

DEPARTMENT OF TAXATION

2006 Fiscal Impact Statement

1. **Patron** Terry G. Kilgore

3. **Committee** House Finance

4. **Title** Coalfield Employment Enhancement
Tax Credit

2. **Bill Number** HB 442

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. Summary/Purpose:

This bill eliminates the restriction prohibiting a credit being claimed under both the Coalfield Employment Enhancement Tax Credit and The Coal Employment And Production Incentive Tax Credit for the same ton of coal.

No effective date is specified for this bill.

6. Fiscal Impact Estimates are: Not available. (See Line 8.)

7. Budget amendment necessary: No.

8. Fiscal implications:

This bill would result in revenue losses of unknown magnitude.

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.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Current Law

Coalfield Employment Enhancement Tax Credit ("Coalfield Credit")

The Coalfield Credit provides producers of coal and coal methane gas a credit against any tax imposed by the Commonwealth. For coal mined underground, the credit amount varies according to the seam thickness mined. The credit is equal to \$2.00 per ton for a seam thickness of 36 inches or less and \$1.00 per ton for a seam thickness greater than 36 inches. Seam thickness is certified by the Department of Mines, Minerals and Energy. For coal mined by surface mining methods the credit amount is \$0.40 per ton. For coal methane gas the credit amount is \$0.01 per million BTU's of gas produced. The amount of credit earned is subject to a limitation based on employment levels. Since 2002 the credits are claimed three years after they are earned according to the following schedule.

<u>Taxable Year Earned</u>	<u>Taxable Year Claimed</u>
2002	2005
2003	2006
2004	2007
2005	2008
2006	2009
2007	2010

To the extent the credit exceeds income tax liability in the taxable year it is claimed, the excess is refundable up to 90% of the face value of the credit; however, for tax years beginning on and after January 1, 2002, the excess is refundable up to 85%. The remaining 10% or 15% is to be deposited in a regional fund administered by the Coalfield Economic Development Authority. The credit expires January 1, 2008.

Coal Employment and Production Incentive Tax Credit ("Coal Credit")

The Coal credit provides electricity generators in the Commonwealth a credit against their corporate income tax effective for taxable years beginning on or after January 1, 2001. The credit amount is \$3 per ton for the purchase and consumption of Virginia mined coal. Unused amounts of the credit may be carried over for five years.

Restriction

The Coalfield Credit and Coal Credit cannot both be claimed with respect to the same ton of coal.

Proposal

This bill would eliminate the restriction prohibiting a both the Coalfield Credit and Coal Credit from being claimed with respect the same ton of coal. Thus, when a Virginia mine sells coal to a Virginia electricity generator it would be possible for as much as \$5.00 in credits to be earned with respect to each ton.

Other Legislation

HB 96 extends the sunset date for the credit from January 1, 2008, to January 1, 2015.

SB 365 would provide that the \$3-per-ton Coal Employment And Production Incentive Tax Credit would be allocated amongst coal producers and electricity generators pursuant to a contract. Any amount allocated to a coal producer could be used as credit against the corporate income tax or any other tax imposed by the Commonwealth.

cc : Secretary of Finance

Date: 01/23/2006 CHC
HB442F161.doc