

# DEPARTMENT OF TAXATION

## 2011 Fiscal Impact Statement

1. **Patron** Mary Margaret Whipple

2. **Bill Number** SB 981

3. **Committee** Senate Finance

**House of Origin:**

  X   **Introduced**

       **Substitute**

       **Engrossed**

4. **Title** Corporate Income Tax: Virginia Coal  
Employment and Production Incentive Tax  
Credit

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

### 5. **Summary/Purpose:**

This bill would change the name of the Virginia Coal Employment and Production Incentive Tax Credit to the Energy Production Tax Credit and amend it by creating a corporate income tax credit equal to \$1-per-megawatt-hour for each megawatt-hour of electricity or megawatt-hour equivalent in thermal energy that an energy producer generated from renewable energy sources harvested or captured in Virginia and sold or self-consumed during the taxable year. Any unused credits would be allowed to be carried over for up to ten taxable years.

This bill would be effective for taxable years beginning on and after January 1, 2011.

6. **Budget amendment necessary:** No.

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

### 8. **Fiscal implications:**

#### Administrative Costs

The Department of Taxation considers implementation of this bill as “routine,” and does not require additional funding.

#### Revenue Impact

This negative impact on General Fund revenue is not known, but could be significant. Approximately 2.7 million megawatt-hours of electricity were produced from renewable energy sources by all electric power producers in 2008. This total includes investor-owned utilities, rural cooperatives, and municipally run utilities, which would not be eligible for the credit proposed by this bill. In addition, no data is available for corporations that produce electricity for their own consumption.

**9. Specific agency or political subdivisions affected:**

Department of Taxation

**10. Technical amendment necessary:** Yes.

In order to correct a drafting error, the following technical amendment is required:

Page 1, Line 41, at the beginning of the line

Strike: D.

Insert: C.

**11. Other comments:**

Current Law

The Coal Employment and Production Incentive Tax Credit permits a credit against corporate income tax equal to \$3 per ton for the purchase and consumption of Virginia mined coal by an electricity generator in the Commonwealth. The credit does include a provision that allows the credit to be allocated between the electricity generator and a corporation with an economic interest in coal, thus permitting the benefit of the credit to be shifted from an electricity generator that is subject to the minimum tax on certain electric suppliers to the corporation with an economic interest in the coal. Any unused credits may be carried over for up to ten taxable years.

Proposal

This bill would provide a similar credit to any energy producer for electricity or thermal energy generated from sources of renewable energy. The credit would be equal \$1.00 for each megawatt-hour of electricity or megawatt hour equivalent in thermal energy (generally accepted as 3414425.9472 BTU(th)) generated from the renewable energy sources. Any unused credits would be allowed to be carried over for the next ten taxable years.

Under the bill, an energy producer would be any corporation that produces electricity or thermal energy for self-consumption or sale. Renewable energy would include energy derived from sunlight, wind, falling water, biomass, waste, municipal solid waste, wave motion, tides, and geothermal power, and would include a proportional amount of thermal or electric energy from a facility that results from the co-firing of biomass. Renewable energy would not include energy derived from coal, oil, natural gas or nuclear power.

While the bill would allow electric utilities to claim the credit against their corporate income tax liability, electric utilities subject to the minimum tax on certain electric suppliers would not be eligible.

This bill would be effective for taxable years beginning on and after January 1, 2011.

### Similar Bills

**House Bill 1542** would create an income tax credit for individuals and commercial businesses for renewable energy property and residential energy audits.

**House Bill 1547** would create an income tax credit for individuals and corporations that make donations to a qualified nonprofit organization and used to obtain Energy Star qualified products for use in the headquarters of the non-profit organization.

cc : Secretary of Finance

Date: 1/23/2011 dtm  
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