

SENATE BILL NO. _____ HOUSE BILL NO. _____

1 A BILL to amend and reenact §§ 23-135.7:6, 45.1-390, 58.1-322, and 58.1-3660 of the Code of Virginia
 2 and to amend the Code of Virginia by adding a Title numbered 67, consisting of chapters
 3 numbered 1 through 12, containing sections numbered 67-100 through 67-1203, relating to
 4 energy policy; sites for certain low-emission energy facilities; off-shore energy resource
 5 development; grants and income tax deductions for purchasing, producing or using clean and
 6 efficient energy; exempting certain certified pollution control equipment and facilities from local
 7 property taxation; clean coal projects; energy efficiency in state buildings; use of biodiesel fuel
 8 in public transportation vehicles; the enforceability of covenants restricting the use of solar
 9 energy collection devices; motor vehicle fuel efficiency standards; and the establishment of a
 10 methane hydrates research center, all of which comprise components of the Virginia Energy
 11 Plan.

Be it enacted by the General Assembly of Virginia:

13 **1. That §§ 23-135.7:6, 45.1-390, 58.1-322, and 58.1-3660 of the Code of Virginia are amended and**
 14 **reenacted and that the Code of Virginia is amended by adding a Title numbered 67, consisting of**
 15 **chapters numbered 1 through 12, containing sections numbered 67-100 through 67-1203, as**
 16 **follows:**

17 § 23-135.7:6. Powers and duties of Center.

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

- 20 1. To develop a degree program in energy production and conservation research at the master's
- 21 level in conjunction with the State Council on Higher Education;
- 22 2. To develop and provide programs of continuing education and in-service training for persons
- 23 who work in the field of coal or other energy research, development or production;

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

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

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

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

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

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

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

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

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

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

43 § 45.1-390. Division of Energy established; findings and policy; powers and duties.

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

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

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

58 The Division shall:

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

61 2. Maintain liaison with appropriate agencies of the federal government on the activities of the
62 federal government related to energy production, consumption, transportation and energy resource
63 management in general;~~i~~

64 3. Provide services to encourage efforts by and among Virginia businesses, industries, utilities,
65 academic institutions, state and local governments and private institutions to develop energy
66 conservation programs and energy resources;~~and~~

67 4. In consultation with the State Corporation Commission and the Center for Coal and Energy
68 Research, prepare the Virginia Energy Plan pursuant to § 67-201; and

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

71 § 58.1-322. Virginia taxable income of residents.

72 A. The Virginia taxable income of a resident individual means his federal adjusted gross income
73 for the taxable year, which excludes combat pay for certain members of the Armed Forces of the United
74 States as provided in § 112 of the Internal Revenue Code, as amended, and with the modifications
75 specified in this section.

76 B. To the extent excluded from federal adjusted gross income, there shall be added:

77 1. Interest, less related expenses to the extent not deducted in determining federal income, on
78 obligations of any state other than Virginia, or of a political subdivision of any such other state unless
79 created by compact or agreement to which Virginia is a party;

80 2. Interest or dividends, less related expenses to the extent not deducted in determining federal
81 taxable income, on obligations or securities of any authority, commission or instrumentality of the
82 United States, which the laws of the United States exempt from federal income tax but not from state
83 income taxes;

84 3. Unrelated business taxable income as defined by § 512 of the Internal Revenue Code;

85 4. The amount of a lump sum distribution from a qualified retirement plan, less the minimum
86 distribution allowance and any amount excludable for federal income tax purposes that is excluded from
87 federal adjusted gross income solely by virtue of an individual's election to use the averaging provisions
88 under § 402 of the Internal Revenue Code; and

89 5. through 8. [Repealed.]

90 9. The amount required to be included in income for the purpose of computing the partial tax on
91 an accumulation distribution pursuant to § 667 of the Internal Revenue Code.

92 C. To the extent included in federal adjusted gross income, there shall be subtracted:

93 1. Income derived from obligations, or on the sale or exchange of obligations, of the United
94 States and on obligations or securities of any authority, commission or instrumentality of the United
95 States to the extent exempt from state income taxes under the laws of the United States including, but
96 not limited to, stocks, bonds, treasury bills, and treasury notes, but not including interest on refunds of
97 federal taxes, interest on equipment purchase contracts, or interest on other normal business transactions.

98 2. Income derived from obligations, or on the sale or exchange of obligations of this
99 Commonwealth or of any political subdivision or instrumentality of the Commonwealth.

100 3. [Repealed.]

101 4. Benefits received under Title II of the Social Security Act and other benefits subject to federal
102 income taxation solely pursuant to § 86 of the Internal Revenue Code.

103 4a. Through December 31, 2000, the same amount used in computing the federal credit allowed
104 under § 22 of the Internal Revenue Code by a retiree under age 65 who qualified for such retirement on
105 the basis of permanent and total disability and who is a qualified individual as defined in § 22 (b) (2) of
106 the Internal Revenue Code; however, any person who claims a deduction under subdivision 5 of
107 subsection D of this section may not also claim a subtraction under this subdivision.

108 4b. For taxable years beginning on or after January 1, 2001, up to \$20,000 of disability income,
109 as defined in § 22 (c) (2) (B) (iii) of the Internal Revenue Code; however, any person who claims a
110 deduction under subdivision 5 of subsection D of this section may not also claim a subtraction under this
111 subdivision.

112 5. The amount of any refund or credit for overpayment of income taxes imposed by the
113 Commonwealth or any other taxing jurisdiction.

114 6. The amount of wages or salaries eligible for the federal Targeted Jobs Credit which was not
115 deducted for federal purposes on account of the provisions of § 280C (a) of the Internal Revenue Code.

116 7, 8. [Repealed.]

117 9. [Expired.]

118 10. Any amount included therein less than \$600 from a prize awarded by the State Lottery
119 Department.

120 11. The wages or salaries received by any person for active and inactive service in the National
121 Guard of the Commonwealth of Virginia, not to exceed the amount of income derived from 39 calendar
122 days of such service or \$3,000, whichever amount is less; however, only those persons in the ranks of
123 O3 and below shall be entitled to the deductions specified herein.

124 12. Amounts received by an individual, not to exceed \$1,000 in any taxable year, as a reward for
125 information provided to a law-enforcement official or agency, or to a nonprofit corporation created
126 exclusively to assist such law-enforcement official or agency, in the apprehension and conviction of
127 perpetrators of crimes. This provision shall not apply to the following: an individual who is an employee
128 of, or under contract with, a law-enforcement agency, a victim or the perpetrator of the crime for which
129 the reward was paid, or any person who is compensated for the investigation of crimes or accidents.

130 13. [Repealed.]

131 14. [Expired.]

132 15, 16. [Repealed.]

133 17. For taxable years beginning on and after January 1, 1995, the amount of "qualified research
134 expenses" or "basic research expenses" eligible for deduction for federal purposes, but which were not
135 deducted, on account of the provisions of § 280C (c) of the Internal Revenue Code and which shall be
136 available to partners, shareholders of S corporations, and members of limited liability companies to the
137 extent and in the same manner as other deductions may pass through to such partners, shareholders, and
138 members.

139 18. For taxable years beginning on or after January 1, 1995, all military pay and allowances, not
140 otherwise subtracted under this subsection, earned for any month during any part of which such member
141 performed military service in any part of the former Yugoslavia, including the air space above such
142 location or any waters subject to related naval operations, in support of Operation JOINT ENDEAVOR
143 as part of the NATO Peace Keeping Force. Such subtraction shall be available until the taxpayer
144 completes such service.

145 19. For taxable years beginning on and after January 1, 1996, any income received during the
146 taxable year derived from a qualified pension, profit-sharing, or stock bonus plan as described by § 401
147 of the Internal Revenue Code, an individual retirement account or annuity established under § 408 of the
148 Internal Revenue Code, a deferred compensation plan as defined by § 457 of the Internal Revenue Code,
149 or any federal government retirement program, the contributions to which were deductible from the
150 taxpayer's federal adjusted gross income, but only to the extent the contributions to such plan or program
151 were subject to taxation under the income tax in another state.

152 20. For taxable years beginning on and after January 1, 1997, any income attributable to a
153 distribution of benefits or a refund from a prepaid tuition contract or savings trust account with the
154 Virginia College Savings Plan, created pursuant to Chapter 4.9 (§ 23-38.75 et seq.) of Title 23. The
155 subtraction for any income attributable to a refund shall be limited to income attributable to a refund in
156 the event of a beneficiary's death, disability, or receipt of a scholarship.

157 21. For taxable years beginning on or after January 1, 1998, all military pay and allowances, to
158 the extent included in federal adjusted gross income and not otherwise subtracted, deducted or exempted
159 under this section, earned by military personnel while serving by order of the President of the United
160 States with the consent of Congress in a combat zone or qualified hazardous duty area which is treated
161 as a combat zone for federal tax purposes pursuant to § 112 of the Internal Revenue Code.

162 22. For taxable years beginning on or after January 1, 2000, the gain derived from the sale or
163 exchange of real property or the sale or exchange of an easement to real property which results in the
164 real property or the easement thereto being devoted to open-space use, as that term is defined in § 58.1-
165 3230, for a period of time not less than 30 years. To the extent a subtraction is taken in accordance with
166 this subdivision, no tax credit under this chapter for donating land for its preservation shall be allowed
167 for three years following the year in which the subtraction is taken.

168 23. Effective for all taxable years beginning on or after January 1, 2000, \$15,000 of military
169 basic pay for military service personnel on extended active duty for periods in excess of 90 days;
170 however, the subtraction amount shall be reduced dollar-for-dollar by the amount which the taxpayer's
171 military basic pay exceeds \$15,000 and shall be reduced to zero if such military basic pay amount is
172 equal to or exceeds \$30,000.

173 24. Effective for all taxable years beginning on and after January 1, 2000, the first \$15,000 of
174 salary for each federal and state employee whose total annual salary from all employment for the taxable
175 year is \$15,000 or less.

176 25. Unemployment benefits taxable pursuant to § 85 of the Internal Revenue Code.

177 26. For taxable years beginning on and after January 1, 2001, any amount received as military
178 retirement income by an individual awarded the Congressional Medal of Honor.

179 27. Effective for all taxable years beginning on and after January 1, 1999, income received as a
180 result of (i) the "Master Settlement Agreement," as defined in § 3.1-1106; (ii) the National Tobacco
181 Grower Settlement Trust dated July 19, 1999; and (iii) the Tobacco Loss Assistance Program, pursuant
182 to 7 C.F.R. Part 1464 (Subpart C, §§ 1464.201 through 1464.205), by (a) tobacco farmers; (b) any
183 person holding a tobacco marketing quota, or tobacco farm acreage allotment, under the Agricultural

184 Adjustment Act of 1938; or (c) any person having the right to grow tobacco pursuant to such a quota or
185 allotment, but only to the extent that such income has not been subtracted pursuant to subdivision C 18
186 of § 58.1-402.

187 28. For taxable years beginning on and after January 1, 2000, items of income attributable to,
188 derived from or in any way related to (i) assets stolen from, hidden from or otherwise lost by an
189 individual who was a victim or target of Nazi persecution or (ii) damages, reparations, or other
190 consideration received by a victim or target of Nazi persecution to compensate such individual for
191 performing labor against his will under the threat of death, during World War II and its prelude and
192 direct aftermath. This subtraction shall not apply to assets acquired with such items of income or with
193 the proceeds from the sale of assets stolen from, hidden from or otherwise lost to, during World War II
194 and its prelude and direct aftermath, a victim or target of Nazi persecution. The provisions of this
195 subdivision shall only apply to an individual who was the first recipient of such items of income and
196 who was a victim or target of Nazi persecution, or a spouse, widow, widower, or child or stepchild of
197 such victim.

198 "Victim or target of Nazi persecution" means any individual persecuted or targeted for
199 persecution by the Nazi regime who had assets stolen from, hidden from or otherwise lost as a result of
200 any act or omission in any way relating to (i) the Holocaust; (ii) World War II and its prelude and direct
201 aftermath; (iii) transactions with or actions of the Nazi regime; (iv) treatment of refugees fleeing Nazi
202 persecution; or (v) the holding of such assets by entities or persons in the Swiss Confederation during
203 World War II and its prelude and aftermath. A victim or target of Nazi persecution shall also include any
204 individual forced into labor against his will, under the threat of death, during World War II and its
205 prelude and direct aftermath. As used in this subdivision, "Nazi regime" means the country of Nazi
206 Germany, areas occupied by Nazi Germany, those European countries allied with Nazi Germany, or any
207 other neutral European country or area in Europe under the influence or threat of Nazi invasion.

208 29. For taxable years beginning on and after January 1, 2002, any gain recognized as a result of
209 the Peanut Quota Buyout Program of the Farm Security and Rural Investment Act of 2002 pursuant to 7
210 C.F.R. Part 1412 (Subpart H, §§ 1412.801 through 1412.811) as follows:

211 a. If the payment is received in installment payments pursuant to 7 C.F.R. § 1412.807(a) (2), then
212 the entire gain recognized may be subtracted.

213 b. If the payment is received in a single payment pursuant to 7 C.F.R. § 1412.807(a) (3), then 20
214 percent of the recognized gain may be subtracted. The taxpayer may then deduct an equal amount in
215 each of the four succeeding taxable years.

216 30. Effective for all taxable years beginning on and after January 1, 2002, but before January 1,
217 2005, the indemnification payments received by contract poultry growers and table egg producers from
218 the U.S. Department of Agriculture as a result of the depopulation of poultry flocks because of low
219 pathogenic avian influenza in 2002. In no event shall indemnification payments made to owners of
220 poultry who contract with poultry growers qualify for this subtraction.

221 31. Effective for all taxable years beginning on or after January 1, 2001, the military death
222 gratuity payment made after September 11, 2001, to the survivor of deceased military personnel killed in
223 the line of duty, pursuant to Chapter 75 of Title 10 of the United States Code; however, the subtraction
224 amount shall be reduced dollar-for-dollar by the amount that the survivor may exclude from his federal
225 gross income in accordance with § 134 of the Internal Revenue Code.

226 D. In computing Virginia taxable income there shall be deducted from Virginia adjusted gross
227 income as defined in § 58.1-321:

228 1. a. The amount allowable for itemized deductions for federal income tax purposes where the
229 taxpayer has elected for the taxable year to itemize deductions on his federal return, but reduced by the
230 amount of income taxes imposed by the Commonwealth or any other taxing jurisdiction and deducted
231 on such federal return and increased by an amount which, when added to the amount deducted under §
232 170 of the Internal Revenue Code for mileage, results in a mileage deduction at the state level for such
233 purposes at a rate of 18 cents per mile; or

234 b. Three thousand dollars for single individuals for taxable years beginning on and after January
235 1, 1989; \$5,000 for married persons (one-half of such amounts in the case of a married individual filing
236 a separate return) for taxable years beginning on and after January 1, 1989, but before January 1, 2005;
237 and \$6,000 for married persons (one-half of such amounts in the case of a married individual filing a

238 separate return) for taxable years beginning on and after January 1, 2005; provided that the taxpayer has
239 not itemized deductions for the taxable year on his federal income tax return. For purposes of this
240 section, any person who may be claimed as a dependent on another taxpayer's return for the taxable year
241 may compute the deduction only with respect to earned income.

242 2. a. A deduction in the amount of \$800 for taxable years beginning on and after January 1, 1988,
243 but before January 1, 2005, and \$900 for taxable years beginning on and after January 1, 2005, for each
244 personal exemption allowable to the taxpayer for federal income tax purposes.

245 b. For taxable years beginning on and after January 1, 1987, each blind or aged taxpayer as
246 defined under § 63 (f) of the Internal Revenue Code shall be entitled to an additional personal exemption
247 in the amount of \$800.

248 The additional deduction for blind or aged taxpayers allowed under this subdivision shall be
249 allowable regardless of whether the taxpayer itemizes deductions for the taxable year for federal income
250 tax purposes.

251 3. A deduction equal to the amount of employment-related expenses upon which the federal
252 credit is based under § 21 of the Internal Revenue Code for expenses for household and dependent care
253 services necessary for gainful employment.

254 4. An additional \$1,000 deduction for each child residing for the entire taxable year in a home
255 under permanent foster care placement as defined in § 63.2-908, provided the taxpayer can also claim
256 the child as a personal exemption under § 151 of the Internal Revenue Code.

257 5. a. Effective for all taxable years beginning on or after January 1, 1996, but before January 1,
258 2004, a deduction in the amount of \$12,000 for taxpayers age 65 or older, or \$6,000 for taxpayers age 62
259 through 64.

260 b. For taxable years beginning on and after January 1, 2004, a deduction in the amount of
261 \$12,000 for individuals born on or before January 1, 1939.

262 c. For taxable years beginning January 1, 2004, but before January 1, 2005, a deduction in the
263 amount of \$6,000 for individuals born on or between January 2, 1940, and January 1, 1942.

264 d. For taxable years beginning January 1, 2005, but before January 1, 2006, a deduction in the
265 amount of \$6,000 for individuals born on or between January 2, 1941, and January 1, 1942.

266 e. For taxable years beginning on and after January 1, 2004, a deduction in the amount of
267 \$12,000 for individuals born after January 1, 1939, who have attained the age of 65. This deduction shall
268 be reduced by \$1 for every \$1 that the taxpayer's adjusted federal adjusted gross income exceeds
269 \$50,000 for single taxpayers or \$75,000 for married taxpayers. For married taxpayers filing separately,
270 the deduction will be reduced by \$1 for every \$1 the total combined adjusted federal adjusted gross
271 income of both spouses exceeds \$75,000.

272 f. For the purposes of this subdivision, "adjusted federal adjusted gross income" means federal
273 adjusted gross income minus any benefits received under Title II of the Social Security Act and other
274 benefits subject to federal income taxation solely pursuant to § 86 of the Internal Revenue Code, as
275 amended.

276 6. For taxable years beginning on and after January 1, 1997, the amount an individual pays as a
277 fee for an initial screening to become a possible bone marrow donor, if (i) the individual is not
278 reimbursed for such fee or (ii) the individual has not claimed a deduction for the payment of such fee on
279 his federal income tax return.

280 7. a. A deduction shall be allowed to the purchaser or contributor for the amount paid or
281 contributed during the taxable year for a prepaid tuition contract or savings trust account entered into
282 with the Virginia College Savings Plan, pursuant to Chapter 4.9 (§ 23-38.75 et seq.) of Title 23. Except
283 as provided in subdivision 7 c, the amount deducted on any individual income tax return in any taxable
284 year shall be limited to \$2,000 per prepaid tuition contract or savings trust account. No deduction shall
285 be allowed pursuant to this section if such payments or contributions are deducted on the purchaser's or
286 contributor's federal income tax return. If the purchase price or annual contribution to a savings trust
287 account exceeds \$2,000, the remainder may be carried forward and subtracted in future taxable years
288 until the purchase price or savings trust contribution has been fully deducted; however, except as
289 provided in subdivision 7 c, in no event shall the amount deducted in any taxable year exceed \$2,000 per
290 contract or savings trust account. Notwithstanding the statute of limitations on assessments contained in

291 § 58.1-312, any deduction taken hereunder shall be subject to recapture in the taxable year or years in
292 which distributions or refunds are made for any reason other than (i) to pay qualified higher education
293 expenses, as defined in § 529 of the Internal Revenue Code or (ii) the beneficiary's death, disability, or
294 receipt of a scholarship. For the purposes of this subdivision, the term "purchaser" or "contributor"
295 means the person shown as such on the records of the Virginia College Savings Plan as of December 31
296 of the taxable year. In the case of a transfer of ownership of a prepaid tuition contract or savings trust
297 account, the transferee shall succeed to the transferor's tax attributes associated with a prepaid tuition
298 contract or savings trust account, including, but not limited to, carryover and recapture of deductions.

299 b. The amount paid for a prepaid tuition contract during taxable years beginning on or after
300 January 1, 1996, but before January 1, 1998, shall be deducted in taxable years beginning on or after
301 January 1, 1998, and shall be subject to the limitations set out in subdivision 7 a.

302 c. A purchaser of a prepaid tuition contract or contributor to a savings trust account who has
303 attained age 70 shall not be subject to the limitation that the amount of the deduction not exceed \$2,000
304 per prepaid tuition contract or savings trust account in any taxable year. Such taxpayer shall be allowed
305 a deduction for the full amount paid for the contract or contributed to a savings trust account, less any
306 amounts previously deducted. If a prepaid tuition contract was purchased by such taxpayer during
307 taxable years beginning on or after January 1, 1996, but before January 1, 1998, such taxpayer may take
308 the deduction for the full amount paid during such years, less any amounts previously deducted with
309 respect to such payments, in taxable year 1999 or by filing an amended return for taxable year 1998.

310 8. For taxable years beginning on and after January 1, 2000, the total amount an individual
311 actually contributed in funds to the Virginia Public School Construction Grants Program and Fund,
312 established in Chapter 11.1 (§ 22.1-175.1 et seq.) of Title 22.1, provided the individual has not claimed a
313 deduction for such amount on his federal income tax return.

314 9. For taxable years beginning on and after January 1, 1999, an amount equal to 20 percent of the
315 tuition costs incurred by an individual employed as a primary or secondary school teacher licensed
316 pursuant to Chapter 15 (§ 22.1-289.1 et seq.) of Title 22.1 to attend continuing teacher education courses
317 that are required as a condition of employment; however, the deduction provided by this subsection shall

318 be available only if (i) the individual is not reimbursed for such tuition costs and (ii) the individual has
319 not claimed a deduction for the payment of such tuition costs on his federal income tax return.

320 10. For taxable years beginning on and after January 1, 2000, the amount an individual pays
321 annually in premiums for long-term health care insurance, provided the individual has not claimed a
322 deduction for federal income tax purposes.

323 11. For taxable years beginning on and after January 1, 2007, an amount equal to 20 percent of
324 the sum paid by an individual pursuant to Chapter 6 (§ 58.1-600 et seq.) of this title, not to exceed \$500
325 in each taxable year, in purchasing for his own use the following items of tangible personal property: (i)
326 any clothes washers, room air conditioners, dishwashers, and standard size refrigerators that meet or
327 exceed the applicable energy star efficiency requirements developed by the United States Environmental
328 Protection Agency and the United States Department of Energy; (ii) any fuel cell that (a) generates
329 electricity using an electrochemical process, (b) has an electricity-only generation efficiency greater than
330 35%, and (c) has a generating capacity of at least two kilowatts; (iii) any gas heat pump that has a
331 coefficient of performance of at least 1.25 for heating and at least 0.70 for cooling; (iv) any electric heat
332 pump hot water heater that yields an energy factor of at least 1.7; (v) any electric heat pump that has a
333 heating system performance factor of at least 8.0 and a cooling seasonal energy efficiency ratio of at
334 least 13.0; (vi) any central air conditioner that has a cooling seasonal energy efficiency ratio of at least
335 13.5; (vii) any advanced gas or oil water heater that has an energy factor of at least 0.65; (viii) any
336 advanced oil-fired boiler with a minimum annual fuel-utilization rating of 85; and (ix) any advanced oil-
337 fired furnace with a minimum annual fuel-utilization rating of 85.

338 12. For taxable years beginning on and after January 1, 2007, an amount equal to the motor
339 vehicle sales and use tax paid by the individual vehicle owner pursuant to subdivisions 1, 2, 3, or 5 of
340 subsection A of § 58.1-2402, on any motor vehicle that is (i) manufactured to use clean special fuels, as
341 defined in § 46.2-749.3, and uses such fuels as a source of propulsion; (ii) converted or retrofitted to use
342 such clean special fuels within 180 days after the date of titling in the Commonwealth, and uses such
343 fuels as a source of propulsion; or (iii) a hybrid gasoline/electric powered motor vehicle that is propelled
344 primarily by electric charge, up to a maximum of \$500 in tax paid on each such motor vehicle and a

345 maximum of \$1,000 in tax paid on multiple motor vehicles in any calendar year; however, a deduction
346 shall not be allowed for such tax on a mobile office, or on a manufactured home as defined in § 36-85.3.

347 E. There shall be added to or subtracted from federal adjusted gross income, as the case may be,
348 the individual's share, as beneficiary of an estate or trust, of the Virginia fiduciary adjustment
349 determined under § 58.1-361.

350 F. There shall be added or subtracted, as the case may be, the amounts provided in § 58.1-315 as
351 transitional modifications.

352 § 58.1-3660. Certified pollution control equipment and facilities.

353 A. Certified pollution control equipment and facilities, as defined herein, are hereby declared to
354 be a separate class of property and shall constitute a classification for local taxation separate from other
355 such classification of real or personal property and such property. The governing body of any county,
356 city or town may, by ordinance, exempt or partially exempt such property from local taxation.

357 However, certified pollution control equipment and facilities consisting of equipment used in
358 collecting, processing, and distributing landfill gas or natural gas recovered from waste, including
359 equipment used to grind, chip, or mulch trees, tree stumps, underbrush, and other vegetative cover for
360 reuse as landfill gas or natural gas recovery from waste, that are placed in service on or after July 1,
361 2006, shall be exempt from state and local taxation pursuant to Article X, Section 6 (d) of the
362 Constitution of Virginia. In addition, the assessments of certified pollution control equipment and
363 facilities consisting of equipment used in collecting, processing, and distributing landfill gas or natural
364 gas recovered from waste, including equipment used to grind, chip, or mulch trees, tree stumps,
365 underbrush, and other vegetative cover for reuse as landfill gas or natural gas recovery from waste, that
366 were placed in service prior to July 1, 2006, shall be reduced from the levels in effect on July 1, 2006,
367 by one-fifth each year between July 1, 2006, and June 30, 2010, after which date such property shall be
368 exempt from state and local taxation pursuant to Article X, Section 6 (d) of the Constitution of Virginia.

369 B. As used in this section:

370 "Certified pollution control equipment and facilities" shall mean any property, including real or
371 personal property, equipment, facilities, or devices, used primarily for the purpose of abating or

372 preventing pollution of the atmosphere or waters of the Commonwealth and which the state certifying
 373 authority having jurisdiction with respect to such property has certified to the Department of Taxation as
 374 having been constructed, reconstructed, erected, or acquired in conformity with the state program or
 375 requirements for abatement or control of water or atmospheric pollution or contamination. Such property
 376 shall include, but is not limited to, any equipment used to grind, chip, or mulch trees, tree stumps,
 377 underbrush, and other vegetative cover for reuse as mulch, compost, or landfill gas, natural gas recovery
 378 from waste or other fuel, and equipment used in collecting, processing, and distributing landfill gas or
 379 natural gas recovered from waste, whether or not such property has been certified to the Department of
 380 Taxation by a state certifying authority.

381 "State certifying authority" shall mean the State Water Control Board, for water pollution; the
 382 State Air Pollution Control Board, for air pollution; the Department of Mines, Minerals and Energy, for
 383 coal, oil, and gas production, including gas, natural gas, landfill gas, and coalbed methane gas; and the
 384 Virginia Waste Management Board, for waste disposal facilities, and shall include any interstate agency
 385 authorized to act in place of a certifying authority of the Commonwealth.

386 TITLE 67.

387 VIRGINIA ENERGY PLAN.

388 CHAPTER 1.

389 ENERGY POLICY OF THE COMMONWEALTH.

390 § 67-100. Legislative findings.

391 The General Assembly hereby finds that:

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

394 2. The state government should facilitate the availability and delivery of reliable and adequate
 395 supplies of energy to industrial, commercial, and residential users at reasonable costs such that these
 396 users and the Commonwealth's economy are able to be productive; and

397 3. The Commonwealth would benefit from articulating clear objectives pertaining to energy
398 issues, adopting an energy policy that advances these objectives, and establishing a procedure for
399 measuring the implementation of these policies.

400 § 67-101. Energy objectives.

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

403 1. Ensuring the availability of reliable energy at costs that are reasonable and in quantities that
404 will support the Commonwealth's economy;

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

407 3. Establishing sufficient supply and delivery infrastructure to maintain reliable energy
408 availability in the event of a disruption occurring to a portion of the Commonwealth's energy matrix;

409 4. Using energy resources more efficiently;

410 5. Facilitating conservation;

411 6. Optimizing intrastate and interstate use of energy supply and delivery to maximize energy
412 availability, reliability, and price opportunities to the benefit of all user classes and the Commonwealth's
413 economy as stated in subdivision 2 of § 67-100;

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

416 8. Researching the efficacy, cost, and benefits of reducing, avoiding, or sequestering the
417 emissions of greenhouse gases produced in connection with the generation of energy;

418 9. Removing impediments to the use of abundant low-cost energy resources located within and
419 outside the Commonwealth and ensuring the economic viability of the producers, especially those in the
420 Commonwealth, of such resources; and

421 10. Recognizing the need to foster the development of those economically developable
422 alternative sources of energy that can be provided at market prices as vital components of a diversified
423 portfolio of energy resources.

424 Nothing in this section shall be deemed to abrogate or modify in any way the provisions of the
425 Virginia Electric Utility Restructuring Act (§ 56-576 et seq.).

426 § 67-102. Commonwealth Energy Policy.

427 A. To achieve the objectives enumerated in § 67-101, it shall be the policy of the Commonwealth
428 to:

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

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

432 3. Promote research and development of clean coal technologies, including but not limited to
433 integrated gasification combined cycle systems;

434 4. Promote cost-effective conservation of energy and fuel supplies;

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

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

441 7. Study the removal of regulatory impediments to the development and exploitation of the
442 Commonwealth's non-fossil fuel resources;

443 8. Facilitate the development of new, and the expansion of existing, petroleum refining facilities
444 within the Commonwealth;

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

446 10. Support efforts to reduce the demand for imported petroleum by developing alternative
447 technologies, including but not limited to the production of synthetic fuels, biodiesel and hydrogen-
448 based fuels, and the infrastructure required for the widespread implementation of such technologies; and

449 11. Ensure that energy generation and delivery systems that may be approved for development in
450 the Commonwealth, including liquefied natural gas, offshore gas drilling, and related delivery systems,

451 should be located so as to minimize impacts to pristine natural areas and other significant onshore
452 natural resources, and as near to compatible development as possible.

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

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

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

465 CHAPTER 2.

466 VIRGINIA ENERGY PLAN.

467 § 67-200. Definitions.

468 As used in this title:

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

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

472 § 67-201. Development of the Virginia Energy Plan.

473 A. The Division, in consultation with the State Corporation Commission, the Department of
474 Environmental Quality, and the Center for Coal and Energy Research, shall prepare a comprehensive
475 Virginia Energy Plan covering a 10-year period. The Plan shall propose actions, consistent with the
476 objectives enumerated in § 67-101, that will implement the Commonwealth Energy Policy set forth in §
477 67-102.

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B. In addition, the Plan shall include:

1. Projections of energy consumption in the Commonwealth, including but not limited to the use of fuel sources and costs of electricity, natural gas, gasoline, coal, renewable resources, and other forms of energy resources used in the Commonwealth;
2. An analysis of the adequacy of electricity generation, transmission, and distribution resources in the Commonwealth for the natural gas and electric industries, and how regional generation, transmission, and distribution resources affect the Commonwealth;
3. An analysis of siting requirements for electric generation resources and natural gas and electric transmission and distribution resources;
4. An analysis of fuel diversity for electricity generation, recognizing the importance of flexibility in meeting future capacity needs;
5. An analysis of the efficient use of energy resources and conservation initiatives;
6. An analysis of the feasibility, costs, benefits, and necessary components, including budgetary, staffing, and legal requirements, of a state program to regulate the development and use of non-fossil fuel resources;
7. An analysis of how these Virginia-specific issues relate to regional initiatives to assure the adequacy of fuel production, generation, transmission, and distribution assets; and
8. Recommendations, based on the analyses completed under subdivisions 1 through 6, for legislative, regulatory, and other public and private actions to implement the elements of the Commonwealth Energy Policy.

C. In preparing the Plan, the Division and other agencies involved in the planning process shall utilize the Virginia Coastal Zone Management Program's Geospatial and Educational Mapping System website, to the extent deemed practicable, as a planning tool to ensure that energy facilities are not located in sensitive natural areas.

§ 67-202. Schedule.

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

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

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

507 § 67-203. Submission of Plan.

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

513 CHAPTER 3.

514 OFFSHORE ENERGY RESOURCES.

515 § 67-300. Offshore natural gas resources.

516 A. In addition to its responsibilities enumerated in § 2.2-302, the Virginia Liaison Office shall
517 work with the members of the State Congressional Delegation and federal executive agencies to
518 develop, support, and enact federal legislation, and to take appropriate federal executive action, that will
519 (i) provide an exemption to the moratorium that prevents until 2012 any surveying, exploration,
520 development, or production of potential natural gas deposits in areas off the Commonwealth's Atlantic
521 shore that are under federal jurisdiction, (ii) incorporate revenue sharing between the federal and state
522 governments for leasing activity that potentially will provide the Commonwealth with significant
523 additional sources of revenue, and (iii) otherwise will enhance states' authority over coastal and offshore
524 resources. The moratorium exemption to be sought by the Virginia Liaison Office shall (i) permit
525 surveying, mapping, exploration, development, and production of offshore deposits of natural gas; and
526 (ii) not authorize drilling or other exploratory activity within the Chesapeake Bay.

527 B. The Office shall submit an annual report to the Governor and the chairs of the Senate
528 Committee on Commerce and Labor and the House Committee on Commerce and Labor, no later than
529 January 1 of each year, that summarizes the status of the moratorium on offshore natural gas
530 exploration, development, and production activities; efforts by Congress and executive agencies to

531 provide an exemption to the moratorium as described in subsection A; and activities by the Office in
532 furtherance of this section.

533 § 67-301. Offshore wind energy resources.

534 A. In addition to its responsibilities enumerated in § 2.2-302, the Virginia Liaison Office shall
535 work with the members of the State Congressional Delegation and federal executive agencies to
536 develop, support, and enact federal legislation, and to take appropriate federal executive action, that will
537 enable the Commonwealth to exercise exclusive jurisdiction with respect to analyzing, developing, and
538 harvesting offshore wind energy resources.

539 B. The Office shall submit an annual report to the Governor and the chairs of the Senate
540 Committee on Commerce and Labor and the House Committee on Commerce and Labor, no later than
541 January 1 of each year, that summarizes the activities by the Office in furtherance of this section.

542 § 67-302. State Offshore Energy Revenue Fund.

543 A. There is hereby created in the state treasury a special nonreverting fund to be known as the
544 State Offshore Energy Revenue Fund, hereafter referred to as the "Fund." The Fund shall be established
545 on the books of the Comptroller and interest earned on moneys in the Fund shall remain in the Fund and
546 be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal
547 year shall not revert to the general fund but shall remain in the Fund.

548 B. The Comptroller shall transfer to the Fund at the close of each fiscal year all license fees,
549 lease payments, royalties, and similar moneys paid by the federal government to the Commonwealth
550 attributable to the development of energy resources in areas off the Commonwealth's Atlantic shore that
551 are under federal jurisdiction.

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

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

- 557 1. Forty percent of the moneys transferred to the State Offshore Energy Revenue Fund shall be
- 558 appropriated to the Virginia Water Quality Improvement Fund established pursuant to § 10.1-2128,
- 559 exclusively for the purpose of funding point and nonpoint source pollution prevention, reduction, and
- 560 control programs and efforts;
- 561 2. Forty percent of the moneys transferred to the State Offshore Energy Revenue Fund shall be
- 562 appropriated to the Transportation Trust Fund established pursuant to § 33.1-23.03:1;
- 563 3. Five percent of the moneys transferred to the State Offshore Energy Revenue Fund shall be
- 564 appropriated to the Renewable Electricity Production Grant Fund established pursuant to § 67-1102;
- 565 4. Five percent of the moneys transferred to the State Offshore Energy Revenue Fund shall be
- 566 appropriated to the Photovoltaic, Solar, and Wind Energy Utilization Grant Fund established pursuant to
- 567 § 67-1202;
- 568 5. Five percent of the moneys transferred to the State Offshore Energy Revenue Fund shall be
- 569 appropriated to the Clean Coal Technology Research Fund established pursuant to § 67-403; and
- 570 6. Five percent of the moneys transferred to the State Offshore Energy Revenue Fund shall be
- 571 appropriated to the Virginia Methane Hydrates Research Center established pursuant to § 67-700, or
- 572 other alternative energy projects as may be provided in the general appropriations act.

CHAPTER 4.

CLEAN COAL PROJECTS.

§ 67-400. Definitions.

As used in this chapter:

"Center" means the Virginia Center for Coal and Energy Research.

"Clean coal project" means any project that uses any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility that will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, process steam, or industrial products, which is not in widespread use, or is otherwise defined as clean coal technology pursuant to 42 U.S.C. § 7651n.

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

584 To the extent authorized by federal law, the State Air Pollution Control Board shall implement
585 permit processes that facilitate the construction of clean coal projects in the Commonwealth by, among
586 such other actions as it deems appropriate, giving priority to processing permit applications for clean
587 coal projects.

588 § 67-402. Center for excellence for clean coal technologies.

589 A. The Center shall encourage qualified state institutions of higher education to apply to the U.S.
590 Secretary of Energy, pursuant to § 404 of the federal Energy Policy Act of 2005, for competitive, merit-
591 based grants to be used to assist in financing the establishment in the Commonwealth of a center of
592 excellence for advancing new clean coal technologies.

593 B. The Center shall be authorized to provide such assistance it deems reasonable and appropriate
594 to qualified state institutions of higher education that elect to apply for grants pursuant to subsection A.

595 § 67-403. Clean Coal Technology Research Fund.

596 A. There is hereby established in the state treasury a special nonreverting fund to be known as
597 the Clean Coal Technology Research Fund. The Fund shall consist of such moneys as may be
598 appropriated by the General Assembly from time to time, including such moneys as are provided
599 pursuant to subsection D of § 67-301. Any moneys deposited to or remaining in the Fund during or at
600 the end of each fiscal year or biennium, including interest thereon, shall not revert to the general fund
601 but shall remain in the Fund and be available for allocation under this chapter in ensuing fiscal years.
602 Interest on all moneys in the Fund shall remain in the Fund and be credited to it. The Fund shall be used
603 solely for the payment of grants to state institutions of higher education to assist in the development and
604 implementation of clean coal technologies. The Center shall administer the Fund.

605 B. The Center shall award such grants to applying eligible institutions based on a competitive
606 basis.

607 C. The Center shall not allocate an amount in excess of the moneys available in the Fund for the
608 payment of grants.

609 D. Beginning in calendar year 2007, by June 30 of each year, the Center shall (i) determine the
610 amount of the grants to be allocated to eligible institutions, and (ii) certify to the Comptroller and each

611 eligible grant applicant the amount of the grant allocated to successful applicants. Payment of such
612 grants shall be made by the State Treasurer on warrant of the Comptroller within 60 days of such
613 certification.

614 CHAPTER 5.
615 ENERGY EFFICIENT PUBLIC BUILDINGS.

616 § 67-500. Definitions.

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

618 "Alternative energy system" means solar, wind, geothermal, heat recovery or other systems that
619 use a renewable resource and are environmentally sound.

620 "Authorized state agency" means any agency, board, commission, or department of the
621 Commonwealth that is authorized to finance the construction, purchase or renovation of buildings or
622 other structures to be used by the Commonwealth.

623 "Cost-effective" means that an energy resource, facility, or conservation measure during its life
624 cycle results in delivered power costs to the ultimate consumer no greater than the comparable
625 incremental cost of the least cost alternative new energy resource, facility, or conservation measure.
626 Cost comparison shall include, but need not be limited to: (i) cost escalations and future availability of
627 fuels; (ii) waste disposal and decommissioning costs; (iii) transmission and distribution costs; (iv)
628 geographic, climatic and other differences within the Commonwealth; and (v) environmental impact.

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

630 "Energy conservation measure" means a measure primarily designed to reduce the use of
631 nonrenewable energy resources in a state-owned facility.

632 "Energy consumption analysis" means the evaluation of all energy systems and components by
633 demand and type of energy including the internal energy load imposed on a major facility by its
634 occupants, equipment, and components and the external energy load imposed on a major facility by the
635 climatic conditions of its location. "Energy consumption analysis" includes, but is not limited to:

636 1. The comparison of a range of alternatives that is likely to include all reasonable, cost-effective
637 energy conservation measures and alternative energy systems;

638 2. The simulation of each system over the entire range of operation of a major facility for a year's
639 operating period;

640 3. The evaluation of energy consumption of component equipment in each system considering
641 the operation of such components at other than full or rated outputs; and

642 4. The consideration of alternative energy systems.

643 "Energy systems" means all utilities, including but not limited to heating, air conditioning,
644 ventilating, lighting and the supply of domestic hot water.

645 "Major facility" means any state-owned building having 10,000 square feet or more of usable
646 floor space.

647 "Renovation" means any addition to, alteration of or repair of a facility that will involve addition
648 to or alteration of the facility's energy systems, provided that the affected energy systems account for
649 50% or more of the facility's total energy use.

650 § 67-501. Energy design requirements; rules; fees; waiver.

651 A. An authorized state agency may construct or renovate a facility only if the authorized state
652 agency determines that the design incorporates all reasonable cost-effective energy conservation
653 measures and alternative energy systems. The determination by the authorized state agency shall include
654 consideration of operation and maintenance costs.

655 B. Whenever an authorized state agency determines that any major facility is to be constructed or
656 renovated the agency shall cause to be included in the design phase of the construction or renovation a
657 provision that requires an energy consumption analysis identifying all reasonable cost-effective energy
658 conservation measures and alternative energy systems be prepared for the facility under the direction of
659 a professional engineer or licensed architect. The authorized agency shall consult with the Division
660 regarding the list of energy conservation measures and alternative energy systems to be analyzed. The
661 analysis and facility design shall be delivered to the Division during the design development phase of
662 the facility design. The Division shall review the analysis and forward its findings to the authorized state
663 agency within 10 working days after receiving the analysis, if practicable.

664 C. The Division, in consultation with the Department of General Services and the State Council
665 of Higher Education, shall adopt regulations to carry out the provisions of this chapter. These
666 regulations shall:

667 1. Include a simplified and usable method for determining which energy conservation measures
668 and alternative energy systems are cost-effective. The method shall reflect the energy costs of the utility
669 serving the facility.

670 2. Prescribe procedures for determining if a facility design incorporates all reasonable cost-
671 effective energy conservation measures and alternative energy systems.

672 3. Reimburse the Division for its cost of reviewing of energy consumption analyses and facility
673 designs and its reporting tasks. The Division may waive any reimbursement of fees for its reviews if the
674 authorized state agency demonstrates that the facility will be designed and constructed in a manner that
675 incorporates only cost-effective energy conservation measures or in a manner that exceeds the energy
676 conservation provisions of the state building code by 20% or more.

677 4. Periodically define highly efficient facilities. A facility constructed or renovated after July 1,
678 2006, shall exceed the energy conservation provisions of the state building code by 20% or more, unless
679 otherwise required by regulations adopted under this subsection.

680 CHAPTER 6.

681 BIODIESEL FUEL.

682 § 67-600. Definitions.

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

687 § 67-601. Requirement for minimum content of biodiesel fuel in vehicles providing public
688 transportation.

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

691 public transportation, as defined in § 33.1-12, that utilizes diesel-fuel-powered buses or other vehicles,
692 as a condition for receiving funds from the Commonwealth Mass Transit Fund, shall use in the internal
693 combustion engines in all such buses and other vehicles biodiesel fuel in amounts not less than one
694 percent of the total diesel fuel consumption of such buses and other vehicles by volume.

695 B. The provisions of subsection A shall become effective on and after the first to occur of (i) July
696 1, 2007, or (ii) 30 days after the date the Secretary of Commerce and Trade publishes notice in the
697 Virginia Register stating that annual capacity in the Commonwealth for the production of biodiesel fuel
698 exceeds one million gallons.

699 CHAPTER 7.

700 VIRGINIA METHANE HYDRATES RESEARCH CENTER.

701 § 67-700. Virginia Methane Hydrates Research Center established.

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

704 § 67-701. Functions, powers, and duties of the Research Center.

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

714 § 67-702. Control and supervision.

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

717 § 67-703. Appointment of a director.

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

721 § 67-704. Powers and duties of the director.

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

731 CHAPTER 8.

732 ENFORCEABILITY OF COVENANTS RESTRICTING 733 SOLAR ENERGY COLLECTION DEVICES.

734 § 67-800. Definitions.

735 As used in this chapter:

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

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

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

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§ 67-801. Covenants restricting solar power void.

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

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

CHAPTER 9.

DESIGNATION OF OPTIMAL LOW-EMISSION ENERGY FACILITY SITES.

Article 1.

General Provisions.

§ 67-900. Findings; public policy.

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

§ 67-901. Definitions.

As used in this chapter:

"Commission" means the State Corporation Commission.

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

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

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

774 "Nuclear power facility" means a facility where electricity is generated for commercial use by
775 capturing energy released by a nuclear reaction.

776 "One-stop permitting process" means any process that may be established by the General
777 Assembly pursuant to which an applicant who is seeking to develop a low-emission energy facility
778 requiring (i) an environmental permit that is subject to issuance by any agency or board within the
779 Secretariat of Natural Resources and (ii) a certificate of public convenience and necessity that is subject
780 to issuance by the Commission, may seek to obtain the issuance of such permits and certificates from a
781 single entity, such as a siting board, that is authorized to issue all such required state permits and
782 certificates in conjunction with a single proceeding.

783 "Potential energy project site" means a parcel of real property that is (i) owned by the
784 Commonwealth and recommended to the Commission by the Department of General Services as being a
785 potentially suitable location for the location of a low-emission energy facility, (ii) recommended to the
786 Commission by the governing body of a locality as being a potentially suitable location for the location
787 of a low-emission energy facility, which identification shall not be made without the prior written
788 consent of the parcel's owner, or (iii) recommended to the Commission by parcel's owner as being a
789 potentially suitable location for the location of a low-emission energy facility.

790 "Wind energy facility" means a commercial facility where electricity is generated by multiple
791 wind-powered turbines.

792 "Zoning ordinance" means an ordinance adopted by a locality to carry out the purposes of Article
793 7 (§ 15.2-2280 et seq.) of Chapter 22 of Title 15.2.

794 § 67-902. Powers of Commission.

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

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

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

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

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

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

807 Article 2.

808 Siting Wind Energy Facilities.

809 § 67-903. Development of scoring system for wind energy facility sites.

810 The Commission shall develop a system for ascribing numerical scores to parcels of real
811 property based on the extent to which the parcels are suitable for the siting of a wind energy facility.
812 The scoring system shall address the wind velocity, sustained velocity, turbulence, proximity to electric
813 power transmission systems, and potential impacts to natural and historic resources. The system
814 developed pursuant to this section shall allow the suitability of the parcel for the siting of a wind energy
815 facility to be compared to the suitability of other parcels so scored, and shall be based on a scale that
816 allows the suitability of the parcel for the siting of a wind energy facility to be measured against the
817 hypothetical score of an ideal location for such a facility.

818 § 67-904. Scoring of potential wind energy facility sites.

819 A. Upon receipt by the Commission of a recommendation from the Department of General
820 Services, a local governing body, or the parcel's owner that a parcel of real property is a potentially
821 suitable location for a wind energy facility, the Commission shall analyze the suitability of the parcel for
822 the location of such a facility. In conducting its analysis, the Commission shall ascribe a numerical score
823 to the parcel using the scoring system developed pursuant to § 67-903.

824 B. The entity that recommended the parcel to the Commission may bring a proceeding before the
825 Commission to challenge the score ascribed to the parcel.

826 § 67-905. Designation of parcels as optimal sites for wind energy facilities.

827 A. Based on the scores ascribed to parcels that have been recommended to the Commission as
828 potentially suitable locations for a wind energy facility, as such scores may be adjusted as the result of a
829 challenge pursuant to subsection B of § 67-904, the Commission may designate as an optimal site for a
830 wind energy facility any parcel with a score that indicates that the parcel is an excellent location for the
831 construction and operation of a wind energy facility.

832 B. The Commission shall review its decisions regarding the designation of a parcel as an optimal
833 site for a wind energy facility no less frequently than every five years.

834 C. A wind energy facility that is proposed for development upon a parcel that has been
835 designated as an optimal site for a wind energy facility shall be eligible for the one-stop permitting
836 process. The approval of a wind energy facility upon the parcel pursuant to the one-stop permitting
837 process shall be deemed to satisfy the requirements of § 15.2-2232 and local zoning ordinances with
838 respect to such wind energy facility.

839 Article 3.

840 Siting Liquefied Natural Gas Facilities.

841 § 67-906. Development of scoring system for liquefied natural gas facility sites.

842 The Commission shall develop a system for ascribing numerical scores to parcels of real
843 property based on the extent to which the parcels are suitable for the siting of a liquefied natural gas
844 facility. The scoring system shall address the parcel's docking facilities, proximity to natural gas
845 transmission pipelines, compliance with applicable criteria established by the Federal Energy Regulatory
846 Commission for the permitting of LNG facilities, and the potential impacts of such a facility to natural
847 and historic resources. The system developed pursuant to this section shall allow the suitability of the
848 parcel for the siting of an LNG facility to be compared to the suitability of other parcels so scored, and
849 shall be based on a scale that allows the suitability of the parcel for the siting of an LNG facility to be
850 measured against the hypothetical score of an ideal location for such a facility.

851 § 67-907. Scoring of potential liquefied natural gas facility sites.

852 A. Upon receipt by the Commission of a recommendation from the Department of General
853 Services, a local governing body, or the parcel's owner that a parcel of real property is a potentially
854 suitable location for a liquefied natural gas facility, the Commission shall analyze the suitability of the
855 parcel for the location of such a facility. In conducting its analysis, the Commission shall ascribe a
856 numerical score to the parcel using the scoring system developed pursuant to § 67-906.

857 B. The entity that recommended that the parcel to the Commission may bring a proceeding
858 before the Commission to challenge the score ascribed to the parcel.

859 § 67-908. Designation of parcels as optimal sites for liquefied natural gas facilities.

860 A. Based on the scores ascribed to parcels that have been recommended to the Commission as
861 potentially suitable locations for a liquefied natural gas facility, as such scores may be adjusted as the
862 result of a challenge pursuant to subsection B of § 67-907, the Commission may designate a parcel as an
863 optimal site for a liquefied natural gas facility if its score indicates that the parcel is an excellent location
864 for the construction and operation of a liquefied natural gas facility; however, the Commission shall not
865 designate more than three sites in the Commonwealth as optimal sites for an LNG facility.

866 B. The Commission shall review its decisions regarding the designation of a parcel as an optimal
867 site for an LNG facility no less frequently than every five years.

868 C. An LNG facility that is proposed for development upon a parcel that has been designated as
869 an optimal site for an LNG facility shall be eligible for the one-stop permitting process. The approval of
870 an LNG facility upon the parcel pursuant to the one-stop permitting process shall be deemed to satisfy
871 the requirements of § 15.2-2232 and local zoning ordinances with respect to such LNG facility.

872 Article 4.

873 Siting Nuclear Energy Facilities.

874 § 67-909. Development of scoring system for nuclear energy facility sites.

875 The Commission shall develop a system for ascribing numerical scores to parcels of real
876 property based on the extent to which the parcels are suitable for the siting of a nuclear energy facility.
877 The scoring system shall address the parcel's geological stability, proximity to water resources for

878 cooling purposes, and proximity to electric power transmission lines, and potential impacts of such a
879 facility to natural and historic resources. The system developed pursuant to this section shall allow the
880 suitability of the parcel for the siting of a nuclear energy facility to be compared to the suitability of
881 other parcels so scored, and shall be based on a scale that allows the suitability of the parcel for the
882 siting of a nuclear energy facility to be measured against the hypothetical score of an ideal location for
883 such a facility.

884 § 67-910. Scoring of potential nuclear energy facility sites.

885 A. Upon receipt by the Commission of a recommendation from the Department of General
886 Services, a local governing body, or the parcel's owner that a parcel of real property is a potentially
887 suitable location for a nuclear energy facility, the Commission shall analyze the suitability of the parcel
888 for the location of such a facility. In conducting its analysis, the Commission shall ascribe a numerical
889 score to the parcel using the scoring system developed pursuant to § 67-909.

890 B. The entity that recommended the parcel to the Commission may bring a proceeding before the
891 Commission to challenge the score ascribed to the parcel.

892 § 67-911. Designation of parcels as optimal sites for nuclear energy facilities.

893 A. Based on the scores ascribed to parcels that have been recommended to the Commission as
894 potentially suitable locations for a nuclear energy facility, as such scores may be adjusted as the result of
895 a challenge pursuant to subsection B of § 67-910, the Commission may designate a parcel as an optimal
896 site for a nuclear energy facility if its score indicates that the parcel is an excellent location for the
897 construction and operation of a nuclear energy facility; however, the Commission shall not designate
898 more than three sites in the Commonwealth as optimal sites for a nuclear energy facility.

899 B. The Commission shall review its decisions regarding the designation of a parcel as an optimal
900 site for a nuclear energy facility no less frequently than every five years.

901 C. A nuclear energy facility that is proposed for development upon a parcel that has been
902 designated as an optimal site for a nuclear energy facility shall be eligible for the one-stop permitting
903 process. The approval of a nuclear energy facility upon the parcel pursuant to the one-stop permitting

904 process shall be deemed to satisfy the requirements of § 15.2-2232 and local zoning ordinances with
905 respect to such nuclear energy facility.

906 D. Notwithstanding the requirements of this section, the existing Surry and North Anna nuclear
907 energy facility sites and other sites determined through the U.S. Nuclear Regulatory Commission
908 licensing process to be suitable for the development of new nuclear generating units shall be deemed to
909 be optimal sites for nuclear energy facilities under this article without further proceedings.

910 CHAPTER 10.

911 MOTOR VEHICLE FUEL EFFICIENCY STANDARDS

912 § 67-1000. Definitions.

913 As used in this section:

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

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

918 § 67-1001. Efforts to increase CAFE standards.

919 In addition to its responsibilities enumerated in § 2.2-302, the Office shall work with the
920 members of the State Congressional Delegation and federal executive agencies to develop, support, and
921 enact federal legislation, and to take appropriate federal executive action, that will increase the CAFE
922 standards from the current standard of 27.5 miles per gallon for passenger automobiles and 20.7 miles
923 per gallon for light trucks to not less than 32.5 miles per gallon for passenger automobiles and 27.5
924 miles per gallon for light trucks by model year 2015.

925 § 67-1002. Report by Virginia Liaison Office.

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

930 CHAPTER 11.

RENEWABLE ELECTRICITY PRODUCTION GRANT PROGRAM.

§ 67-1100. Definitions.

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

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

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

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

"Qualified energy resources" means the same as that term is defined by Internal Revenue Code § 45(c)(1), and includes wind, closed-loop biomass, and poultry waste resources and lignin and other organic by-products of kraft pulping processes, bark, chip rejects, sawdust, fines and other wood waste, regardless of the point of origin.

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

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

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

§ 67-1102. Renewable Electricity Production Grant Fund.

A. There is hereby established in the state treasury a special nonreverting fund to be known as the Renewable Electricity Production Grant Fund. The Fund shall consist of such moneys as may be appropriated by the General Assembly from time to time, including such moneys as are provided pursuant to subsection D of § 67-301. Any moneys deposited to or remaining in the Fund during or at the end of each fiscal year or biennium, including interest thereon, shall not revert to the general fund but shall remain in the Fund and be available for allocation under this chapter in ensuing fiscal years.

958 Interest on all moneys in the Fund shall remain in the Fund and be credited to it. The Fund shall be used
959 solely for the payment of the grants provided under this chapter. The Department shall administer the
960 Fund.

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

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

971 D. Beginning in calendar year 2007, by June 30 of each year, the Department shall (i) determine
972 the amount of the grants to be allocated to eligible corporations and (ii) certify to the Comptroller and
973 each eligible corporation the amount of the grant allocated to such corporation. Payment of such grants
974 shall be made by the State Treasurer on warrant of the Comptroller within 60 days of such certification,
975 subject to appropriation of sufficient moneys in the Fund.

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

981 F. In no case shall the Department certify grants from the Fund for kilowatts of electricity
982 produced prior to January 1, 2006.

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

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§ 67-1103. Requirements for grants generally.

A. The Department shall establish an application process by which eligible corporations shall apply for a grant under this chapter. An application for a grant under this chapter shall not be approved until the Department has verified that the electricity has been produced from qualified energy resources at a qualified Virginia facility and that sufficient moneys are available in the Fund.

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

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

D. As a condition of receipt of a grant, an eligible 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. All such documents appropriately identified by the eligible corporation shall be considered confidential and proprietary.

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

CHAPTER 12.

PHOTOVOLTAIC, SOLAR, AND WIND ENERGY UTILIZATION GRANT PROGRAM.

§ 67-1200. Definitions.

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

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

1012 "Department" means the Department of Mines, Minerals and Energy.

1013 "Fund" means the Photovoltaic, Solar, and Wind Energy Utilization Grant Fund established
1014 pursuant to § 67-1202.

1015 "Individual" means the same as that term is defined in § 58.1-302.

1016 "Photovoltaic property" means property that uses a solar photovoltaic process to generate
1017 electricity and that meets applicable performance and quality standards and certification requirements in
1018 effect at the time of acquisition of the property, as specified by the Department.

1019 "Solar water heating property" means property that, when installed in connection with a
1020 structure, uses solar energy for the purpose of providing hot water for use within the structure and meets
1021 applicable performance and quality standards and certification requirements in effect at the time of
1022 acquisition of the property, as specified by the Department.

1023 "Wind-powered electrical generator" means an electrical generating unit that (i) has a capacity of
1024 not more than ten kilowatts, (ii) uses wind as its total source of fuel, (iii) is located on the individual's or
1025 corporation's premises, and (iv) is intended primarily to offset all or part of the individual's or
1026 corporation's own electricity requirements.

1027 § 67-1201. Eligibility for grants for installation of photovoltaic property, solar water heating
1028 property, and wind-powered electrical generators.

1029 A. Subject to appropriation of sufficient moneys in the Fund, beginning with calendar year 2006,
1030 an eligible individual or corporation may receive a grant payable from the Fund for a portion of the cost
1031 of photovoltaic property, solar water heating property, or wind-powered electrical generators placed in
1032 service during the calendar year by such individual or corporation. The grant amount shall be 15% of the
1033 total installed cost of photovoltaic property, solar water heating property, or wind-powered electrical
1034 generators but shall not exceed an aggregate total of:

- 1035 1. \$2,000 for each system of photovoltaic property;
- 1036 2. \$1,000 for each system of solar water heating property; and
- 1037 3. \$1,000 for each system of wind-powered electrical generators.

1038 B. Persons or entities placing in service photovoltaic property, solar water heating property, or
1039 wind-powered electrical generators for or on behalf of another person or entity shall not be eligible to
1040 receive a grant for such property.

1041 § 67-1202. Photovoltaic, Solar, and Wind Energy Utilization Grant Fund.

1042 A. There is hereby established in the state treasury a special nonreverting fund to be known as
1043 the Photovoltaic, Solar, and Wind Energy Utilization Grant Fund. The Fund shall consist of such
1044 moneys as may be appropriated by the General Assembly from time to time, including such moneys as
1045 are provided pursuant to subsection D of § 67-301. Any moneys deposited to or remaining in the Fund
1046 during or at the end of each fiscal year or biennium, including interest thereon, shall not revert to the
1047 general fund but shall remain in the Fund and be available for allocation under this chapter in ensuing
1048 fiscal years. Interest on all moneys in the Fund shall remain in the Fund and be credited to it. The Fund
1049 shall be used solely for the payment of the grants provided under this chapter. The Department shall
1050 administer the Fund.

1051 B. The Department shall allocate moneys from the Fund in the following order of priority: (i)
1052 first to unpaid grant amounts carried forward from prior years because eligible individuals or
1053 corporations did not receive the full amount of any grant to which they were eligible in a prior year
1054 pursuant to this chapter and (ii) then to other approved applicants. If the moneys in the Fund are less
1055 than the amount of grants to which approved applicants in any class of priority are eligible, the moneys
1056 in the Fund shall be apportioned pro rata among eligible applicants in such class, based upon the amount
1057 of the grant to which an approved applicant is eligible and the amount of money in the Fund available
1058 for allocation to such class.

1059 C. The Department shall not allocate an amount in excess of the moneys available in the Fund
1060 for the payment of grants.

1061 D. Beginning in calendar year 2007, by June 30 of each year, the Department shall (i) determine
1062 the amount of the grants to be allocated to eligible individuals and corporations, and (ii) certify to the
1063 Comptroller and each eligible grant applicant the amount of the grant allocated to such applicant.

1064 Payment of such grants shall be made by the State Treasurer on warrant of the Comptroller within 60
1065 days of such certification.

1066 E. If a grant recipient is allocated less than the full amount of a grant to which it is eligible in any
1067 year pursuant to this chapter, such individual or corporation shall not be eligible for the deficiency in
1068 that year, but the unpaid portion of the grant to which it was eligible shall be carried forward by the
1069 Department to the following year, during which it shall be in the first class of priority as provided in
1070 clause (i) of subsection B.

1071 F. In no case shall the Department certify grants from the Fund for photovoltaic property, solar
1072 water heating property, or wind-powered electrical generators placed in service prior to January 1, 2006.

1073 G. Actions of the Department relating to the allocation and awarding of grants shall be exempt
1074 from the provisions of the Administrative Process Act pursuant to subdivision B. 4. of § 2.2-4002.

1075 § 67-1203. Requirements for grants generally.

1076 A. The Department shall establish an application process by which eligible individuals and
1077 corporations shall apply for a grant under this chapter. The application shall be filed with the director of
1078 the Department no later than March 31 each year following the calendar year in which such property
1079 was placed in service. Failure to meet the filing deadline shall render the applicant ineligible to receive a
1080 grant for photovoltaic property, solar water heating property, or wind-powered electrical generators
1081 placed in service in the prior calendar year. For filings by mail, the postmark cancellation shall govern
1082 the date of the filing determination.

1083 B. The application shall provide evidence, satisfactory to the Department, of the total installed
1084 cost of each system of photovoltaic property, solar water heating property, or wind-powered electrical
1085 generators placed in service by such individual or corporation in the prior calendar year.

1086 C. As a condition of receipt of a grant, an eligible individual or corporation shall make available
1087 to the Department for inspection upon request all relevant and applicable documents to determine
1088 whether the requirements for the receipt of grants as set forth in this chapter have been satisfied.

1089 D. An individual or corporation receiving a grant pursuant to this chapter for a system of
1090 photovoltaic property, solar water heating property, or wind-powered electrical generators may not use

1091 such system as the basis for claiming any other grant or credit against taxes, as provided under the Code
1092 of Virginia or in an appropriations act.

1093 **2. That the Department of Mines, Minerals and Energy shall promulgate regulations, in**
1094 **accordance with the Administrative Process Act (§ 2.2-4000 et seq.), for purposes of carrying out**
1095 **the provisions of Chapters 11 (§ 67-1100 et seq.) and 12 (§ 67-1200 et seq.) of Title 67 of the Code**
1096 **of Virginia.**

1097 **3. That the State Corporation Commission and Secretary of Natural Resources shall develop a**
1098 **proposal for a one-stop permitting process, pursuant to which an applicant who is seeking to**
1099 **develop a low-emission energy facility requiring (i) an environmental permit that is subject to**
1100 **issuance by any agency or board within the Secretariat of Natural Resources and (ii) a certificate**
1101 **of public convenience and necessity that is subject to issuance by the Commission, may seek to**
1102 **obtain the issuance of such permits and certificates from a single entity, such as a siting board,**
1103 **that is authorized to issue all such required state permits and certificates in conjunction with a**
1104 **single proceeding. The State Corporation Commission and Secretary of Natural Resources shall**
1105 **submit their proposal for a one-stop permitting process, together with an analysis of the potential**
1106 **costs and benefits of such a process, to the Governor and the chairmen of the House Committee on**
1107 **Commerce and Labor, the House Committee on Agriculture, Chesapeake and Natural Resources,**
1108 **the Senate Committee on Commerce and Labor, and the Senate Committee on Agriculture,**
1109 **Conservation and Natural Resources by December 1, 2006.**

1110 **4. That the Department of Taxation shall develop guidelines that describe the items that qualify**
1111 **for the deduction under subdivisions D 11 and 12 of § 58.1-322 for energy-efficient appliances and**
1112 **equipment and for motor vehicles using clean special fuels, and shall make such guidelines**
1113 **available, both electronically and in hard copy, no later than October 1, 2006.**

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