DEPARTMENT OF TAXATION
2010 Fiscal Impact Statement

1. Patron David A. Nutter

2. Bill Number HB 998
House of Origin:
_____ **Introduced**
__X__ **Substitute**
_____ **Engrossed**

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

3. Committee House Appropriations

4. Title Income Tax: Exported Renewable Energy Products Tax Credit

5. Summary/Purpose:

This bill would grant a corporate income tax credit for renewable energy products exported by a manufacturer in Virginia to a foreign country. The amount of the credit would be equal to 3 percent of the total sales price of the renewable energy products exported, not to exceed $500,000 in any taxable year. The credit would be allowed for the taxable year beginning two years after the renewable energy production begins, and end on the last day of the seventh taxable year after the renewable energy production begins.

The total amount of credits granted to all taxpayers in any fiscal year could not exceed $6 million. Taxpayers would be required to reserve credits through TAX.

The credit would be effective for facilities that begin production of renewable energy products no later than January 1, 2012.

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

7. Budget amendment necessary: Yes.
Page 1, Revenue Estimates

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 have an unknown negative impact on General Fund Revenue. There is no data regarding the sales price of renewable energy products manufactured in Virginia and exported to a foreign country. However, the revenue impact could be as high as, but no more than, $6 million for each fiscal year beginning in Fiscal Year 2014.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: Yes.

In order to clarify the effective date of this bill, the following language is suggested:

Page 1, Line 19, after products
Insert: after December 31, 2009, but

In order to clarify that TAX would be required to determine the sales price of the products that are exported, the following technical amendment is suggested:

Page 1, Line 31, after procedures
Insert: determining the definition of “sales price” and

In order to exclude language that pertains to base year export volume that was contained in the original version of this bill, the following technical amendments are suggested:

Page 1, Line 4, after taxable year
Strike: of export
Insert: that the credit was claimed

Page 1, Line 46, after certifying
Strike: its base year export volume and current year export volume. It shall also submit, with such application and return,

11. Other comments:

This bill would grant a corporate income tax credit for renewable energy products exported by a manufacturer in Virginia to a foreign country. The amount of the credit would be equal to 3 percent of the total sales price of the renewable energy products exported, not to exceed $500,000 in any taxable year. The credit would be allowed for the taxable year beginning two years after the renewable energy production begins, and end on the last day of the seventh taxable year after the renewable energy production begins.

The total amount of credits granted to all taxpayers in any fiscal year could not exceed $6 million. Taxpayers would be required to reserve credits through TAX.

"Exported" or "exports" would mean the shipment of renewable energy products to a foreign country.

"Manufactured" or "manufactures" would mean manufactured in the Commonwealth.

"Renewable energy products" would mean any equipment, devices, or fuel sources designed and used primarily for the production of renewable energy, except for ethanol fuels.

TAX would be required to promulgate guidelines, which would be exempt from the Administrative Process Act, to address the following: (i) requirements for applying for reservations of tax credits; (ii) a system for allocating the available amount of tax credits among eligible corporations; (iii) a method for the issuance of reservations to eligible corporations that did not initially receive a reservation in any year, if the Department determines that tax credit reservations were issued to other corporations that did not use, or were determined to be wholly or partially ineligible for, a reserved tax credit; and (iv) a procedure for the cancellation and reallocation of tax credit reservations allocated to eligible corporations that, after reserving tax credits, have been determined to be ineligible for all or a portion of the tax credits reserved.

In no case would a corporation be allowed to carry over any tax credit to be applied against any income tax for taxable years subsequent to the taxable year of export.

This bill would require a corporation claiming the credit to submit with its application for the tax credits and its state income tax return a written statement certifying a listing of its export volumes as reported on its monthly reports to the United States Department of the Treasury for each month of the taxable year.

The credit would be effective for taxable years beginning on or after January 1, 2011.

<u>Other Legislation</u>

Senate Bill 657 is substantively identical to this bill.

cc : Secretary of Finance

Date: 2/8/2010 TG
HB998FS1161