DEPARTMENT OF TAXATION
2015 Fiscal Impact Statement

1. Patron David J. Toscano

2. Bill Number HB 2181

House of Origin:
X **Introduced**
___ **Substitute**
___ **Engrossed**

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

3. Committee House Finance

4. Title Income Tax; Reform the Coal Credits

5. Summary/Purpose:

This bill would revise Virginia's coal-related income tax credits by:

- Decreasing the amount of the Virginia Coal Employment and Production Incentive Tax Credit from $3 to $2 for each ton of coal purchased and consumed by an electricity generator;

- Limit the aggregate amount of Virginia Coal Employment and Production Incentive Tax Credits and Coalfield Employment Enhancement Tax Credits that may be claimed or redeemed to $500,000 per return;

- Allowing unused Virginia Coal Employment and Production Incentive Tax Credits and Coalfield Employment Enhancement Tax Credits earned after January 1, 2015, to be carried over for up to five taxable years; and

- Allowing unused Virginia Coal Employment and Production Incentive Tax Credits that were earned prior to January 1, 2015, and claimed by an electricity generator to be carried over for up to twelve taxable years.

This bill would be effective for taxable years beginning on or after January 1, 2015.

This is a Secretary of Finance bill.

6. Budget amendment necessary: No.

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

8. Fiscal implications:

<u>Administrative Costs</u>

The Department of Taxation ("the Department") considers implementation of this bill as routine, and does not require additional funding.

Revenue Impact

This bill would have a positive revenue impact, beginning in Fiscal Year 2016. The provisions that would limit the amount of Virginia Coal Employment and Production Incentive Tax Credits and Coalfield Employment Enhancement Tax Credits that may be claimed by each taxpayer would have a positive General Fund revenue impact of $19.9 million in Fiscal Year 2016, $18.7 million in Fiscal Year 2017, $17.5 million in Fiscal Year 2018, $16.4 million in Fiscal Year 2019, $15.4 million in Fiscal Year 2020, and $14.5 million in Fiscal Year 2021. No budget amendment is needed because the Introduced Executive Budget accounts for these limitations. However, if this bill is not enacted, the budget would need to be adjusted to reduce the revenue estimate by $19.9 million in Fiscal Year 2016.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Virginia Coal Employment and Production Incentive Tax Credit

The Virginia Coal Employment and Production Incentive Tax Credit is a credit allowed to electricity generators in Virginia against the corporation income tax and the tax that applies to electric suppliers, pipeline distribution companies, gas utilities, and gas suppliers. The amount of the credit is equal to $3 for each ton of coal purchased and consumed by an electricity generator, provided such coal was mined in Virginia. To the extent an electricity generator purchased coal qualifying for the credit from a person with an economic interest in coal, the credit may be allocated between the electricity generator and such person with an economic interest in coal.

Any credit not allocated to a person with an economic interest in coal that is not usable for the taxable year for which the credit was issued may be carried over for up to ten taxable years. To the extent credit allocated to a person with an economic interest in coal exceeds such person's Virginia tax liability, such taxpayer is entitled to redeem the excess credits in an amount equal to 85 percent of the face value of such excess. The remaining 15 percent is to be deposited in a regional economic development fund administered by the Coalfield Economics Development Authority.

Coalfield Employment Enhancement Tax Credit

Persons with an economic interest in coal mined in Virginia are permitted to claim the Coalfield Employment Enhancement Tax Credit against any tax imposed by Virginia. For coal mined underground, the credit amount varies according to the seam thickness of the coal that is being 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. For coal mined by surface mining methods, the credit is equal to $0.40 per ton of coal sold.

Coalbed methane gas producers may claim a credit equal to $0.01 per million BTU's of gas produced.

The credit may be claimed in the third taxable year following the taxable year in which the credit was earned and allowed. To the extent the credit exceeds a taxpayer's Virginia tax liability, the taxpayer is entitled to redeem the excess credits in an amount equal to 85 percent of the face value of such excess. The remaining 15 percent is to be deposited in a regional economic development fund administered by the Coalfield Economics Development Authority.

JLARC Report on the Coal-Related Tax Credits

During 2011, the Joint Legislative Audit and Review Commission ("JLARC") reviewed the effectiveness of Virginia's tax preferences. According to JLARC's report, the coal credits do not appear to be effectively promoting coal production and employment in Virginia. JLARC found that Virginia coal production and employment have declined by over 50 percent since their historic highs in 1990. Both of the coal credits were enacted to slow the decline of Virginia coal employment and production, which were each predicted to decline by 28 percent between 1996 and 2005 without the credits. Despite the enactment of the Coalfield Employment Enhancement Tax Credit in 1995 and the Virginia Coal Employment and Production Incentive Tax Credit in 1999, between 1996 and 2005, Virginia's coal production declined by 27 percent and coal employment declined by 36 percent. JLARC concluded that although the coal credits can significantly reduce tax liability for mine operators, they do not appear to be sufficient to counteract the negative impact of other factors on Virginia coal production and employment, such as the high costs of production and transportation.

Despite their potential ineffectiveness, taxpayers claimed over $28 million in coal-related tax credits during Fiscal Year 2014. In addition to the large fiscal impact, these credits tend to be volatile, which can cause potential unexpected revenue shortfalls. For example, in Fiscal Year 2013, electricity generators claimed $59 million worth of Virginia Coal Employment and Production Incentive Tax Credits after not claiming any of this credit for several years prior. This large revenue loss was due to built-up credit carryovers that were claimed in the same year by several generators that began generating profits, and as a result, finally had sufficient tax liability to absorb the credits. The following chart shows the amount of coal credits claimed for Fiscal Years 2008 through 2014:

	Coalfield Employment Enhancement Tax Credit		**Virginia Coal Employment and Production Incentive Tax Credit**	
Fiscal Year	**No. of Returns**	**Amount Claimed**	**No. of Returns**	**Amount Claimed**
2008	47	$35.1 million	<4	$3.2 million
2009	59	$36.3 million	0	$0
2010	86	$44.1 million	<4	$0.4 million
2011	50	$27.3 million	0	$0
2012	31	$25.0 million	0	$0
2013	37	$21.8 million	8	$59.4 million
2014	42	$21.5 million	<4	$6.7 million

Proposed Legislation

This bill would decrease the aggregate amount of the Virginia Coal Employment and Production Incentive Tax Credit from $3 to $2 for each ton of coal purchased and consumed by an electricity generator.

This bill would limit the aggregate amount of Virginia Coal Employment and Production Incentive Tax Credits and Coalfield Employment Enhancement Tax Credits that may be claimed or redeemed to $500,000 per return.

This bill would allow unused Virginia Coal Employment and Production Incentive Tax Credits and Coalfield Employment Enhancement Tax Credits earned after January 1, 2015, to be carried over for up to five taxable years. This bill would allow unused Virginia Coal Employment and Production Incentive Tax Credits that were earned prior to January 1, 2015, and claimed by an electricity generator to be carried over for up to twelve taxable years.

This bill would be effective for taxable years beginning on or after January 1, 2015.

Similar Bills

Senate Bill 1161 is identical to this bill.

House Bill 1877 would sunset the Coalfield Employment Enhancement and Virginia Coal Employment and Production Incentive Tax Credits for certain taxpayers, and would use the additional revenue anticipated from the expiration of the credits for grants to students enrolled in or accepted at any public institution of higher education in Virginia.

House Bill 1879 and **Senate Bill 741** would extend the sunset date for the Coalfield Employment Enhancement Tax Credit.

cc : Secretary of Finance

Date: 1/27/2015 MTH
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