

SENATE BILL NO. _____ HOUSE BILL NO. _____

1 A BILL to amend and reenact § 58.1-609.1 of the Code of Virginia and to amend the Code of Virginia
 2 by adding a section numbered 58.1-2423.2, by adding in Title 59.1 a chapter numbered 22.5,
 3 consisting of sections numbered 59.1-284.20, 59.1-284.21, and 59.1-284.22, and by adding in
 4 Title 59.1 a chapter numbered 22.6, consisting of sections numbered 59.1-284.23 through 59.1-
 5 284.26, relating to grants, sales and use tax exemptions, and tax refunds for purchasing or using
 6 energy efficient goods or producing electricity from certain qualified energy resources.

Be it enacted by the General Assembly of Virginia:

8 **1. That § 58.1-609.1 of the Code of Virginia is amended and reenacted and that the Code of**
 9 **Virginia is amended by adding a section numbered 58.1-2423.2, by adding in Title 59.1 a chapter**
 10 **numbered 22.5, consisting of sections numbered 59.1-284.20, 59.1-284.21, and 59.1-284.22, and by**
 11 **adding in Title 59.1 a chapter numbered 22.6, consisting of sections numbered 59.1-284.23**
 12 **through 59.1-284.26, as follows:**

§ 58.1-609.1. Governmental and commodities exemptions.

The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not apply to the following:

1. Fuels which are subject to the tax imposed by Chapter 22 (§ 58.1-2200 et seq.) of this title. Persons who are refunded any such fuel tax shall, however, be subject to the tax imposed by this chapter, unless such taxes would be specifically exempted pursuant to any provision of this section.
2. Motor vehicles, trailers, semitrailers, mobile homes and travel trailers.
3. Gas, electricity, or water when delivered to consumers through mains, lines, or pipes.
4. Tangible personal property for use or consumption by the Commonwealth, any political subdivision of the Commonwealth, or the United States. This exclusion shall not apply to sales and leases to privately owned financial and other privately owned corporations chartered by the United States. Further, this exemption shall not apply to tangible personal property which is acquired by the

25 Commonwealth or any of its political subdivisions and then transferred to private businesses for their
26 use in a facility or real property improvement to be used by a private entity or for nongovernmental
27 purposes other than tangible personal property acquired by the Herbert H. Bateman Advanced
28 Shipbuilding and Carrier Integration Center and transferred to a Qualified Shipbuilder as defined in the
29 third enactment of Chapter 790 of the 1998 Acts of the General Assembly.

30 5. Aircraft subject to tax under Chapter 15 (§ 58.1-1500 et seq.) of this title.

31 6. Motor fuels and alternative fuels for use in a commercial watercraft upon which a fuel tax is
32 refunded pursuant to § 58.1-2259.

33 7. Sales by a government agency of the official flags of the United States, the Commonwealth of
34 Virginia, or of any county, city or town.

35 8. Materials furnished by the State Board of Elections pursuant to §§ 24.2-404 through 24.2-407.

36 9. Watercraft as defined in § 58.1-1401.

37 10. Tangible personal property used in and about a marine terminal under the supervision of the
38 Virginia Port Authority for handling cargo, merchandise, freight and equipment. This exemption shall
39 apply to agents, lessees, sublessees or users of tangible personal property owned by or leased to the
40 Virginia Port Authority and to property acquired or used by the Authority or by a nonstock, nonprofit
41 corporation that operates a marine terminal or terminals on behalf of the Authority.

42 11. Sales by prisoners confined in state correctional facilities of artistic products personally made
43 by the prisoners as authorized by § 53.1-46.

44 12. Tangible personal property for use or consumption by the Virginia Department for the Blind
45 and Vision Impaired or any nominee, as defined in § 51.5-60, of such Department.

46 13. [Expired.]

47 14. Tangible personal property sold to residents and patients of the Virginia Veterans Care
48 Center at a canteen operated by the Department of Veterans Services.

49 15. Tangible personal property for use or consumption by any nonprofit organization whose
50 members include the Commonwealth and other states and which is organized for the purpose of
51 fostering interstate cooperation and excellence in government.

52 16. Tangible personal property purchased for use or consumption by any soil and conservation
53 district which is organized in accordance with the provisions of Article 3 (§ 10.1-506 et seq.) of Chapter
54 5 of Title 10.1.

55 17. Beginning September 1, 2004, (i) tangible personal property sold or leased to Alexandria
56 Transit Company, Greater Lynchburg Transit Company, GRTC Transit System, or Greater Roanoke
57 Transit Company that is owned, operated, or controlled by any county, city, or town, or any combination
58 thereof, that provides public transportation services, and/or (ii) tangible personal property sold or leased
59 to any county, city, or town, or any combination thereof, that is transferred to any of the companies set
60 forth in clause (i) owned, operated, or controlled by any county, city, or town, or any combination
61 thereof, that provides public transportation services.

62 18. Beginning January 1, 2007, the following items of tangible personal property: (i) clothes
63 washers, room air conditioners, dishwashers, and standard size refrigerators that meet or exceed the
64 applicable energy star efficiency requirements developed by the United States Environmental Protection
65 Agency and the United States Department of Energy; (ii) any fuel cell that (a) generates electricity and
66 heat using an electrochemical process, (b) has an electricity-only generation efficiency greater than 35%,
67 and (c) has a generating capacity of at least two kilowatts; (iii) any natural gas heat pump that has a
68 coefficient of performance of at least 1.25 for heating and at least 0.70 for cooling; (iv) any electric heat
69 pump hot water heater that yields an energy factor of at least 1.7; (v) any electric heat pump that has a
70 heating system performance factor of at least 8.0 and a cooling seasonal energy efficiency ratio of at
71 least 13.0; (vi) any central air conditioner that has a cooling seasonal energy efficiency ratio of at least
72 13.5; and (vii) any advanced natural gas water heater that has an energy factor of at least 0.65.

73 § 58.1-2423.2. Refund for motor vehicles using clean special fuels.

74 A. If a motor vehicle is (i) manufactured to use clean special fuels, as defined in § 46.2-749.3,
75 and uses such fuels as a source of propulsion; (ii) converted or retrofitted to use such clean special fuels
76 within 180 days after the date of titling in the Commonwealth, and uses such fuels as a source of
77 propulsion; or (iii) a hybrid gasoline/electric powered motor vehicle that is propelled primarily by
78 electric charge, the vehicle owner may apply, on or after January 1, 2007, for a refund of a portion of the

79 motor vehicle sales and use tax paid by such person pursuant to subdivisions A 1, A 2, A 3, or A 5 of §
80 58.1-2402. In no event shall a refund be paid for such tax on a mobile office, or on a manufactured home
81 as defined in § 36-85.3.

82 B. The refund provided under this section for the eligible motor vehicles described in subsection
83 A shall equal one-half of the motor vehicle sales and use tax paid by the vehicle owner pursuant to
84 subdivisions A 1, A 2, A 3, or A 5 of § 58.1-2402, up to a maximum of \$500 in tax paid on each such
85 motor vehicle. In addition, no person shall receive more than \$5,000 in refunds in any calendar year
86 under this section. The refund provided under this section shall be applicable to such motor vehicle sales
87 and use taxes paid by vehicle owners on or after January 1, 2007, but prior to January 1, 2011.

88 C. The claim for refund shall be in such form as the Commissioner shall prescribe and shall
89 include documentation to verify that the conversion or retrofitting of the motor vehicle to use such clean
90 special fuels, if applicable, took place within 180 days after the date of titling in the Commonwealth.
91 The claim for refund shall be filed with the Commissioner within one year from the date on which such
92 taxes were paid.

93 CHAPTER 22.5.

94 RENEWABLE ELECTRICITY PRODUCTION GRANT PROGRAM.

95 § 59.1-284.20. Definitions.

96 A. As used in this chapter, unless the context clearly requires otherwise:

97 "Corporation" means an entity subject to the tax imposed by Article 10 (§ 58.1-400 et seq.) of
98 Chapter 3 of Title 58.1.

99 "Department" means the Department of Mines, Minerals and Energy.

100 "Fund" means the Renewable Electricity Production Grant Fund.

101 "Qualified energy resources" means the same as that term is defined by Internal Revenue Code §
102 45.

103 "Qualified Virginia facility" means a facility located in the Commonwealth that uses qualified
104 energy resources to produce electricity.

105 B. Subject to appropriation of sufficient moneys in the Fund, an eligible corporation may receive
106 a grant payable from the Fund for certain kilowatts of electricity produced on or after January 1, 2006.
107 The grant amount shall be \$0.0085 for each kilowatt hour of electricity (i) produced by the corporation
108 from qualified energy resources at a qualified Virginia facility and (ii) sold in a calendar year. Grant
109 amounts shall be based on each such kilowatt hour of electricity sold beginning with calendar year 2006
110 and ending with such kilowatt hours of electricity sold during calendar year 2010.

111 § 59.1-284.21. Renewable Electricity Production Grant Fund.

112 A. There is hereby established in the state treasury a special nonreverting fund to be known as
113 the Renewable Electricity Production Grant Fund. The Fund shall consist of such moneys as may be
114 appropriated by the General Assembly from time to time. Any moneys deposited to or remaining in the
115 Fund during or at the end of each fiscal year or biennium, including interest thereon, shall not revert to
116 the general fund but shall remain in the Fund and be available for allocation under this chapter in
117 ensuing fiscal years. Interest on all moneys in the Fund shall remain in the Fund and be credited to it.
118 The Fund shall be used solely for the payment of the grants provided under this chapter. The Department
119 shall administer the Fund.

120 B. The Department shall allocate moneys from the Fund in the following order of priority: (i)
121 first to unpaid grant amounts carried forward from prior years because eligible corporations did not
122 receive the full amount of any grant to which they were eligible in a prior year pursuant to this chapter
123 and (ii) then to other approved applicants. If the moneys in the Fund are less than the amount of grants
124 to which approved applicants in any class of priority are eligible, the moneys in the Fund shall be
125 apportioned pro rata among eligible applicants in such class, based upon the amount of the grant to
126 which an approved applicant is eligible and the amount of money in the Fund available for allocation to
127 such class. The Department shall not allocate an amount in excess of the moneys available in the Fund
128 for the payment of grants.

129 C. Beginning in calendar year 2007, by June 30 of each year, the Department shall (i) determine
130 the amount of the grants to be allocated to eligible corporations, and (ii) certify to the Comptroller and

131 each eligible corporation the amount of the grant allocated to such corporation. Payment of such grants
132 shall be made by the State Treasurer on warrant of the Comptroller within 60 days of such certification.

133 D. If a grant recipient is allocated less than the full amount of a grant to which it is eligible in any
134 year pursuant to this chapter, such corporation shall not be eligible for the deficiency in that year, but the
135 unpaid portion of the grant to which it was eligible shall be carried forward by the Department to the
136 following year, during which it shall be in the first class of priority as provided in clause (i) of
137 subsection B.

138 E. In no case shall the Department certify grants from the Fund for kilowatt hours of electricity
139 produced prior to January 1, 2006, or sold after December 31, 2010.

140 F. Actions of the Department relating to the allocation and awarding of grants shall be exempt
141 from the provisions of the Administrative Process Act pursuant to subdivision B 4 of § 2.2-4002.

142 § 59.1-284.22. Requirements for grants generally.

143 A. The Department shall establish an application process by which eligible corporations shall
144 apply for a grant under this chapter. An application for a grant under this chapter shall not be approved
145 until the Department has verified that the electricity has been produced from qualified energy resources
146 at a qualified Virginia facility.

147 The application shall be filed with the director of the Department no later than March 31 each
148 year following the calendar year in which such kilowatts of electricity were sold. Failure to meet the
149 filing deadline shall render the applicant ineligible to receive a grant for such kilowatts of electricity sold
150 in the prior calendar year. For filings by mail, the postmark cancellation shall govern the date of the
151 filing determination.

152 B. The application shall provide evidence, satisfactory to the Department, of the number of
153 kilowatts of electricity produced by the corporation from qualified energy resources at a qualified
154 Virginia facility that were sold by such corporation in the prior calendar year.

155 C. As a condition of receipt of a grant, an eligible corporation shall make available to the
156 Department for inspection, upon request, all relevant and applicable documents to determine whether the

157 requirements for the receipt of grants as set forth in this chapter have been satisfied. All such documents
158 appropriately identified by the eligible corporation shall be considered confidential and proprietary.

159 D. A corporation receiving a grant for the production and sale of kilowatts of electricity under
160 this chapter may not use the production or sale of such kilowatts of electricity as the basis for claiming
161 any other grant or credit against taxes, as provided under the Code of Virginia or in an appropriations
162 act.

163 CHAPTER 22.6.

164 PHOTOVOLTAIC, SOLAR, AND WIND ENERGY UTILIZATION GRANT PROGRAM.

165 § 59.1-284.23. Definitions.

166 As used in this chapter, unless the context clearly requires otherwise:

167 "Corporation" means an entity subject to the tax imposed by Article 10 (§ 58.1-400 et seq.) of
168 Chapter 3 of Title 58.1.

169 "Department" means the Department of Mines, Minerals and Energy.

170 "Fund" means the Photovoltaic, Solar, and Wind Energy Utilization Grant Fund.

171 "Individual" means the same as that term is defined in § 58.1-302.

172 "Photovoltaic property" means solar energy property that uses a solar photovoltaic process to
173 generate electricity and that meets applicable performance and quality standards and certification
174 requirements in effect at the time of acquisition of the property, as specified by the Department.

175 "Solar energy property" means equipment that uses solar energy to (i) generate electricity, (ii)
176 heat or cool a structure or provide hot water for use associated with a structure, or (iii) provide solar
177 process heat. Solar energy property does not include a swimming pool, hot tub, or any other storage
178 medium that has a function other than storage.

179 "Solar water heating property" means solar energy property that, when installed in connection
180 with a structure, uses solar energy for the purpose of providing hot water for use associated with the
181 structure and meets applicable performance and quality standards and certification requirements in effect
182 at the time of acquisition of the property, as specified by the Department.

183 "Wind-powered electrical generator" means an electrical generating unit that (i) has a capacity of
 184 not more than 10 kilowatts, (ii) uses wind as its total source of fuel, (iii) is located on the individual's or
 185 corporation's premises, and (iv) is intended primarily to offset all or part of the individual's or
 186 corporation's own electricity requirements.

187 § 59.1-284.24. Grant program.

188 Subject to appropriation of sufficient moneys in the Fund, beginning with calendar year 2006
 189 through calendar year 2010, an eligible individual or corporation may receive a grant payable from the
 190 Fund for a portion of the cost of photovoltaic property, solar water heating property, or wind-powered
 191 electrical generators placed in service during the calendar year by such individual or corporation. The
 192 grant amount shall be 15% of the total installed cost of photovoltaic property, solar water heating
 193 property, or wind-powered electrical generators but shall not exceed an aggregate total of:

- 194 1. \$2,000 for each system of photovoltaic property;
- 195 2. \$1,000 for each system of solar water heating property; and
- 196 3. \$1,000 for each system of wind-powered electrical generators.

197 Persons or entities placing in service photovoltaic property, solar water heating property, or
 198 wind-powered electrical generators for or on behalf of another person or entity shall not be eligible to
 199 receive a grant for such property.

200 § 59.1-284.25. Photovoltaic, Solar, and Wind Energy Utilization Grant Fund.

201 A. There is hereby established in the state treasury a special nonreverting fund to be known as
 202 the Photovoltaic, Solar, and Wind Energy Utilization Grant Fund. The Fund shall consist of such
 203 moneys as may be appropriated by the General Assembly from time to time. Any moneys deposited to
 204 or remaining in the Fund during or at the end of each fiscal year or biennium, including interest thereon,
 205 shall not revert to the general fund but shall remain in the Fund and be available for allocation under this
 206 chapter in ensuing fiscal years. Interest on all moneys in the Fund shall remain in the Fund and be
 207 credited to it. The Fund shall be used solely for the payment of the grants provided under this chapter.
 208 The Department shall administer the Fund.

209 B. The Department shall allocate moneys from the Fund in the following order of priority: (i)
210 first to unpaid grant amounts carried forward from prior years because eligible individuals or
211 corporations did not receive the full amount of any grant to which they were eligible in a prior year
212 pursuant to this chapter and (ii) then to other approved applicants. If the moneys in the Fund are less
213 than the amount of grants to which approved applicants in any class of priority are eligible, the moneys
214 in the Fund shall be apportioned pro rata among eligible applicants in such class, based upon the amount
215 of the grant to which an approved applicant is eligible and the amount of money in the Fund available
216 for allocation to such class. The Department may not allocate an amount in excess of the moneys
217 available in the Fund for the payment of grants.

218 C. Beginning in calendar year 2007, by June 30 of each year, the Department shall (i) determine
219 the amount of the grants to be allocated to eligible individuals and corporations and (ii) certify to the
220 Comptroller and each eligible grant applicant the amount of the grant allocated to such applicant.
221 Payment of such grants shall be made by the State Treasurer on warrant of the Comptroller within 60
222 days of such certification.

223 D. If a grant recipient is allocated less than the full amount of a grant to which it is eligible in any
224 year pursuant to this chapter, such individual or corporation shall not be eligible for the deficiency in
225 that year, but the unpaid portion of the grant to which it was eligible shall be carried forward by the
226 Department to the following year, during which it shall be in the first class of priority as provided in
227 clause (i) of subsection B.

228 E. In no case shall the Department certify grants from the Fund for photovoltaic property, solar
229 water heating property, or wind-powered electrical generators placed in service (i) prior to January 1,
230 2006, or (ii) after December 31, 2010.

231 F. Actions of the Department relating to the allocation and awarding of grants shall be exempt
232 from the provisions of the Administrative Process Act pursuant to subdivision B 4 of § 2.2-4002.

233 § 59.1-284.26. Requirements for grants generally.

234 A. The Department shall establish an application process by which eligible individuals and
235 corporations shall apply for a grant under this chapter. The application shall be filed with the director of

236 the Department no later than March 31 each year following the calendar year in which such property
237 was placed in service. Failure to meet the filing deadline shall render the applicant ineligible to receive a
238 grant for photovoltaic property, solar water heating property, or wind-powered electrical generators
239 placed in service in the prior calendar year. For filings by mail, the postmark cancellation shall govern
240 the date of the filing determination.

241 B. The application shall provide evidence, satisfactory to the Department, of the total installed
242 cost of each system of photovoltaic property, solar water heating property, or wind-powered electrical
243 generators placed in service by such individual or corporation in the prior calendar year.

244 C. As a condition of receipt of a grant, an eligible individual or corporation shall make available
245 to the Department for inspection, upon request, all relevant and applicable documents to determine
246 whether the requirements for the receipt of grants as set forth in this chapter have been satisfied.

247 D. An individual or corporation receiving a grant pursuant to this chapter for a system of
248 photovoltaic property, solar water heating property, or wind-powered electrical generators may not use
249 such system as the basis for claiming any other grant or credit against taxes, as provided under the Code
250 of Virginia or in an appropriation act.

251 **2. That the provisions of this act relating to refunds of motor vehicle sales and use taxes shall not**
252 **apply to any taxable transaction occurring prior to January 1, 2007.**

253 **3. That the Tax Commissioner and the Commissioner of the Department of Motor Vehicles shall**
254 **promulgate regulations, in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), for**
255 **purposes of carrying out the provisions of this act.**

256 **4. That the Tax Commissioner, the Commissioner of the Department of Motor Vehicles, and the**
257 **Director of the Department of Mines, Minerals and Energy, in consultation with manufacturers,**
258 **retailers, local government officials and other interested groups, shall develop voluntary labeling**
259 **and public information materials to identify products eligible for the sales tax exemptions**
260 **provided under this act.**

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