

DEPARTMENT OF TAXATION

2010 Fiscal Impact Statement

1. **Patron** L. Kaye Kory

3. **Committee** House Finance

4. **Title** Income Tax; Renewable Energy Property
and Energy Audit Tax Credit

2. **Bill Number** HB 1044

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would create two new income tax credits. The first would be an individual and corporate income tax credit for the purchase of qualifying renewable energy property that is placed in service during the taxable year. This credit would be effective for taxable years beginning on and after January 1, 2010.

For individuals, the credit would not exceed: \$1.25 per watt for the first 2,000 watts, \$0.75 per watt for 2,001 through 8,000 watts, and \$0.25 per watt for 8,001 through 20,000 watts for a solar photovoltaic system, not to exceed \$10,500 per system or the total cost of the system, whichever is less; 10 percent of the installed cost of a geothermal system, not to exceed \$3,000 per system or the total cost of the system, whichever is less; or \$2,000 per system for a solar thermal system or the total cost of the system, whichever is less.

For corporations, the credit would not exceed: \$1.25 per watt for the first 2,000 watts, \$0.75 per watt for 2,001 through 8,000 watts, and \$0.25 per watt for 8,001 through 20,000 watts for a solar photovoltaic system, not to exceed \$2.5 million per system or the total cost of the system, whichever is less; 10 percent of the installed cost of a geothermal system, not to exceed \$10,000 per system or the total cost of the system, whichever is less; or 25 percent of the installed cost of a solar thermal system, not to exceed \$10,000 per system or the total cost of the system, whichever is less.

This bill would also provide an individual and corporate income tax credit for a qualified residential or commercial property energy audit. The credit would be equal to 50 percent of the cost of such audit, not to exceed \$250 for individuals or \$500 for corporations. Taxpayers would be allowed only such one credit during any five-year period. In addition, individuals would not be allowed the tax credit and the \$250 rebate offered by the Department of Mines, Minerals and Energy ("DMME") for the same audit. This credit would also be effective for taxable years beginning on and after January 1, 2010.

For both of these tax credits, any unused credits would be allowed to be carried over for the next three taxable years.

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, but potentially significant, negative impact on General Fund revenue. Assuming that 350,000 individual and corporate taxpayers claim credits averaging \$250 per year, the loss in revenue would total \$87 million per year beginning in Fiscal Year 2011.

9. Specific agency or political subdivisions affected:

Department of Mines, Minerals and Energy
Department of Taxation

10. Technical amendment necessary: Yes.

In order to clarify the definition of “qualified commercial property energy audit,” the following amendment is suggested:

Page 2, Line 73, after make the
Strike: residence
Insert: commercial property

11. Other comments:

Proposed Legislation

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Any unused tax credits could be carried over for the next three taxable years. The amount of any 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.

"Geothermal system" would mean energy generating units, sometimes referred to as earth-coupled, ground-source or water-source heat pumps, that use the constant temperature of the earth as the exchange medium, instead of the outside air temperature, by exchanging heat with the earth through a ground heat exchanger in order to heat, cool, and if equipped, supply the building with hot water.

"Qualified residential energy audit" would mean an energy audit performed on the taxpayer's primary residence that assesses how much energy a building or operation consumes and evaluates what measures can be taken to make the residence more energy efficient. The audit must be performed by an analyst certified by the Building Performance Institute (BPI) or Residential Energy Services Network (RESNET) and

documented with a dated copy of the auditor's report identifying the taxpayer's property and auditor's certification number.

"Qualified commercial property energy audit" would mean an energy audit performed on the taxpayer's commercial property that assesses how much energy a building or operation consumes and evaluates what measures can be taken to make the commercial property more energy efficient. The audit must be performed by an analyst certified by the Building Performance Institute (BPI) or other analyst approved by the Department and documented with a dated copy of the auditor's report identifying the taxpayer's property and auditor's certification number.

"Renewable energy property" would mean a solar photovoltaic system, a solar thermal system, or a geothermal system.

"Solar photovoltaic system" would mean an energy system or solar panel that collects or absorbs sunlight for conversion into electricity and that has been certified as meeting all applicable safety standards of Underwriters Laboratories. Systems that are interconnected with the utility grid shall comply with performance and safety standards established by the Virginia State Corporation Commission.

"Solar thermal system" would mean a solar energy system that collects or absorbs solar energy to generate hot water or air for space heating or water heating. Solar water heating systems shall meet the operational guidelines for an OG-300 certified solar water heating system as established by the Solar Rating and Certification Corporation. Solar space heating panels that heat air shall meet the operational guidelines for an OG-100 certified solar panel.

In order to claim the credit both individuals and corporations must be approved by DMME. This bill would require DMME to establish guidelines, exempt from the Administrative Process Act, and forms for the application process. DMME would be further required to review an application within 14 days of receipt, and determine if the application satisfies the requirements outlined in its guidelines. The taxpayer would be required to submit with his income tax return all documentation required by TAX in order to be allowed the credit.

cc : Secretary of Finance

Date: 1/24/2010 TG
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