

## Department of Planning and Budget 2021 Fiscal Impact Statement

1. **Bill Number:** HB1979

**House of Origin**     Introduced     Substitute     Engrossed  
**Second House**     In Committee     Substitute     Enrolled

2. **Patron:** Reid

3. **Committee:** Finance

4. **Title:** Electric vehicle rebate program; creation and funding; report.

5. **Summary:** Creates a rebate program for the purchase or lease of new and used electric vehicles, to be administered by the Department of Mines, Minerals and Energy. A purchaser or lessee of an electric vehicle would receive a \$2,500 rebate at the time of purchase, and a purchaser or lessee with an annual household income that does not exceed 300 percent of the federal poverty level would be entitled to an additional \$2,000 rebate. The motor vehicle dealer where the vehicle is purchased or leased would receive a refund for the amount of the rebate and a \$50 incentive payment for each rebate processed. Funds would be allocated from the revenues generated by the sunset of the Virginia Coal Employment and Production Incentive Tax Credit and the Coalfield employment enhancement tax credit and prohibit the allocation of new credits on and after January 1, 2021. The bill also establishes an Electric Vehicle Rebate Advisory Council to oversee the Electric Vehicle Rebate Program and to make recommendations regarding its implementation. The Director of the Department of Mines, Minerals and Energy is required to report annually to the Governor and the General Assembly regarding the Program. The Program will expire on September 1, 2026.

6. **Budget Amendment Necessary:** Yes, General Fund – Front Page, HB1800/SB1100 as Introduced. See Item 8, below.

7. **Fiscal Impact Estimates:** Preliminary. See Item 8.

8. **Fiscal Implications:** It is anticipated that this bill will result in a positive general fund revenue impact from the sunset of the Virginia Coal Employment and Production Incentive Tax Credit and the Coalfield employment enhancement tax credit. Under the provisions of the bill, these tax credit programs would sunset on January 1, 2021. The bill establishes the Electronic Vehicle Rebate Fund and the Electronic Vehicle Rebate Program. The newly-established Electric Vehicle Rebate Program and requirement that the Governor appropriate funds for this program would end on September 1, 2026.

The portion of this bill that would repeal the coal credits would have an estimated positive general fund revenue impact of \$0.3 million in FY 2022 through FY 2024, and \$6.5 million in FY 2025 and thereafter. Because the refundable Coalfield Employment Enhancement Tax Credit may not be claimed until the third taxable year after the credit was earned, the revenue impact of repealing the credit beginning with Taxable Year 2021 would not be realized until

income tax returns are filed for Taxable Year 2024, which would generally occur during FY 2025.

For FY 2022 through FY 2024, the \$0.3 million positive revenue impact would be due solely to the repeal of the Virginia Coal Employment and Production Incentive Tax Credit. As of the beginning of Taxable Year 2020, taxpayers had unused carryover Virginia Coal Employment and Production Incentive Tax Credits of \$7.5 million. The \$1.0 million limitation would prevent all such outstanding carry over credits from being claimed at once in future taxable years.

In addition, the Virginia Coalfield Economic Development Authority receives 15 percent of the face value of Coalfield Employment Enhancement Tax Credits that are redeemed by taxpayers. Accordingly, the repeal of such credit would decrease funding to the Virginia Coalfield Economic Development Authority by \$900,000 in FY 2025 and thereafter. The overall impact of repealing the coal tax credits is reflected in the table on Line 7.

In addition to establishing the Fund and Program, the bill directs the Governor to include an appropriation for the Fund in the introduced budget bill equal to the difference between the amount of revenue lost in FY 2020 due to tax credits claimed under the Virginia Coal Employment and Production Incentive Tax Credits (§§ 58.1-433.1 and 58.1-2626.1, Code of Virginia) and the Coalfield employment enhancement tax credit and the amount of revenue and the amount of revenue lost in the Commonwealth in the fiscal year that ended the immediately preceding June 30 due to tax credits claimed under these programs.

The bill states that the Fund shall be used solely for the purposes set forth in the newly-established Electric Vehicle Rebate Program, which would include rebates and enhanced rebates for purchasers of electric motor vehicles, development of a program website by the Department of Mines, Minerals, and Energy (DMME), incentive payments to certain dealers, support for an Electronic Rebate Advisory Council, and DMME's costs incurred in administering the program. The bill provides that of the amounts available for rebates and incentives, 75 percent shall support the initial rebate and incentive, and 25 percent shall support an enhanced rebate.

Subject to availability of moneys in the Fund, beginning September 1, 2021, this bill would provide a \$2,500 rebate to a resident of the Commonwealth that purchases a new or used electric motor vehicle, and an additional \$2,000 rebate, or enhanced rebate, to certain purchasers. In addition to rebates, the bill provides a \$50 incentive payment for each eligible rebate processed by the dealer. The bill does not state that the incentive payment is subject to availability of moneys in the Fund. The amount of funding available for rebates and credits is subject to funds appropriated for this purpose in the general appropriation act.

The proposed rebate program would apply only to motor vehicles that use electricity as their only source of motive power (also known as battery electric vehicles). In 2020, battery electric motor vehicles made up 76 percent of total electric vehicle sales. These estimates assume that electric vehicles comprise ten percent of new vehicle sales and one percent of

used vehicle sales. In addition, it was assumed that 25 percent of qualifying purchases would be to individuals who qualified for the enhanced rebate.

The Department of Taxation (TAX) has provided an estimate of the potential demand for rebates and incentives. TAX used the November 2020 Commonwealth Transportation Fund forecast as the base for the number of new and used vehicles that are expected to be sold in Virginia. A percentage of these vehicles are battery electric vehicles (BEVs). According to the Electric Vehicle Incentive Working Group Feasibility report, BEVs are estimated to account for about 2.5 percent of total new vehicle sales currently. Also, according to this report, BEVs are expected to account for 10 to 20 percent of all new vehicle sales by the end of the program. TAX's estimate for the final fiscal year impact used the lower end of the scale, 10 percent, as estimates of electric vehicle market penetration have frequently been overestimated.

For the used vehicle market, TAX assumed that a significant portion of new BEV sales would be leased. Therefore, it is expected that there will be a robust resale market for BEVs, although market penetration will be less than that experienced in the new BEV market and a lower percentage of used vehicle sales are expected to be BEVs. Based on its analysis, TAX estimates demand for the incentives and rebates to be as follows:

<i>Fiscal Year</i>	<i>Rebates</i>	<i>Incentive Payments</i>
2021	0	0
2022	\$20.2 million	\$0.4 million
2023	\$30.0 million	\$0.6 million
2024	\$43.3 million	\$0.9 million
2025	\$60.0 million	\$1.2 million
2026	\$73.3 million	\$1.5 million
2027	\$13.8 million	\$0.3 million

It is anticipated that this bill would increase the administrative responsibilities of DMME. As part of its implementation and administrative responsibilities, DMME is required to provide administrative support to the Electric Rebate Advisory Council, as established in the bill. The Fund is based on an indeterminate appropriation, gifts, donations, grants, bequests, and other funds received on its behalf. DMME anticipates that indeterminate additional resources would be required to support the development and implementation of the Electric Vehicle Rebate Program that may include additional staff or the cost of a contractor. Additionally, DMME anticipates that an appropriation for the payment of rebates and incentives would be required. The amount of any such appropriation is indeterminate at this time.

It is anticipated that the Department of Taxation (TAX) can absorb the impact of this bill within existing resources.

This bill is not expected to have a fiscal impact to the Department of Motor Vehicles.

- 9. Specific Agency or Political Subdivisions Affected:** Department of Mines, Minerals and Energy; Department of Taxation; Department of Motor Vehicles.

**10. Technical Amendment Necessary:** Yes.

The bill appears to use “electronic” and “electric” interchangeably. It is not apparent if this was intentional.

Lines 218 – 221, do not provide an allocation of the Fund for the administration of the Program by DMME. 100 percent of the Fund is allocated to rebates.

Line 182, “Electronic Rebate Advisory Council” is referred to as “Electric Rebate Advisory Council” in Line 183. The name of the Advisory Council should be consistent.

Line 214, remove “of”.

**11. Other Comments:** The following are comments and additional information provided by the Department of Taxation:

Virginia Electric Vehicle Incentive Working Group

During the 2020 Session, the General Assembly enacted legislation that required various stakeholders and the Department of Taxation, the Department of Mines, Minerals and Energy, the Department of Motor Vehicles, and the Department of Environmental Quality to form a working group to determine the feasibility of an electric vehicle rebate program for the Commonwealth. The working group met several times through 2020 and published its findings in the Electric Vehicle Incentive Working Group Feasibility Report.

Federal Plug-in Electric Drive Vehicle Tax Credit

Taxpayers who purchased a car or truck with at least four wheels and a gross vehicle weight of less than 14,000 pounds that draws energy from a battery with at least 4 kilowatt hours and that may be recharged from an external source are eligible for a federal tax credit. The vehicle must have been purchased in or after 2010 and the vehicle must have been put into use in the year in which the credit is claimed. The credit ranges between \$2,500 and \$7,500, depending on the capacity of the battery, but the credit may not exceed the taxpayer’s federal tax liability. The credit begins to phase out for a manufacturer, when that manufacturer sells 200,000 qualified vehicles. Some manufactures, such as Tesla and General Motors, have already surpassed both the 200,000 vehicle threshold and the phase out amounts and as such are no longer eligible for the credit.

A smaller tax credit is available for taxpayers who purchased a 2- or 3-wheeled vehicle that draws energy from a battery with at least 2.5 kilowatt hours and may be recharged from an external source. The vehicle must have been purchased in 2012 or 2013 and put into use in the year in which the credit is claimed. The credit is 10 percent of the purchase price of the vehicle with a maximum credit of \$2,500.

Coalfield Employment Enhancement Tax Credit

Persons with an economic interest in metallurgical coal mined in Virginia are permitted to claim the Coalfield Employment Enhancement Tax Credit against any tax imposed by Virginia. For metallurgical coal mined underground, the amount of the credit 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 taxable years beginning prior to January 1, 2017, the credit was not limited to metallurgical coal.

For metallurgical 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 BTUs 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 required to be deposited in a regional economic development fund administered by the Coalfields Economic Development Authority.

The Coalfield Employment Enhancement Tax Credit expired for Taxable Year 2017, but was renewed for taxable years beginning on or after January 1, 2018.

#### Corporate Income Tax 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. Electricity generators may carry over unused credits for up to ten taxable years.

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 received an allocation of credits is permitted to redeem such credits only if they were earned in a taxable year ending before July 1, 2016. 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 Coalfields Economic Development Authority.

For credits earned in a taxable year ending on or after July 1, 2016, a person with an economic interest in coal may still receive an allocation of credits. However, the credits must be used to reduce the person's corporate tax liability or any other tax imposed by Virginia in the year during which the credits are received. Any excess may not be carried over to a future taxable year and may not be redeemed in the current taxable year.

#### Public Service Corporation Virginia Coal Employment and Production Incentive Tax Credit

Every public service corporation in Virginia doing the business of furnishing water, heat, light, or power to the Commonwealth or its citizens may claim a credit of \$1 per ton for each ton of coal purchased and consumed by such corporation in excess of the number of tons of

Virginia coal purchased by such corporation in 1985. In addition, such corporations may claim an additional credit of \$1 per ton for each ton of coal purchased and consumed by the corporation. For both portions of the credit, coal qualifies toward the incentive to the extent that it was mined in Virginia. Such credit may be claimed against the public service corporation's license tax.

#### JLARC Reports on the Coal-Related Tax Credits

During 2020, the Joint Legislative Audit and Review Commission (JLARC) reviewed the effectiveness of Virginia's coal tax credits. JLARC recommended the repeal of both the Coalfield Employment Enhancement Tax Credit, and the corporate income tax Virginia Coal Employment and Production Incentive Tax Credit because they have negligible economic benefits and return on investment for the state. JLARC also determined that the Coalfield Employment Enhancement Tax Credit was no longer relevant for purposes of making Virginia mines more competitive with operations in other, similar states due to significant declines in the industry at large and Virginia's favorable position with respect to its high-quality metallurgical coal. In addition, JLARC found that the credit no longer supports small, marginal coal mining operations in Virginia because such companies have largely gone out of business or have been acquired by larger operations.

In addition, JLARC found that the purpose of the corporate income tax Virginia Coal Employment and Production Incentive Tax Credit, to encourage Virginia electricity generators to use Virginia-mined coal, is no longer relevant due to the national and Virginia movement away from coal-fired plants. JLARC reported that all but one of such plants in Virginia will likely close by 2025. In addition, JLARC determined that the use of Virginia-mined coal in the state's coal-fired plants has fluctuated greatly since the credits enactment in 1994. This suggests that other factors have more influence over where companies purchase coal.

During 2011, JLARC reviewed the effectiveness of Virginia's tax preferences. According to JLARC's report, the coal credits did 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 \$16.6 million in coal-related tax credits during FY 2019. In addition to the large fiscal impact, these credits tend to be volatile, which can cause potential unexpected revenue shortfalls. For example, in FY 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.

#### Proposed Legislation

This bill would repeal the Coalfield Employment Enhancement Tax Credit, the Virginia Coal Employment and Production Incentive Tax Credit that may be claimed against the corporate income tax, and the Virginia Coal Employment and Production Incentive Tax Credit that may be claimed against the public service corporation's license tax.

Taxpayers that earned credits prior to the repeal would be permitted to claim such credits pursuant to any applicable carryover or carryforward period. This bill would limit the amount of such credits that a taxpayer may claim per taxable year, in aggregate, to \$1.0 million. No taxpayer would be permitted to amend a tax return for a taxable year prior to January 1, 2021, to claim more of such credits than the taxpayer claimed on their return before amending it.

This bill would provide a \$2,500 rebate to all residents of the Commonwealth that purchase a new or used electric motor vehicle, an additional \$2,000 rebate to certain low-income resident purchasers of such vehicles, and a \$50 incentive payment to dealers for each eligible rebate that they process.

This bill would also establish the Electric Vehicle Rebate Program Fund (the Fund). This bill would require that the Governor annually include in the Introduces Executive Budget, beginning with the submissions due on December 20, 2021, a recommended appropriation to the Fund equal to the difference between the revenue lost in the Commonwealth in FY 2020 due to the repeal of the coal credits and the amount of revenue lost in the Commonwealth in the fiscal year that ended the immediately preceding June 30 due to coal credits claimed.

The provisions repealing current tax credits would be effective for taxable years beginning on and after January 1, 2021. All other provisions of this bill would be effective July 1, 2021, and expire on September 1, 2026.

#### Similar Bills

HB1899 would repeal the three coal credits for taxable years beginning on and after January 1, 2021.

SB1252 would repeal the three coal credits for taxable years beginning on and after January 1, 2022.