

**SENATE BILL NO. \_\_\_\_\_ HOUSE BILL NO. \_\_\_\_\_**

1 A BILL to amend and reenact § 58.1-433.1 of the Code of Virginia, relating to tax credits for producing  
2 energy from renewable energy sources.

3 **Be it enacted by the General Assembly of Virginia:**

4 **1. That § 58.1-433.1 of the Code of Virginia is amended and reenacted as follows:**

5 § 58.1-433.1. Energy production tax credit.

6 A. For taxable years beginning on and after January 1, 2001, every electricity generator in the  
7 Commonwealth shall be allowed a three-dollar-per-ton credit against the tax imposed by § 58.1-400 or §  
8 58.1-400.2 for each ton of coal purchased and consumed by such electricity generator, provided such  
9 coal was mined in Virginia as certified by such seller. Notwithstanding any other provision of law, no  
10 electricity generator shall be allowed more than a three-dollar-per-ton coal tax credit and shall be subject  
11 to all limitations set forth in § 58.1-400.2. In no event shall the credit allowed hereunder exceed the total  
12 amount of tax liability of such taxpayer. Any tax credit not usable for the taxable year may be carried  
13 over to the extent usable for the next 10 succeeding taxable years or until the full credit is utilized,  
14 whichever is sooner. For the purposes of the credit provided by this section, "electricity generator"  
15 means any person who produces electricity for self-consumption or for sale. However, a cogenerator, as  
16 defined in § 58.1-2600, shall not be allowed to claim the credit provided by this section and the credit  
17 provided by § 58.1-433 on the same ton of coal.

18 B. For each such ton of coal described in subsection A that is purchased on or after January 1,  
19 2006, from any person with an economic interest in coal as defined under § 58.1-439.2, the \$3-per-ton  
20 credit allowed under subsection A may be allocated between such electricity generator and such person  
21 with an economic interest in coal. The allocation of the \$3-per-ton credit may be provided in the contract  
22 between such parties for the sale of such coal. Such allocation may be amended by the execution of a  
23 written instrument by the parties prior to December 31 of the year of purchase of such coal. Such  
24 contracts and written instruments shall be subject to audit by the Department of Taxation to ensure the  
25 proper application of credits.

26 In no case shall the credit allocated for each such ton of coal among such electricity generators  
27 and such persons with an economic interest in coal exceed \$3 per ton.

28 All credits earned on or after January 1, 2006, which are allocated to persons with an economic  
29 interest in coal as provided under this subsection may be used as tax credits by such persons against the  
30 tax imposed by § 58.1-400 and any other tax imposed by the Commonwealth. If the credits earned on or  
31 after January 1, 2006, and prior to July 1, 2011, exceed the state tax liability for the applicable taxable  
32 year of such person with an economic interest in coal, the excess shall be redeemable by the Tax  
33 Commissioner as set forth in subsection D of § 58.1-439.2.

34 D. For taxable years beginning on or after January 1, 2011, every energy producer in the  
35 Commonwealth shall be allowed a one-dollar-per-megawatt-hour credit against the tax imposed by §  
36 58.1-400 or 58.1-400.2 for each megawatt-hour of electricity or megawatt-hour equivalent in thermal  
37 energy (generally accepted as 3414425.94972 BTU(th)) the energy producer sold during the taxable year  
38 that it generated from sources of renewable energy, as defined in § 56-576, harvested or captured in  
39 Virginia as certified by such energy producer. Notwithstanding any other provision of law, no energy  
40 producer shall be allowed more than a one-dollar-per-megawatt-hour tax credit. The energy producer  
41 shall be subject to all limitations set forth in § 58.1-400.2. In no case shall the amount of credit taken by  
42 an energy producer for a taxable year exceed the total amount of tax imposed on the producer by this  
43 chapter for the taxable year. Any tax credit not usable for the taxable year in which the related sale was  
44 made may be carried over to the extent usable for the next 10 succeeding taxable years or until the full  
45 credit is utilized, whichever is sooner. For the purposes of the credit provided by this subsection,  
46 "energy producer" means any person who produces electricity or thermal energy for self-consumption or  
47 for sale.

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