DEPARTMENT OF TAXATION
2011 Fiscal Impact Statement

1. Patron Mary Margaret Whipple

2. Bill Number SB 981
House of Origin:
_____ **Introduced**
_____ **Substitute**
_____ **Engrossed**

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

3. Committee House Finance

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

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 an individual or 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 using equipment placed in service after January 1, 2012, 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 or until the credit is used, whichever is sooner.

This bill would be effective for taxable years beginning on and after January 1, 2012 and before July 1, 2016.

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 it could be significant. Although taxpayers would not be able to earn a credit for electricity generated from existing equipment, approximately 2.7 million megawatt-hours of electricity were produced from renewable energy sources by all electric power producers in 2008. No data is available for corporations that produce electricity for their own consumption. Under this bill, the credit would not be available to investor-owned electric utilities, rural cooperatives, and municipally run utilities. In addition,

9. Specific agency or political subdivisions affected:

Department of Taxation
State Corporation Commission

10. Technical amendment necessary: No.

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 credit against individual or corporate income tax 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 or until the credit is used, whichever is sooner.

This bill would also change the name of the Virginia Coal Employment and Production Incentive Tax Credit to the Energy Production Tax Credit.

Under the bill, an energy producer would be any corporation that produces electricity or thermal energy from equipment placed in service after January 1, 2012, for sale or self-consumption. 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.

The bill would specifically exclude investor-owned incumbent electric utility, which participate in the renewable energy portfolio standard program administered by the State Corporation Commission, from claiming the credit. In addition, 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, 2012. The bill would establish a July 1, 2016 sunset date for both the Coal Employment and Production Incentive Tax Credit and the provisions of this credit.

cc : Secretary of Finance

Date: 2/10/2011 TG
SB981FE161