

# DEPARTMENT OF TAXATION

## 2017 Fiscal Impact Statement

1. **Patron** James W. Morefield

3. **Committee** House Finance

4. **Title** Virginia Coalfield Education Tax Credit

2. **Bill Number** HB 1672

**House of Origin:**

  X   **Introduced**

       **Substitute**

       **Engrossed**

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

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

This bill would allow a tax credit equal to 65 percent of the value of a monetary donation made by a taxpayer to any school district in the Counties of Buchanan, Dickenson, Lee, Russell, Scott, Tazewell, or Wise, or the City of Norton. The Department would not be permitted to issue more than \$5 million in credits during any fiscal year.

This credit would be effective for taxable years beginning on or after January 1, 2017, but before January 1, 2022.

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

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

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

#### Administrative Costs

The Department of Taxation ("the Department") has not assigned any administrative costs to this bill because the changes required by a single bill such as this can be implemented as part of the annual changes to our systems and forms. As stand-alone legislation, the Department considers implementation of this bill as "routine," and does not require additional funding.

The Department will provide specific administrative costs on any legislation that is not "routine." Additionally, the Department will review all state tax legislation likely to be enacted prior to the passage by each house. If the aggregate number of routine bills likely to pass either house is unusually large, it is possible that additional resources will be required. If so, the Department will identify the costs at that time.

#### Revenue Impact

Because the amount of donations that would qualify for this credit is uncertain, this bill would have an unknown annual negative General Fund revenue impact, beginning in

Fiscal Year 2018. Because the credit is subject to an annual credit cap, the impact of this legislation would not exceed \$5 million. Taxpayers would be able to claim this credit against the individual income tax, corporate income tax, bank franchise tax, insurance premiums license tax, and the tax on public service corporations.

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

Department of Taxation  
Counties of Buchanan, Dickenson, Lee, Russell, Scott, Tazewell, and Wise  
City of Norton

**10. Technical amendment necessary:** Yes. If eligible credit requests exceed the \$5 million annual credit cap, this bill would require the Department to equitably allocate credits to taxpayers. Because the meaning of “equitably” may be unclear, the Department recommends the following amendment:

Line 34, after “fiscal year.”

Strike: The Department shall develop procedures to allocate credits equitably in the event that applications for credits exceed \$5 million for the fiscal year.

Insert: In the event approved applications for the tax credits allowed under this section exceed \$5 million, the Department shall apportion the credits by dividing \$5 million by the total amount of tax credits approved, to determine the percentage of allowed tax credits each taxpayer shall receive.

**11. Other comments:**

Education Improvement Scholarships Tax Credit

The Education Improvement Scholarships Tax Credit program authorizes a tax credit equal to 65 percent of the value of a donation made to a qualifying scholarship foundation. The Department of Education is responsible for administering this program and awarding tax credits to taxpayers on a first-come, first-served basis. A person seeking to make a monetary or marketable securities donation to a scholarship foundation or a scholarship foundation on behalf of such person is required to request preauthorization for a specified credit amount from the Superintendent of Public Instruction. The total amount of tax credits available in any given fiscal year is capped at \$25 million. The donation can be money or marketable securities.

Virginia Neighborhood Assistance Act Tax Credit

The Virginia Neighborhood Assistance Act Tax Credit program provides an income tax credit to business firms and individuals that donate to neighborhood organizations for approved programs that benefit impoverished people. Under this Act, a neighborhood organization is allocated funding through the Neighborhood Assistance Act Program. The Department of Social Services and the Department of Education are responsible for approving programs proposed by neighborhood organizations and allocating Neighborhood Assistance Act Tax Credits to neighborhood organizations with approved

programs. A business firm or individual that makes a donation to a neighborhood organization for an approved program is then eligible to receive an income tax credit from that neighborhood organization.

The amount of the credit for a business firm or individual who donates professional services is equal to 65 percent of the value of the money, property, professional services, or contracting services donated by such taxpayer to a neighborhood organization for an approved program. No credit less than \$400 may be granted to a business firm or individual who provides professional services for any donation. Therefore, a business firm or individual who provides professional services must make a donation with a value of at least \$616 to meet the minimum credit threshold, and receive an allocation of credits.

The amount of the credit for an individual who makes a monetary donation or marketable securities donation to a neighborhood organization for an approved program is equal to 65 percent of the value of such donation. To receive an allocation of credits, an individual is required to make a donation of at least \$500. For purposes of determining the amount of credits allocated to an individual, the value of the individual's donation is limited to the lesser of the actual value of the donation or \$125,000. The \$125,000 cap on the value of donations caps the credit at \$81,250 per taxpayer.

#### Credits Primarily for the Coalfield Region of Virginia

##### *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 person with an economic interest in coal that receives an allocation of credits was required to redeem such credits in a taxable year ending before July 1, 2016.

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.

The Coalfield Employment Enhancement Tax Credit expired for taxable years beginning on or after January 1, 2017.

### Proposed Legislation

This bill would allow a tax credit equal to 65 percent of the value of a monetary donation made by a taxpayer to any school district in the Counties of Buchanan, Dickenson, Lee, Russell, Scott, Tazewell, or Wise, or the City of Norton. Taxpayers would be able to claim this credit against the individual income tax, corporate income tax, bank franchise tax, insurance premiums license tax, and the tax on public service corporations.

No taxpayer would be permitted to claim credits in excess of their tax liability for a taxable year. A taxpayer would be allowed to carry over any unused credits for the next five succeeding taxable years or until the total amount of credit has been taken, whichever is sooner. Nothing in this bill or under existing law would prohibit a taxpayer from benefitting from both a state tax deduction and this credit for the same charitable donation to a school district.

The Department would not be permitted to issue more than \$5 million in credits during any fiscal year. The Department would be required to develop procedures to allocate credits equitably in the event that applications for credits exceed the \$5 million annual credit cap.

The amount of credits attributable to a partnership, electing small business corporation, or limited liability company would be allocated to the individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entities.

This bill would be effective for taxable years beginning on or after January 1, 2017, but before January 1, 2022.

### Similar Legislation

**House Bill 1917** would allow a credit for a capital investment in an energy production facility located in the coalfield region of Virginia.

**House Bill 1581** and **Senate Bill 1106** would allow a tax credit for certain capital investments, certain jobs created, and sales tax paid on certain items purchased in the Appalachian region of Virginia.

**House Bill 2198** and **Senate Bill 1470** would reduce the annual credit cap on the Virginia Coal Employment and Production Incentive Tax Credit, and would extend the sunset date for the Coalfield Employment Enhancement Tax Credit.

cc : Secretary of Finance

Date: 1/19/2017 MTH  
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