DEPARTMENT OF TAXATION
2015 Fiscal Impact Statement

1. Patron K. Rob Krupicka

2. Bill Number HB 1877
House of Origin:
__X__ **Introduced**
_____ **Substitute**
_____ **Engrossed**

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

3. Committee House Finance

4. Title Expiration of Coal Credits; Establishment of an Education Fund

5. Summary/Purpose:

This bill would eliminate the Virginia Coal Employment and Production Incentive Tax Credit and the Coalfield Employment Enhancement Tax Credit.

This bill would require the estimated additional annual revenue anticipated to be received from the expiration of the coal-related tax credits to be deposited into a special nonreverting fund by July 31 of each year, beginning in 2016. This bill would require grants to be awarded from such fund to eligible students who are enrolled in or accepted for enrollment in any public institution of higher education in Virginia.

This bill would be effective on January 1, 2016.

6. Budget amendment necessary: Yes.
ITEM(S): 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

Eliminating the coal-related tax credits would have an annual positive General Fund revenue impact of $1.1 million beginning in Fiscal Year 2017. However, such additional General Fund revenue would then be deposited in the Additional Guaranteed Assistance Fund created by this bill, offsetting any gain to the General Fund. This estimate assumes passage of the Introduced Executive Budget, which limits the amount of coal-related tax credits that may be claimed or redeemed each year, imposes a five-year carry over period on such credits earned after January 1, 2015, and permits an extended twelve-year carry over period for Virginia Coal Employment and Production Incentive Tax Credits earned prior to January 1, 2015.

Generally, imposing a sunset date on Virginia tax credits has no revenue impact because extension of such credits is assumed in the official General Fund revenue forecast. However, because this bill would be effective on January 1, 2016, before the General Assembly may take further action to extend the credits, the forecast would be adjusted to reflect the changes proposed by this bill.

9. Specific agency or political subdivisions affected:

Department of the Treasury
Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Income Tax Credits

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.

The Coalfield Employment Enhancement Tax Credit is currently available for taxable years beginning before January 1, 2017.

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.

Proposed Legislation

This bill would eliminate the Virginia Coal Employment and Production Incentive Tax Credit and the Coalfield Employment Enhancement Tax Credit.

This bill would require the creation of a special nonreverting fund, known as the Additional Guaranteed Assistance Fund ("the Fund") in the state treasury for purposes of awarding grants to eligible students. This bill would require any money in the Fund to be used solely for purposes of making payments to any public institution of higher education on behalf of eligible students who are enrolled in or accepted for enrollment in any public institution of higher education in Virginia. "Eligible students" would be defined as students who:

- Are either:
    - Domiciled residents of Virginia and graduates of a high school in Virginia with a cumulative secondary school grade point average of at least 2.5 on a scale of 4.0 or its equivalent; or
    - Dependent children of active duty military personnel residing outside Virginia pursuant to military orders and claiming Virginia on their State of Legal Residence Certificate and satisfying the domicile requirements for such active duty military personnel, and who are graduates of a high school inside or outside Virginia with a cumulative secondary school grade point average of at least 2.5 on a scale of 4.0 or its equivalent;
- Are accepted for enrollment as a dependent student in any public institution of higher education in Virginia; and
- Are not receiving state discretionary aid and demonstrate financial need as defined by the State Council of Higher Education.

This bill would require the estimated additional annual revenue anticipated to be received in the state treasury from the expiration of the coal-related tax credits to be deposited into the Fund by July 31 of each year. In June of 2016, the Tax Commissioner would be required to compute such amount by averaging the amount of coal-credits that were claimed or redeemed for the three most recent taxable years for which the Department has data available. The Tax Commissioner would be required to provide written certification to the Comptroller of the amount to be deposited into the Fund for Fiscal Year 2016 as soon as practicable. The amount required to be deposited for Fiscal Year 2016 would be the amount required to be deposited into the Fund for each fiscal year thereafter. Moneys deposited into the Fund would be intended to be in addition to and not in replacement of appropriations to the Virginia Guaranteed Assistance Fund.

Grant amounts awarded from the Fund on behalf of eligible students would be determined by the use of a needs-analysis methodology approved by the State Council of Higher Education for Virginia. One-half of the amount deposited into the Fund each year would be reserved and awarded on behalf of eligible students domiciled in Lee, Wise, Scott, Buchanan, Russell, Tazewell, or Dickenson County, or in the City of Norton for the twelve-month period immediately prior to the awarding of grants from the Fund.

The Fund would be established on the books of the Comptroller. All additional annual revenues anticipated to be received from the expiration of the coal-related tax credits, any revenues appropriated by the General Assembly to the Fund, and any gifts, donations, grants, bequests, and other funds received and designated for the Fund would be required to be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund would remain in the Fund and be credited to it. Any moneys remaining in the Fund, including any interest, at the end of each fiscal year would remain in the Fund, and would not revert to the General Fund. Expenditures and disbursements from the Fund would be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director of the State Council of Higher Education for Virginia.

This bill would be effective on January 1, 2016.

<u>Similar Bills</u>

House Bill 2181 and **Senate Bill 1161** would decrease the amount of the Virginia Coal Employment and Production Incentive Tax Credit from $3 to $2 per ton, and would limit the amount of Virginia Coal Employment and Production Incentive and Coalfield Employment Enhancement Tax Credits that may be claimed or redeemed to $500,000 per return.

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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