DEPARTMENT OF TAXATION
2015 Fiscal Impact Statement

1. Patron Charles J. Colgan

2. Bill Number SB 1161
House of Origin:
_____ **Introduced**
_____ **Substitute**
_____ **Engrossed**

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

3. Committee House Finance

4. Title Income Tax; Reform the Virginia Coal Employment and Production Incentive Tax Credit

5. Summary/Purpose:

This bill would revise the Virginia Coal Employment and Production Incentive Tax Credit by:

- Decreasing the amount of the credit from $3 to $2 for each ton of coal purchased and consumed by an electricity generator;
- Limiting the aggregate amount of credits that may be claimed or redeemed to $500,000 per return;
- Limiting the amount of credits that an electricity generator may allocate to a person with an economic interest in coal to the total amount of credits allocated to such electricity generator in Taxable Year 2012.
- Allowing unused credits earned after January 1, 2015, to be carried over for up to five taxable years; and
- Allowing unused credits in excess of the $500,000 limit, that were earned prior to January 1, 2015, to be carried over by an electricity generator 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: Yes.
Page 1, Revenue Estimates

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

8. Fiscal implications:

Administrative Costs

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

Revenue Impact

As amended, this bill would have a negative revenue impact, beginning in Fiscal Year 2016. The Introduced Executive Budget included additional revenue from provisions in the introduced version of this bill that would have limited the Coalfield Employment Enhancement Tax Credit claimed by each taxpayer, in addition to limiting the amount of the Virginia Coal Employment and Production Incentive Tax Credit. Because the engrossed version of this bill would no longer impose such limitations on the Coalfield Employment Enhancement Tax Credit, the amount of revenue generated by this bill must be reduced by $14.7 million in Fiscal Year 2016. The House Appropriations Committee and Senate Finance Committee have both submitted budget amendments that would account for the resulting reduction in estimated revenues.

The provisions of this bill that would limit the amount of Virginia Coal Employment and Production Incentive Tax Credits claimed by each taxpayer would have a positive General Fund revenue impact of $5.2 million in Fiscal Year 2016, $4.9 million in Fiscal Year 2017, $4.6 million in Fiscal Year 2018, $4.3 million in Fiscal Year 2019, $4.0 million in Fiscal Year 2020, and $3.8 million in Fiscal Year 2021. If this bill is not enacted, the budget would need to be adjusted to further reduce the revenue estimate by $5.2 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.

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 that may be claimed or redeemed to $500,000 per return. This bill would also limit the amount of Virginia Coal Employment and Production Incentive Tax Credits that an electricity generator may allocate to a person with an economic interest in coal to the total amount of credits allocated to such electricity generator in Taxable Year 2012.

This bill would allow unused Virginia Coal Employment and Production Incentive 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 in excess of the $500,000 limit that were earned prior to January 1, 2015, to be carried over by an electricity generator for up to twelve taxable years.

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

Similar Bills

House Bill 1879 is identical to this bill, except it would also extend the sunset date for the Coalfield Employment Enhancement Tax Credit.

Senate Bill 741 would extend the sunset date for the Coalfield Employment Enhancement Tax Credit.

cc : Secretary of Finance

Date: 2/10/2015 MTH
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