solar thermal system and states the cost of the system.

If, in one of the taxable years in which the installment of a tax credit accrues, the solar thermal system is disposed of, taken out of service, or moved out of the Commonwealth, then the tax credit would expire and the person would not be allowed to claim any installment of the tax credit for such solar thermal system for that taxable year or any taxable year thereafter, and would be subject to recapture for any tax credit so claimed. However, the person would be allowed to claim the portion of an installment that accrued in a prior taxable year and is being carried over.

The amount of the tax credit claimed would not be allowed to exceed the total amount of income tax imposed upon the taxpayer claiming the tax credit. Any tax credit not usable for the taxable year for which the tax credit was first allowed to be claimed would be allowed to be carried over for credit against the income taxes of the person in the next five succeeding taxable years or until the total amount of the tax credit has been taken, whichever is sooner.

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

Taxpayers would be required to submit all documentation with their income tax returns as required by the Department.

The Tax Commissioner, in consultation with the Director of DMME, would be required to develop and update as necessary guidelines implementing the provisions of this tax credit. Such guidelines would be exempt from the provisions of the Administrative Process Act.

This bill would be effective for taxable years beginning on or after January 1, 2016, but before January 1, 2021.

Similar Bills

Senate Bill 142 is identical to this bill.

House Bill 480 would allow any person who has constructed, purchased, or leased renewable energy property and placed such property in service in the Commonwealth during the taxable year to claim a tax credit against the corporate income tax, the insurance premiums license tax, and the tax on public service corporations. The credit would be equal to 35 percent of the installed cost of the renewable energy property, subject to certain limitations.

cc : Secretary of Finance

Date: 1/28/2016 JJS
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