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HOUSE BILL NO. 803**FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by Senator Hanger
on March 3, 2010)

(Patron Prior to Substitute—Delegate Poindexter)

A *BILL to amend the Code of Virginia by adding in Article 13 of Chapter 3 of Title 58.1 sections numbered 58.1-439.12:03 and 58.1-439.12:04, relating to alternative energy income tax credits.*

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 13 of Chapter 3 of Title 58.1 sections numbered 58.1-439.12:03 and 58.1-439.12:04 as follows:

§ 58.1-439.12:03. *Green job creation tax credit.*

A. For taxable years beginning on or after January 1, 2010, but before January 1, 2015, a taxpayer shall be allowed a credit against the tax levied pursuant to § 58.1-320 or 58.1-400 for each new green job created within the Commonwealth by the taxpayer during the taxable year. The amount of the annual credit for each such new green job shall be \$500 for each annual salary that is \$50,000 or more. The credit shall be first allowed for the taxable year in which the job has been filled for at least one year and for each of the four succeeding taxable years provided the job is continuously filled during the respective taxable year. Each taxpayer qualifying under this section shall be allowed the credit for up to an aggregate of 350 green jobs.

B. As used in this section:

"Green job" means employment in industries relating to the field of renewable, alternative energies, including the manufacture and operation of products used to generate electricity and other forms of energy from alternative sources that include hydrogen fuel cell technology, geothermal heating systems, solar heating systems, hydropower systems, wind systems, and biomass and biofuel systems. The Secretary of Commerce and Trade shall develop a detailed definition and list of jobs that qualify for the credit provided in this section and shall post them on his website.

"Job" means employment of an indefinite duration of an individual whose primary work activity is related directly to the field of renewable, alternative energies and for which the standard fringe benefits are paid by the taxpayer, requiring a minimum of either (i) 35 hours of an employee's time per week for the entire normal year of such taxpayer's operations, which "normal year" must consist of at least 48 weeks, or (ii) 1,680 hours per year. Positions created when a job function is shifted from an existing location in the Commonwealth shall not qualify as a job under this section.

C. To qualify for the tax credit provided in subsection A, a taxpayer shall demonstrate that the green job was created by the taxpayer and that such job was continuously filled in the Commonwealth during the respective taxable year.

D. In no case shall the amount of credit taken by a taxpayer for any taxable year exceed the total amount of tax imposed by this chapter for the taxable year. If the amount of the credit allowed for any taxable year for green jobs continuously filled during the taxable year exceeds the taxpayer's tax liability imposed by this chapter for such taxable year, the amount that exceeds the tax liability may be carried over for credit against the income taxes of the taxpayer in the next five taxable years or until the total amount of the tax credit has been taken, whichever is sooner.

E. Credits granted to a partnership, limited liability company, or electing small business corporation (S corporation) shall be allocated to the individual partners, members, or shareholders, respectively, in proportion to their ownership or interest in such business entities.

F. A green job for which a taxpayer claims any tax credit pursuant to this section shall not be the basis, or shall not have been the basis, for (i) claiming any other tax credit provided under Virginia law or (ii) any grant payment under Virginia law.

§ 58.1-439.12:04. *Tax credit for facilities using agricultural livestock waste nutrients to produce electricity.*

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

"Agricultural livestock waste nutrients" means the same as such term is defined under § 45 (c) of the U.S. Internal Revenue Code of 1986, as amended.

"Energy property" means energy property as defined under § 48 (a) of the U.S. Internal Revenue Code of 1986, as amended, or any property treated as energy property pursuant to such section.

"Qualified property" means any energy property that is (i) located in the Commonwealth, and (ii) part of an electric energy facility producing electricity primarily from agricultural livestock waste nutrients.

B. For taxable years beginning on or after January 1, 2010, a credit shall be allowed against the taxes imposed by § 58.1-320 or 58.1-400 to any person placing qualified property in service on or after

60 January 1, 2010. The amount of the credit for the taxable year shall be equal to the amount of the
61 energy credit allowed to such person for such taxable year under § 48 of the U.S. Internal Revenue
62 Code of 1986, as amended, for placing such qualified property in service.

63 C. The amount of credit allowed pursuant to this section for a taxable year shall not exceed the total
64 amount of tax imposed by this chapter for such taxable year. Any credit not usable for the taxable year
65 the credit was allowed may be, to the extent usable, carried over for the next 10 succeeding taxable
66 years.

67 D. Credits granted to a partnership, limited liability company, or electing small business corporation
68 (S corporation) shall be allocated to the individual partners, members, or shareholders, respectively, in
69 proportion to their ownership or interest in such business entities.