

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

1 A BILL to amend and reenact §§ 23-135.7:6 and 45.1-390 and to amend the Code of Virginia by adding  
 2 sections numbered 58.1-608.1:1 and 58.1-2423.2 and by adding a Title numbered 67, consisting  
 3 of chapters numbered 1 through 12, containing sections numbered 67-100 through 67-1203,  
 4 relating to energy policy; preapproving sites for certain energy facilities; off-shore energy  
 5 resource development; grants and tax refunds for purchasing, producing or using clean and  
 6 efficient energy; and the establishment of a methane hydrates research center, all of which  
 7 comprise components of the Virginia Energy Plan.

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

9 **1. That §§ 23-135.7:6 and 45.1-390 of the Code of Virginia are amended and reenacted and that**  
 10 **the Code of Virginia is amended by adding sections numbered 58.1-608.1:1 and 58.1-2423.2 and**  
 11 **by adding a Title numbered 67, consisting of chapters numbered 1 through 12, containing sections**  
 12 **numbered 67-100 through 67-1203, as follows:**

13 § 23-135.7:6. Powers and duties of Center.

14 The Center, under the direction of the executive director, shall have the following powers and  
15 duties:

16 1. To develop a degree program in energy production and conservation research at the master's  
17 level in conjunction with the State Council on Higher Education;

18 2. To develop and provide programs of continuing education and in-service training for persons  
19 who work in the field of coal or other energy research, development or production;

20 3. To operate in conjunction with other departments of Virginia Polytechnic Institute and State  
21 University, including but not limited to the Department of Mining Engineering;

22 4. To conduct research in the fields of coal, coal utilization, migrating natural gases such as  
23 methane and propane, and other energy related work;

24 5. To collect and maintain data on energy production, development and utilization;

25 6. To foster the utilization of research information, discoveries and data;

26 7. To coordinate the functions of the Center with the energy research facilities to prevent  
27 duplication of effort;

28 8. To apply for and accept grants from the United States government and the state government  
29 and agencies and instrumentalities thereof and from any other source in carrying out the purposes of this  
30 article. To these ends, the Center shall have the power to comply with conditions and execute such  
31 agreements as may be necessary;

32 9. To accept gifts, bequests, and any other thing of value to be used for carrying out the purposes  
33 of this article;

34 10. To receive, administer and expend all funds and other assistance made available to the Center  
35 for the purposes of carrying out this article; and

36 11. To consult with the Division of Energy of the Department of Mines, Minerals and Energy in  
37 the preparation of the Virginia Energy Plan pursuant to § 67-201; and

38 12. To do all things necessary or convenient for the proper administration of this article.

39 § 45.1-390. Division of Energy established; findings and policy; powers and duties.

40 The General Assembly finds that because energy-related issues continually confront the  
41 Commonwealth, and many separate agencies are involved in providing energy programs and services,  
42 there exists a need for a state organization responsible for coordinating Virginia's energy programs and  
43 ensuring Virginia's commitment to the development of renewable and indigenous energy sources, as  
44 well as the efficient use of traditional energy resources. In accordance with this need, the Division of  
45 Energy is created in the Department of Mines, Minerals and Energy. The Director shall have the  
46 immediate authority to coordinate development and implementation of energy policy in Virginia.

47 The Division shall coordinate the energy-related activities of the various state agencies and  
48 advise the Governor on energy issues that arise at the local, state and national levels. All state agencies  
49 and institutions shall cooperate fully with the Division to assist in the proper execution of the duties  
50 assigned by this section.

51 In addition, the Division is authorized to make and enter into all contracts and agreements  
52 necessary or incidental to the performance of its duties or the execution of its powers, including the  
53 implementation of energy information and conservation plans and programs.

54 The Division shall:

55 1. Consult with any or all state agencies and institutions concerning energy-related activities or  
56 policies as needed for the proper execution of the duties assigned to the Division by this section;

57 2. Maintain liaison with appropriate agencies of the federal government on the activities of the  
58 federal government related to energy production, consumption, transportation and energy resource  
59 management in general;

60 3. Provide services to encourage efforts by and among Virginia businesses, industries, utilities,  
61 academic institutions, state and local governments and private institutions to develop energy  
62 conservation programs and energy resources; and

63 4. Consult with the Division of Energy of the Department of Mines, Minerals and Energy in the  
64 preparation of the Virginia Energy Plan pursuant to § 67-201; and

65 5. Observe the energy-related activities of state agencies and advise these agencies in order to  
66 encourage conformity with established energy policy.

67 § 58.1-608.1:1. Refund authorized for certain energy-efficient property.

68 A. Any individual may apply to the Department of Taxation for a refund of a portion of the taxes  
69 imposed by this chapter or pursuant to the authority granted in § 58.1-605 or § 58.1-606 that are paid by  
70 such individual on or after January 1, 2003, on the following tangible personal property:

71 1. Clothes washers, room air conditioners, dishwashers, and standard size refrigerators that meet  
72 or exceed the applicable energy star efficiency requirements developed by the United States  
73 Environmental Protection agency and the United States Department of Energy;

74 2. A fuel cell that (i) generates electricity and heat using an electrochemical process, (ii) has an  
75 electricity-only generation efficiency greater than thirty-five percent, and (iii) has a generating capacity  
76 of at least two kilowatts;

77 3. A natural gas heat pump that has a coefficient of performance of at least 1.25 for heating and  
78 at least 0.70 for cooling;

79 4. An electric heat pump hot water heater that yields an energy factor of at least 1.7;

80 5. An electric heat pump that has a heating system performance factor of at least 8.0 and a  
81 cooling seasonal energy efficiency ratio of at least 13.0;

82 6. A central air conditioner that has a cooling seasonal energy efficiency ratio of at least 13.5;

83 and

84 7. An advanced natural gas water heater that has an energy factor of at least 0.65.

85 B. The Department of Taxation may require that such individual submit sales tax receipts along  
86 with the refund application to qualify for the refund authorized pursuant to this section. The refund  
87 application shall be filed with the Department of Taxation within one year from the date on which such  
88 taxes were paid.

89 C. The refund provided under this section for each item of tangible personal property included in  
90 subsection A shall equal the amount of tax paid by such individual for such item, up to a maximum of  
91 \$500 in tax paid for the item, as such tax is imposed under the provisions of this chapter, including any  
92 tax imposed pursuant to the authority granted in § 58.1-605 or § 58.1-606. In addition, for each of the  
93 items listed in subdivisions A 1 through A 7, no individual shall receive more than \$5,000 in refunds for  
94 such items in any calendar year. The refund provided under this section shall be applicable to purchases  
95 of such items made on or after January 1, 2007.

96 D. The amount of such refund attributable to the tax authorized under § 58.1-605 or § 58.1-606  
97 shall be deducted from the respective locality's share of the net revenue distributable pursuant to  
98 subsection C of § 58.1-638. Such deduction from a locality's share of the net revenue distributable shall  
99 occur in the month following the month in which such refund has been issued.

100 E. The provisions of this section shall not apply to any individual to the extent that such  
101 individual already is exempt from the taxes imposed on tangible personal property by this chapter or  
102 pursuant to the authority granted in § 58.1-605 or § 58.1-606.

103 § 58.1-2423.2. Refund for motor vehicles using clean special fuels.

104 A. If a motor vehicle is (i) manufactured to use clean special fuels, as defined in § 46.2-749.3,  
105 and uses such fuels as a source of propulsion; (ii) converted or retrofitted to use such clean special fuels  
106 within 180 days after the date of titling in the Commonwealth, and uses such fuels as a source of  
107 propulsion; or (iii) a hybrid gasoline/electric powered motor vehicle that is propelled primarily by  
108 electric charge, the vehicle owner, if an individual, may apply, on or after January 1, 2007, for a refund  
109 of a portion of the motor vehicle sales and use tax paid by such individual pursuant to subdivisions 1, 2,  
110 3, or 5 of subsection A of § 58.1-2402. In no event shall a refund be paid for such tax on a mobile office,  
111 or on a manufactured home as defined in § 36-85.3.

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

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

123 TITLE 67.

124 VIRGINIA ENERGY PLAN.

125 CHAPTER 1.

126 ENERGY POLICY OF THE COMMONWEALTH.

127 § 67-100. Legislative findings.

128 The General Assembly hereby finds that:

129 1. Energy is essential to the health, safety, and welfare of the people of this Commonwealth and  
130 to the Commonwealth's economy;

131 2. The state government should facilitate the availability of reliable and adequate supplies of  
132 energy at reasonable costs; and

133 3. The Commonwealth would benefit from articulating clear objectives pertaining to energy  
134 issues, adopting an energy policy that advances these objectives, and establishing a procedure for  
135 planning to measure the implementation of these policies.

136 § 67-101. Energy objectives.

137 The Commonwealth recognizes each of the following objectives pertaining to energy issues  
138 advance the health, welfare, and safety of the residents of the Commonwealth:

139 1. Ensuring the availability of reliable energy at costs that are reasonable and in quantities that  
140 will accommodate the demands of the Commonwealth's growing economy;

141 2. Managing the rate of consumption of existing energy resources in relation to economic  
142 growth;

143 3. Being prepared to effectively meet an energy crisis;

144 4. Conserving energy resources in a prudent manner;

145 5. Increasing the energy self-sufficiency of the Commonwealth in order to continually reduce the  
146 extent to which the Commonwealth relies on energy-producing resources that are imported from other  
147 nations and other states;

148 6. Increasing Virginia's reliance on sources of energy that, compared to traditional energy  
149 resources, are comparatively less polluting of the Commonwealth's air and waters;

150 7. Reducing, avoiding, or sequestering the emissions of greenhouse gases produced in  
151 connection with the generation of energy;

152 8. Removing impediments to the use of abundant low-cost energy resources located within the  
153 Commonwealth and ensuring the economic viability of the producers of such resources; and

154 9. Recognizing the need to foster the development of alternative sources of energy as vital  
155 components of a diversified portfolio of energy resources.

156 § 67-102. Commonwealth Energy Policy.

157 A. To achieve the objectives enumerated in § 67-101, it shall be the policy of the Commonwealth

158 to:

159 1. Support research and development of, and promote the use of, renewable energy sources;

160 2. Ensure that the combination of energy supplies and energy-saving systems are sufficient to  
161 support the demands of growth;

162 3. Promote research and development of clean coal technology, including integrated gasification  
163 combined cycle systems;

164 4. Promote cost-effective conservation of power and fuel supplies;

165 5. Ensure the availability of affordable natural gas throughout the Commonwealth by expanding  
166 Virginia's natural gas distribution and transmission pipeline infrastructure, developing coalbed methane  
167 and offshore gas resources, including methane hydrate resources, and siting one or more liquefied  
168 natural gas terminals;

169 6. Promote the generation of electricity through nuclear power and other technologies that do not  
170 contribute to greenhouse gases and global warming;

171 7. Facilitate the development of new, and the expansion of existing, petroleum refining facilities  
172 within the Commonwealth;

173 8. Promote the use of motor vehicles that utilize alternate fuels and are highly energy efficient;

174 and

175 9. Support efforts to reduce the demand for imported petroleum by developing alternative  
176 technologies, including but not limited to the production of synthetic fuels, biodiesel and hydrogen-  
177 fueled vehicles, and the infrastructure required for the widespread implementation of such technologies.

178 B. The elements of the policy set forth in subsection A shall be referred to collectively in this  
179 title as the Commonwealth Energy Policy.

180 C. All agencies and political subdivisions of the Commonwealth, in taking discretionary action  
181 with regard to energy issues, shall recognize the elements of the Commonwealth Energy Policy and  
182 where appropriate, shall act in a manner consistent therewith.

183 D. The Commonwealth Energy Policy is intended to provide guidance to the agencies and  
184 political subdivisions of the Commonwealth in taking discretionary action with regard to energy issues,  
185 and shall not be construed to amend, repeal, or override any contrary provision of applicable law. The  
186 failure or refusal of any person to recognize the elements of the Commonwealth Energy Policy, to act in  
187 a manner consistent with the Commonwealth Energy Policy, or to take any other action whatsoever,  
188 shall not create any right, action, or cause of action or provide standing for any person to challenge the  
189 action of the Commonwealth or any of its agencies or political subdivisions.

190 CHAPTER 2.

191 VIRGINIA ENERGY PLAN.

192 § 67-200. Definitions.

193 As used in this title:

194 "Division" means the Division of Energy of the Department of Mines, Minerals and Energy.

195 "Plan" means the Virginia Energy Plan prepared pursuant to this chapter, including any updates  
196 thereto.

197 § 67-201. Development of the Virginia Energy Plan.

198 A. The Division, in consultation with the State Corporation Commission and the Center for Coal  
199 and Energy Research, shall prepare a comprehensive Virginia Energy Plan covering a 20-year period.  
200 The Plan shall propose actions, consistent with the objectives enumerated in § 67-101, that will  
201 implement the Commonwealth Energy Policy set forth in § 67-102.

202 B. In addition, the Plan shall include:

203 1. Projections of energy consumption in the Commonwealth, including but not limited to the use  
204 of fuel sources and costs of electricity, natural gas, gasoline, coal, renewable resources, and other forms  
205 of energy resources used in the Commonwealth;

206 2. An analysis of the adequacy of electricity generation, transmission, and distribution resources  
207 in the Commonwealth for the natural gas and electric industries, and how regional generation,  
208 transmission, and distribution resources affect the Commonwealth;

209 3. An analysis of siting requirements for electric generation resources and natural gas and  
210 electric transmission and distribution resources;

211 4. An analysis of fuel diversity for electricity generation;

212 5. An analysis of the efficient use of energy resources and conservation initiatives;

213 6. An analysis of how these Virginia-specific issues relate to regional initiatives to assure the  
214 adequacy of generation, transmission, and distribution assets; and

215 7. Recommendations, based on the analyses completed under subdivisions 1 through 6, for  
216 legislative, regulatory, and other public and private actions to implement the elements of the  
217 Commonwealth Energy Policy.

218 § 67-202. Schedule.

219 A. The Division shall complete the Plan by January 1, 2007.

220 B. Prior to completion of the Plan, the Division shall present drafts to, and consult with, the Coal  
221 and Energy Commission and the Commission on Electric Utility Restructuring.

222 C. The Plan shall be updated by the Division no less frequently than every five years.

223 § 67-203. Submission of Plan.

224 Upon completion, the Division shall submit the Plan, including periodic updates thereto, to the  
225 Governor, the Commissioners of the State Corporation Commission, and the General Assembly. The  
226 Plan shall be submitted as provided in the procedures of the Division of Legislative Automated Systems  
227 for the processing of legislative documents. The Plan's executive summary shall be posted on the  
228 General Assembly's website.

229 CHAPTER 3.

230 OFF-SHORE ENERGY RESOURCES.

231 § 67-300. Off-shore natural gas resources.

232 A. In addition to its responsibilities enumerated in § 2.2-302, the Virginia Liaison Office shall  
233 work with the members of the State Congressional Delegation and federal executive agencies to  
234 develop, support, and enact federal legislation, and to take appropriate federal executive action, that (i)  
235 provide an exemption to the moratorium that prevents until 2012 any surveying, exploration,

236 development, or production of potential natural gas deposits in areas off the Commonwealth's Atlantic  
237 shore that are under federal jurisdiction, (ii) incorporate revenue sharing between the federal and state  
238 governments for leasing activity that potentially will provide the Commonwealth with significant  
239 additional sources of revenue, and (iii) otherwise will enhance states' authority over coastal and offshore  
240 resources. The moratorium exemption to be sought by the Virginia Liaison Office shall (i) permit  
241 surveying, mapping, exploration, development, and production of off-shore deposits of natural gas; and  
242 (ii) not authorize drilling or other exploratory activity within the Chesapeake Bay.

243 B. The Office shall submit an annual report to the Governor and the chairs of Senate Committee  
244 on Commerce and Labor and the House Committee on Commerce and Labor, no later than January 1 of  
245 each year, that summarizes the status of the moratorium on off-shore natural gas exploration,  
246 development, and production activities; efforts by Congress and executive agencies to provide an  
247 exemption to the moratorium as described in subsection A; and activities by the Office in furtherance of  
248 this section.

249 § 67-301. State Off-Shore Energy Revenue Fund.

250 A. There is hereby created in the state treasury a special nonreverting fund to be known as the  
251 State Off-Shore Energy Revenue Fund, hereafter referred to as the "Fund." The Fund shall be  
252 established on the books of the Comptroller and interest earned on moneys in the Fund shall remain in  
253 the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end  
254 of each fiscal year shall not revert to the general fund but shall remain in the Fund.

255 B. The Comptroller shall transfer to the Fund at the close of each fiscal year all license fees,  
256 lease payments, royalties, and similar moneys paid by the federal government to the Commonwealth  
257 attributable to the development of energy resources in the Outer Continental Shelf.

258 C. For purposes of any appropriation act enacted by the General Assembly and for the purposes  
259 of the Comptroller's preliminary and final annual reports required by § 2.2-813, all deposits to and  
260 appropriations from the Fund shall be accounted for and considered to be a part of the general fund of  
261 the state treasury.

262 D. In addition to such other funds as may be appropriated:

263 1. Forty percent of the moneys transferred to the State Off-Shore Energy Revenue Fund shall be  
264 appropriated to the Virginia Water Quality Improvement Fund established pursuant to § 10.1-2128,  
265 exclusively for the purpose of funding point and nonpoint source pollution prevention, reduction, and  
266 control programs and efforts within the Chesapeake Bay watershed;

267 2. Forty percent of the moneys transferred to the State Off-Shore Energy Revenue Fund shall be  
268 appropriated to the Transportation Trust Fund established pursuant to § 33.1-23.03:1;

269 3. Five percent of the moneys transferred to the State Off-Shore Energy Revenue Fund shall be  
270 appropriated to the Renewable Electricity Production Grant Fund established pursuant to § 67-1102;

271 4. Five percent of the moneys transferred to the State Off-Shore Energy Revenue Fund shall be  
272 appropriated to the Photovoltaic, Solar, and Wind Energy Utilization Grant Fund established pursuant to  
273 § 67-1202;

274 5. Five percent of the moneys transferred to the State Off-Shore Energy Revenue Fund shall be  
275 appropriated to the Clean Coal Technology Research Fund established pursuant to § 67-403; and

276 6. Five percent of the moneys transferred to the State Off-Shore Energy Revenue Fund shall be  
277 appropriated to the Virginia Methane Hydrates Research Center established pursuant to § 67-700, or  
278 other alternative energy projects as may be provided in the general appropriations act.

279 CHAPTER 4.

280 CLEAN COAL PROJECTS.

281 § 67-400. Definitions.

282 As used in this chapter:

283 "Clean coal project" means the construction of electric generating, steam production, or  
284 industrial production facilities, the modification of existing facilities, or other projects that install  
285 technology, including Integrated Gasification Combined Cycle (IGCC) technology, that is designed to  
286 utilize coal while reducing emissions of air contaminants.

287 § 67-401. Permitting process for clean coal projects.

288 To the extent authorized by federal law, the State Air Pollution Control Board shall implement  
289 permit processes that facilitate the construction of clean coal projects in the Commonwealth.

290 § 67-402. Center for excellence for clean coal technologies.

291 A. The State Council of Higher Education for Virginia shall encourage qualified state institutions  
292 of higher education to apply to the U.S. Secretary of Energy, pursuant to § 404 of the federal Energy  
293 Policy Act of 2005, for competitive, merit-based grants to be used to assist in financing the  
294 establishment in the Commonwealth of a center of excellence for advancing new clean coal  
295 technologies.

296 B. The State Council of Higher Education for Virginia shall be authorized to provide such  
297 assistance it deems reasonable and appropriate to qualified state institutions of higher education that  
298 elect to apply for grants pursuant to subsection A.

299 § 67-403. Clean Coal Technology Research Fund.

300 A. There is hereby established in the state treasury a special nonreverting fund to be known as  
301 the Clean Coal Technology Research Fund. The Fund shall consist of such moneys as may be  
302 appropriated by the General Assembly from time to time, including such moneys as are provided  
303 pursuant to subsection D of § 67-301. Any moneys deposited to or remaining in the Fund during or at  
304 the end of each fiscal year or biennium, including interest thereon, shall not revert to the general fund  
305 but shall remain in the Fund and be available for allocation under this chapter in ensuing fiscal years.  
306 Interest on all moneys in the Fund shall remain in the Fund and be credited to it. The Fund shall be used  
307 solely for the payment of grants to state institutions of higher education to assist in the development and  
308 implementation of clean coal technologies. The State Council of Higher Education for Virginia shall  
309 administer the Fund.

310 B. The State Council shall award such grants to applying eligible institutions based on a  
311 competitive basis.

312 C. The State Council shall not allocate an amount in excess of the moneys available in the Fund  
313 for the payment of grants.

314 D. Beginning in calendar year 2007, by June 30 of each year, the State Council shall (i)  
315 determine the amount of the grants to be allocated to eligible institutions, and (ii) certify to the  
316 Comptroller and each eligible grant applicant the amount of the grant allocated to successful applicants.

317 Payment of such grants shall be made by the State Treasurer on warrant of the Comptroller within sixty  
318 days of such certification.

319 CHAPTER 5.

320 ENERGY EFFICIENT PUBLIC BUILDINGS.

321 § 67-500. Definitions.

322 As used in this chapter, "LEED certification" means certification as complying with the  
323 Leadership in Energy and Environmental Design Green Building Rating System standards applicable to  
324 the type of building.

325 § 67-501. Buildings eligible for state funding.

326 Notwithstanding any provision of law to the contrary, every building erected on or after July 1,  
327 2006, that is designed or built in full or in part with moneys appropriated by the Commonwealth shall be  
328 designed, constructed, and maintained in compliance with Leadership in Energy and Environmental  
329 Design Green Building Rating System standards to the greatest extent practicable. The agency of the  
330 Commonwealth or political subdivision responsible for each such building shall seek LEED certification  
331 at the earliest stage of development of each such building and site and throughout the life of each such  
332 building.

333 CHAPTER 6.

334 BIODIESEL FUEL.

335 § 67-600. Definitions.

336 As used in this chapter, "biodiesel fuel" means a renewable, biodegradable, mono-alkyl ester  
337 combustible liquid fluid fuel from agricultural plant oils or animal fats that meets American Society for  
338 Testing and Materials Specification D6751-02 for Biodiesel Fuel (B100) Blend Stock for Distillate  
339 Fuels.

340 § 67-601. Requirement for minimum content of biodiesel fuel in vehicles providing public  
341 transportation.

342 A. Every city, county, town, and political subdivision of the Commonwealth, including but not  
343 limited to any transportation authority or transportation district, that operates a system of mass transit or

344 public transportation, as defined in § 33.1-12, that utilizes diesel-fuel-powered buses or other vehicles,  
345 as a condition for receiving funds from the Commonwealth Mass Transit Fund, shall use in the internal  
346 combustion engines in all such buses and other vehicles only fuel that contains 1% biodiesel fuel by  
347 volume.

348 B. The provisions of subsection A shall become effective on and after the first to occur of (i) July  
349 1, 2007, or (ii) 30 days after the date the Secretary of Commerce and Trade publishes notice in the  
350 Virginia Register stating that annual capacity in the Commonwealth for the production of biodiesel fuel  
351 exceeds one million gallons.

#### 352 CHAPTER 7.

#### 353 VIRGINIA METHANE HYDRATES RESEARCH CENTER.

##### 354 § 67-700. Virginia Methane Hydrates Research Center established.

355 The Virginia Methane Hydrates Research Center, hereinafter referred to as the Research Center,  
356 is hereby created to be located at Old Dominion University.

##### 357 § 67-701. Functions, powers, and duties of the Research Center.

358 The Research Center shall serve as an interdisciplinary study, research, and information resource  
359 for the Commonwealth on methane hydrates, which are methane-bearing, ice-like materials that occur in  
360 marine sediments and in permafrost regions. The Research Center shall (i) consult with the General  
361 Assembly, federal, state, and local agencies, nonprofit organizations, private industry and other potential  
362 users of research; (ii) establish and administer agreements with other universities of the Commonwealth  
363 to carry out research projects relating to the feasibility of recovering fuel gases from hydrates; (iii)  
364 disseminate new information and research results; (iv) apply for grants made available pursuant to the  
365 federal Methane Hydrate Research and Development Act of 1999, P.L. No: 106-193; and (v) facilitate  
366 the application and transfer of new technologies.

##### 367 § 67-702. Control and supervision.

368 The Research Center shall be a unit of Old Dominion University under the supervision and  
369 control of the University's board of visitors.

##### 370 § 67-703. Appointment of a director.

371 The board of visitors of Old Dominion University shall appoint a director to serve as the  
372 principal administrative officer of the Research Center. The director shall be under the supervision of the  
373 president of Old Dominion University or his designee.

374 § 67-704. Powers and duties of the director.

375 The director shall exercise all powers imposed upon him by law, carry out the specific duties  
376 imposed on him by the president of Old Dominion University, and develop appropriate policies and  
377 procedures for (i) identifying priority research projects; (ii) cooperating with the General Assembly,  
378 federal, state, and local governmental agencies, nonprofit organizations and private industry in  
379 formulating its research projects; (iii) selecting research projects to be funded; and (iv) disseminating  
380 information and transferring technology related to methane hydrates within the Commonwealth. The  
381 director shall employ such personnel and secure such services as may be required to carry out the  
382 purposes of this article, expend appropriated funds and accept moneys from federal or private sources  
383 for cost-sharing on projects.

#### 384 CHAPTER 8.

#### 385 ENFORCEABILITY OF COVENANTS RESTRICTING SOLAR ENERGY COLLECTION 386 DEVICES.

387 § 67-800. Definitions.

388 As used in this chapter:

389 "Community association" means a corporation or association that owns or has under its care,  
390 custody, or control real estate subject to a recorded declaration of covenants which obligates a person,  
391 by virtue of ownership of specific real estate, to be a member of the corporation or association.

392 "Covenant restricting solar power" means any specification in any declaration of covenants or  
393 restrictions, deed, or other instrument pertaining to the management, regulation, and control of real  
394 property that restricts, prohibits, or limits the siting, installation, construction, operation, maintenance,  
395 replacement, or use of any solar energy collection device.

396 "Solar energy collection device" means any device that facilitates the collection and beneficial  
397 use of solar energy, including passive heating panels and solar photovoltaic apparatus.

398 § 67-801. Covenants restricting solar power void.

399 A. Any covenant restricting solar power, whether heretofore or hereafter included in an  
400 instrument affecting the title to real or leasehold property, is declared to be void and contrary to the  
401 public policy of this Commonwealth.

402 B. A community association shall not enforce, or in any way penalize an owner or lessee of real  
403 property for contravening, the provisions of any covenant restricting solar power.

404 CHAPTER 9.

405 DESIGNATION OF OPTIMAL LOW-EMISSION ENERGY FACILITY SITES.

406 Article 1.

407 General Provisions.

408 § 67-900. Findings; public policy.

409 A. The General Assembly finds that the present and predicted growth in the demand for electric  
410 power by the citizens of the Commonwealth, during a period of growing concerns about emissions from  
411 conventional methods of generating electric power, requires the establishment of a procedure for the  
412 designation of optimal sites for the location of low-emission energy facilities. The General Assembly  
413 further finds that the designation of specific sites as the optimal sites in the Commonwealth for the  
414 location of a specified type of low-emission energy facility, prior to the filing of any application for such  
415 use of the site, will significantly benefit the health and welfare of Virginians, the growth of industry, and  
416 the quality of air in the Commonwealth by ensuring that such facilities are constructed and operated  
417 without unreasonable delay or obstruction.

418 § 67-901. Definitions.

419 As used in this chapter:

420 "Commission" means the State Corporation Commission.

421 "Land use plan" means a comprehensive plan adopted pursuant to Article 3 (§ 15.2-2223 et seq.)  
422 of Chapter 22 of Title 15.2.

423 "LNG facility" means a marine terminal with facilities for receiving, gasifying, transmitting, and  
424 storing imported liquefied natural gas.

425 "Low-emission energy facility" means (i) a wind farm, (ii) an LNG facility, or (iii) a nuclear  
426 power plant.

427 "Wind farm" means a commercial facility where electricity is generated by multiple wind-  
428 powered turbines.

429 "Zoning ordinance" means an ordinance adopted by a locality to carry out the purposes of Article  
430 7 (§ 15.2-2280 et seq.) of Chapter 22 of Title 15.2.

431 § 67-902. Powers of Commission.

432 In addition to such other powers as it may have, the Commission shall have the following  
433 powers:

434 1. To adopt, amend, or rescind rules and regulations to carry out the provisions of this chapter;

435 2. To develop and apply procedures for numerically scoring parcels of real property in order to  
436 provide a transparent means of comparing the relative suitability of sites for use as low-emission energy  
437 facilities;

438 3. To prescribe the form, content, and necessary supporting documentation for designating sites  
439 as optimal sites for low-emission energy facilities;

440 4. To contract, when appropriate, for independent analyses of the suitability of sites for low-  
441 emission energy facilities; and

442 5. To integrate its site evaluation activity with activities of federal agencies having jurisdiction in  
443 such matters to avoid unnecessary duplication.

444 Article 2.

445 Siting Wind Energy Facilities.

446 § 67-903. Commission to conduct survey; identification of areas where wind farms are  
447 economically feasible.

448 A. The Commission shall initiate a proceeding for the conduct of a survey of sites in the  
449 Commonwealth, including off-shore wind resources, that have been designated as Class 3 or greater in  
450 the U.S. Department of Energy's wind energy resource atlas of the United States. The survey shall  
451 identify any areas within the Commonwealth, without regard to the ownership of such areas or existing

452 restrictions upon their use, where wind resources are deemed sufficient that the development and  
453 operation of a wind farm is probably economically feasible.

454 B. The Commission shall provide written notice of the results of the survey to all persons that  
455 have an ownership interest in real property within such areas, which notice shall be provided in the  
456 manner set forth in the Commission's rules of practice and procedure. The notice also shall advise such  
457 persons that one or more sites within such area may be designated as an optimal site for a wind energy  
458 facility, and shall include a statement of the effects of such designation pursuant to § 67-905.

459 C. The Commission's survey of wind resources shall be updated no less frequently than every  
460 five years.

461 § 67-904. Commission to identify optimal sites for wind energy facilities.

462 A. The Commission shall develop a system for scoring sites based on the extent to which they  
463 are suitable for the siting of a wind farm. The scoring system shall address such attributes as the wind  
464 velocity, sustained velocity, turbulence, proximity to electric power transmission systems, and such  
465 other factors as the Commission finds are relevant to determining the economic viability of a wind farm.

466 B. The Commission shall conduct an investigation of the areas identified in subsection A where  
467 wind resources make the development and operation of a wind farm likely to be economically feasible.  
468 The Commission shall score these areas, utilizing the system for scoring sites developed pursuant to  
469 subsection A.

470 C. Upon completing its scoring of the sites, the Commission shall publish the scores in one or  
471 more newspapers having general circulation throughout the Commonwealth and provide notice thereof  
472 to all persons that have an ownership interest in such sites. Any such owner may bring a proceeding  
473 before the Commission to challenge the score given to its site.

474 D. Based on the scores given to such sites, as such scores may be adjusted as the result of a  
475 challenge pursuant to subsection C, the Commission shall designate as optimal sites for wind energy  
476 facilities those sites with scores that indicate that they are materially superior locations for the  
477 construction and operation of an economically viable wind farm.

478 § 67-905. Effect of designation of an optimal site for wind energy facility.

479 A. Upon designation by the Commission of a site as an optimal site for a wind energy facility,  
480 the construction, operation, repair, replacement, and development upon such site of a wind farm and  
481 associated improvements shall be exempt, without further action, from any provision of a land use plan  
482 or zoning ordinance that otherwise would be applicable to the construction, operation, repair,  
483 replacement, and development of a wind farm upon such site. To the extent that a land use plan or  
484 zoning ordinance would (i) prohibit the construction, operation, repair, replacement, or development of a  
485 wind farm upon a site designated as an optimal site for a wind energy facility or (ii) require the  
486 proponent of the wind farm to obtain a variance, special use permit, rezoning, or further approval, the  
487 provisions of the land use plan or zoning ordinance are void and unenforceable.

488 B. The preemption from provisions of a land use plan and zoning ordinance of optimal sites for  
489 wind energy facilities as provided in subsection A shall not effect the validity or enforceability of the  
490 land use plan and zoning ordinance with respect to any other use of a site so designated, or apply to any  
491 existing or proposed wind farm not located on property designated as an optimal site for a wind energy  
492 facility.

493 Article 3.

494 Siting LNG Facilities.

495 § 67-906. Commission to identify optimal sites for liquefied natural gas terminal facilities.

496 A. The Commission shall initiate a proceeding to identify one or more sites within the  
497 Commonwealth, without regard to the ownership of such areas or existing restrictions upon their use,  
498 that are best suited for the location and operation of an LNG facility.

499 B. The Commission shall develop a system for scoring sites based on the extent to which they  
500 are suitable for the siting of an LNG facility. The scoring system shall address such attributes as  
501 docking facilities, proximity to natural gas transmission pipelines, compliance with applicable criteria  
502 established by the Federal Energy Regulatory Commission for the permitting of LNG facilities, and such  
503 other factors as the Commission finds are relevant to determining the suitability of a site for an LNG  
504 facility.

505 C. The Commission shall score potential sites for their suitability for an LNG facility, utilizing  
506 the system for scoring sites developed pursuant to subsection B.

507 D. The Commission shall provide written notice of the results of the scoring to all persons that  
508 own an interest in real property that is scored as a potential site for an LNG facility. The notice shall be  
509 provided in the manner set forth in the Commission's rules of practice and procedure. The notice also  
510 shall advise such persons that the site may be designated as an optimal site for an LNG facility, and shall  
511 include a statement of the effects of such designation pursuant to § 67-907.

512 E. Any person owning an interest in a scored site may bring a proceeding before the Commission  
513 to challenge the score given to its site.

514 F. Based on the scores given to such sites, as such scores may be adjusted as the result of a  
515 challenge pursuant to subsection E, the Commission shall designate not more than three sites in the  
516 Commonwealth as optimal sites for an LNG facility. A site shall be designated as an optimal site for an  
517 LNG facility only if the score given to the site indicates that it is an excellent location for the  
518 construction and operation of an LNG facility.

519 § 67-907. Effect of designation of an optimal site for an LNG facility.

520 A. Upon designation by the Commission of a site as an optimal site for an LNG facility, the  
521 construction, operation, repair, replacement, and development upon such site of an LNG facility and  
522 associated improvements shall be exempt, without further action, from any provision of a land use plan  
523 or zoning ordinance that otherwise would be applicable to the construction, operation, repair,  
524 replacement, and development of an LNG facility upon such site. To the extent that a land use plan or  
525 zoning ordinance would (i) prohibit the construction, operation, repair, replacement, or development of  
526 an LNG facility upon a site designated as an optimal site for an LNG facility or (ii) require the  
527 proponent of the LNG facility to obtain a variance, special use permit, rezoning, or further approval, the  
528 provisions of the land use plan or zoning ordinance are void and unenforceable.

529 B. The preemption from provisions of a land use plan and zoning ordinance of optimal sites for  
530 LNG facilities as provided in subsection A shall not effect the validity or enforceability of the land use

531 plan and zoning ordinance with respect to any other use of a site so designated, or apply to any existing  
532 or proposed LNG facility not located on property designated as an optimal site for an LNG facility.

533 Article 4.

534 Siting Nuclear Energy Facilities.

535 § 67-908. Commission to identify optimal sites for nuclear energy facilities.

536 A. The Commission shall initiate a proceeding to identify one or more sites within the  
537 Commonwealth, without regard to the ownership of such areas or existing restrictions upon their use,  
538 that are best suited for the location and operation of a nuclear power plant.

539 B. The Commission shall develop a system for scoring sites based on the extent to which they  
540 are suitable for the siting of a nuclear power plant. The scoring system shall address such attributes as  
541 geological stability, proximity to water resources for cooling purposes, proximity to electric power  
542 transmission lines, and such other criteria that the Commission finds to be relevant in a determination of  
543 the suitability of a site for the construction and operation of a nuclear power plant.

544 C. The Commission shall score potential sites for their suitability for a nuclear power plant,  
545 utilizing the system for scoring sites developed pursuant to subsection B.

546 D. The Commission shall provide written notice of the results of the scoring to all persons that  
547 own an interest in real property that is scored as a potential site for a nuclear power plant. The notice  
548 shall be provided in the manner set forth in the Commission's rules of practice and procedure. The notice  
549 also shall advise such persons that the site may be designated as an optimal site for a nuclear power  
550 plant, and shall include a statement of the effects of such designation pursuant to § 67-909.

551 E. Any person owning an interest in a scored site may bring a proceeding before the Commission  
552 to challenge the score given to its site.

553 F. Based on the scores given to such sites, as such scores may be adjusted as the result of a  
554 challenge pursuant to subsection E, the Commission shall designate not more than three sites in the  
555 Commonwealth as optimal sites for a nuclear power plant. A site shall be designated as an optimal site  
556 for a nuclear power plant only if the score given to the site indicates that it is an excellent location for  
557 the construction and operation of a nuclear power plant.

558       § 67-909. Effect of designation of an optimal site for a nuclear power plant.

559       A. Upon designation by the Commission of a site as an optimal site for a nuclear power plant, the  
560 construction, operation, repair, replacement, and development upon such site of a nuclear power plant  
561 and associated improvements shall be exempt, without further action, from any provision of a land use  
562 plan or zoning ordinance that otherwise would be applicable to the construction, operation, repair,  
563 replacement, and development of a nuclear power plant upon such site. To the extent that a land use plan  
564 or zoning ordinance would (i) prohibit the construction, operation, repair, replacement, or development  
565 of a nuclear power plant upon a site designated as an optimal site for a nuclear power plant or (ii) require  
566 the proponent of the nuclear power plant to obtain a variance, special use permit, rezoning, or further  
567 approval, the provisions of the land use plan or zoning ordinance are void and unenforceable.

568       B. The preemption from provisions of a land use plan and zoning ordinance of optimal sites for  
569 nuclear power plants as provided in subsection A shall not effect the validity or enforceability of the  
570 land use plan and zoning ordinance with respect to any other use of a site so designated, or apply to any  
571 existing or proposed nuclear power plant not located on property designated as an optimal site for a  
572 nuclear power plant.

#### 573                   CHAPTER 10. MOTOR VEHICLE FUEL EFFICIENCY STANDARDS

574       § 67-1000. Definitions.

575       As used in this section:

576       "CAFE standards" means the corporate average fuel economy standards for passenger cars and  
577 light trucks manufactured for sale in the United States that have been implemented pursuant to the  
578 federal Energy Policy and Conservation Act of 1975 (P. L. 94-163), as amended.

579       "Office" means the Virginia Liaison Office created pursuant to § 2.2-300.

580       § 67-1001. Efforts to increase CAFE standards.

581       In addition to its responsibilities enumerated in § 2.2-302, the Office shall work with the  
582 members of the State Congressional Delegation and federal executive agencies to develop, support, and  
583 enact federal legislation, and to take appropriate federal executive action, that will increase the CAFE  
584 standards from the current standard of 27.5 miles per gallon for passenger automobiles and 20.7 miles

585 per gallon for light trucks to not less than 32.5 miles per gallon for passenger automobiles and 27.5  
586 miles per gallon for light trucks by model year 2015.

587 § 67-1002. Report by Virginia Liaison Office.

588 The Office shall submit an annual report to the Governor and the chairs of Senate Committee on  
589 Commerce and Labor and the House Committee on Commerce and Labor, no later than January 1 of  
590 each year, that summarizes the status of the CAFE standards; efforts by Congress and federal executive  
591 agencies to increase the CAFE standards; and activities by the Office in furtherance of § 67-1001.

592 CHAPTER 11.

593 RENEWABLE ELECTRICITY PRODUCTION GRANT PROGRAM.

594 § 67-1100. Definitions.

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

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

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

599 "Fund" means the Renewable Electricity Production Grant Fund established pursuant to § 67-  
600 1102.

601 "Qualified energy resources" means the same as that term is defined by Internal Revenue Code §  
602 45.

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

605 § 67-1101. Eligibility for grants for production of qualified energy resources.

606 Subject to appropriation of sufficient moneys in the Fund, an eligible corporation may receive a  
607 grant payable from the Fund for certain kilowatts of electricity produced after December 31, 2005. The  
608 grant amount shall be 0.85 cents for each kilowatt of electricity (i) produced by the corporation from  
609 qualified energy resources at a qualified Virginia facility and (ii) sold in a calendar year. Grant amounts  
610 shall be based on each such kilowatt of electricity sold beginning with calendar year 2006.

611 § 67-1102. Renewable Electricity Production Grant Fund.

612 A. There is hereby established in the state treasury a special nonreverting fund to be known as  
613 the Renewable Electricity Production Grant Fund. The Fund shall consist of such moneys as may be  
614 appropriated by the General Assembly from time to time, including such moneys as are provided  
615 pursuant to subsection D of § 67-301. Any moneys deposited to or remaining in the Fund during or at  
616 the end of each fiscal year or biennium, including interest thereon, shall not revert to the general fund  
617 but shall remain in the Fund and be available for allocation under this chapter in ensuing fiscal years.  
618 Interest on all moneys in the Fund shall remain in the Fund and be credited to it. The Fund shall be used  
619 solely for the payment of the grants provided under this chapter. The Department shall administer the  
620 Fund.

621 B. The Department shall allocate moneys from the Fund in the following order of priority: (i)  
622 first to unpaid grant amounts carried forward from prior years because eligible corporations did not  
623 receive the full amount of any grant to which they were eligible in a prior year pursuant to this chapter  
624 and (ii) then to other approved applicants. If the moneys in the Fund are less than the amount of grants  
625 to which approved applicants in any class of priority are eligible, the moneys in the Fund shall be  
626 apportioned pro rata among eligible applicants in such class, based upon the amount of the grant to  
627 which an approved applicant is eligible and the amount of money in the Fund available for allocation to  
628 such class.

629 C. The Department shall not allocate an amount in excess of the moneys available in the Fund  
630 for the payment of grants.

631 D. Beginning in calendar year 2007, by June 30 of each year, the Department shall (i) determine  
632 the amount of the grants to be allocated to eligible corporations, and (ii) certify to the Comptroller and  
633 each eligible corporation the amount of the grant allocated to such corporation. Payment of such grants  
634 shall be made by the State Treasurer on warrant of the Comptroller within sixty days of such  
635 certification.

636 E. If a grant recipient is allocated less than the full amount of a grant to which it is eligible in any  
637 year pursuant to this chapter, such corporation shall not be eligible for the deficiency in that year, but the  
638 unpaid portion of the grant to which it was eligible shall be carried forward by the Department to the

639 following year, during which it shall be in the first class of priority as provided in clause (i) of  
640 subsection B.

641 F. In no case shall the Department certify grants from the Fund for kilowatts of electricity  
642 produced prior to January 1, 2002 or sold after December 31, 2006.

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

645 § 67-1103. Requirements for grants generally.

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

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

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

658 D. As a condition of receipt of a grant, an eligible corporation shall make available to the  
659 Department for inspection upon request all relevant and applicable documents to determine whether the  
660 requirements for the receipt of grants as set forth in this chapter have been satisfied. All such documents  
661 appropriately identified by the eligible corporation shall be considered confidential and proprietary.

662 E. A corporation receiving a grant for the production and sale of kilowatts of electricity under  
663 this chapter may not use the production or sale of such kilowatts of electricity as the basis for claiming  
664 any other grant or credit against taxes, as provided under the Code of Virginia or in an appropriations  
665 act.

666 CHAPTER 12.

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

668 § 67-1200. Definitions.

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

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

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

673 "Fund" means the Photovoltaic, Solar, and Wind Energy Utilization Grant Fund established  
674 pursuant to § 67-1202.

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

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

679 "Solar energy property" means equipment that uses solar energy (i) to generate electricity, (ii) to  
680 heat or cool a structure or provide hot water for use in a structure, or (iii) to provide solar process heat.  
681 Solar energy property does not include a swimming pool, hot tub, or any other storage medium that has  
682 a function other than storage.

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

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

691 § 67-1201. Eligibility for grants for installation of photovoltaic property, solar water heating  
692 property, and wind-powered electrical generators.

693 A. Subject to appropriation of sufficient moneys in the Fund, beginning with calendar year 2006,  
694 an eligible individual or corporation may receive a grant payable from the Fund for a portion of the cost  
695 of photovoltaic property, solar water heating property, or wind-powered electrical generators placed in  
696 service during the calendar year by such individual or corporation. The grant amount shall be 15 percent  
697 of the total installed cost of photovoltaic property, solar water heating property, or wind-powered  
698 electrical generators but shall not exceed an aggregate total of:

- 699 1. \$2,000 for each system of photovoltaic property;  
700 2. \$1,000 for each system of solar water heating property; and  
701 3. \$1,000 for each system of wind-powered electrical generators.

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

705 § 67-1202. Photovoltaic, Solar, and Wind Energy Utilization Grant Fund.

706 A. There is hereby established in the state treasury a special nonreverting fund to be known as  
707 the Photovoltaic, Solar, and Wind Energy Utilization Grant Fund. The Fund shall consist of such  
708 moneys as may be appropriated by the General Assembly from time to time, including such moneys as  
709 are provided pursuant to subsection D of § 67-301. Any moneys deposited to or remaining in the Fund  
710 during or at the end of each fiscal year or biennium, including interest thereon, shall not revert to the  
711 general fund but shall remain in the Fund and be available for allocation under this chapter in ensuing  
712 fiscal years. Interest on all moneys in the Fund shall remain in the Fund and be credited to it. The Fund  
713 shall be used solely for the payment of the grants provided under this chapter. The Department shall  
714 administer the Fund.

715 B. The Department shall allocate moneys from the Fund in the following order of priority: (i)  
716 first to unpaid grant amounts carried forward from prior years because eligible individuals or  
717 corporations did not receive the full amount of any grant to which they were eligible in a prior year  
718 pursuant to this chapter and (ii) then to other approved applicants. If the moneys in the Fund are less  
719 than the amount of grants to which approved applicants in any class of priority are eligible, the moneys

720 in the Fund shall be apportioned pro rata among eligible applicants in such class, based upon the amount  
721 of the grant to which an approved applicant is eligible and the amount of money in the Fund available  
722 for allocation to such class.

723 C. The Department shall not allocate an amount in excess of the moneys available in the Fund  
724 for the payment of grants.

725 D. Beginning in calendar year 2007, by June 30 of each year, the Department shall (i) determine  
726 the amount of the grants to be allocated to eligible individuals and corporations, and (ii) certify to the  
727 Comptroller and each eligible grant applicant the amount of the grant allocated to such applicant.  
728 Payment of such grants shall be made by the State Treasurer on warrant of the Comptroller within sixty  
729 days of such certification.

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

735 F. In no case shall the Department certify grants from the Fund for photovoltaic property, solar  
736 water heating property, or wind-powered electrical generators placed in service prior to January 1, 2006.

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

739 § 67-1203. Requirements for grants generally.

740 A. The Department shall establish an application process by which eligible individuals and  
741 corporations shall apply for a grant under this chapter. The application shall be filed with the director of  
742 the Department no later than March 31 each year following the calendar year in which such property  
743 was placed in service. Failure to meet the filing deadline shall render the applicant ineligible to receive a  
744 grant for photovoltaic property, solar water heating property, or wind-powered electrical generators  
745 placed in service in the prior calendar year. For filings by mail, the postmark cancellation shall govern  
746 the date of the filing determination.

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

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

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

**2. That the Department of Mines, Minerals and Energy shall promulgate regulations, in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), for purposes of carrying out the provisions of Chapters 11 (§ 67-1100 et seq.) and 12 (§ 67-1200 et seq.) of Title 67 of the Code of Virginia.**

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