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HOUSE BILL NO. 1341

Offered January 22, 2010

A BILL to amend the Code of Virginia by adding in Article 13 of Chapter 3 of Title 58.1 a section numbered 58.1-439.12:03, relating to income tax credits for certain property placed in service that is part of an electric energy facility producing electricity primarily from agricultural livestock waste nutrients.

Patron—Gilbert

Referred to Committee on Finance

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 a section numbered 58.1-439.12:03 as follows:

§ 58.1-439.12:03. Tax credit for certain 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.

"Eligible county or city" means a county or city in the Commonwealth that has a current five-year annual average unemployment rate, as determined by the Virginia Employment Commission, of at least 11 percent.

"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 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 January 1, 2010, provided that at the time the property is placed in service it is placed in service in an eligible county or city. The amount of the credit for the taxable year shall be equal to the amount of the energy credit allowed to such person for such taxable year under § 48 of the U.S. Internal Revenue Code of 1986, as amended, for placing such qualified property in service.

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

D. 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.