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SENATE BILL NO. 1485

Offered January 17, 2017

A *BILL to amend and reenact §§ 58.1-334, 58.1-337, 58.1-339.2, 58.1-339.3, 58.1-339.4, 58.1-339.7, 58.1-339.10, 58.1-339.12, 58.1-432, 58.1-436, 58.1-438.1, 58.1-439.4, 58.1-439.5, 58.1-439.9, 58.1-439.10, 58.1-439.12, 58.1-439.12:02, and 58.1-439.12:04 of the Code of Virginia, relating to the expiration of certain tax credits.*

Patrons—Sturtevant and Black

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-334, 58.1-337, 58.1-339.2, 58.1-339.3, 58.1-339.4, 58.1-339.7, 58.1-339.10, 58.1-339.12, 58.1-432, 58.1-436, 58.1-438.1, 58.1-439.4, 58.1-439.5, 58.1-439.9, 58.1-439.10, 58.1-439.12, 58.1-439.12:02, and 58.1-439.12:04 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-334. Tax credit for purchase of conservation tillage equipment.

A. ~~Any~~ For taxable years beginning before January 1, 2022, any individual shall be allowed a credit against the tax imposed by § 58.1-320 of an amount equaling 25 percent of all expenditures made for the purchase and installation of conservation tillage equipment used in agricultural production by the purchaser. As used in this section the term "conservation tillage equipment" means a planter, drill, or other equipment used to reduce soil compaction commonly known as a "no-till" planter, drill, or other equipment used to reduce soil compaction including guidance systems to control traffic patterns that are designed to minimize disturbance of the soil in planting crops, including such planters, drills, or other equipment designed to reduce soil compaction which may be attached to equipment already owned by the taxpayer.

B. The amount of such credit shall not exceed \$4,000 or the total amount of tax imposed by this chapter, whichever is less, in the year of purchase. If the amount of such credit exceeds the taxpayer's tax liability for such tax year, the amount which exceeds the tax liability may be carried over for credit against the income taxes of such individual in the next five taxable years until the total amount of the tax credit has been taken.

C. For purposes of this section, the amount of any credit attributable to the purchase and installation of conservation tillage equipment by a partnership or electing small business corporation (S corporation) shall be allocated to the individual partners or shareholders in proportion to their ownership or interest in the partnership or S corporation.

§ 58.1-337. Tax credit for purchase of advanced technology pesticide and fertilizer application equipment.

A. ~~Any~~ For taxable years beginning before January 1, 2022, any individual engaged in agricultural production for market who has in place a nutrient management plan approved by the local Soil and Water Conservation District by the required tax return filing date of the individual shall be allowed a credit against the tax imposed by § 58.1-320 of an amount equaling ~~twenty-five~~ 25 percent of all expenditures made by such individual for the purchase of equipment certified by the Virginia Soil and Water Conservation Board as providing more precise pesticide and fertilizer application. Virginia Polytechnic Institute and State University and Virginia State University shall provide at the request of the Virginia Soil and Water Conservation Board technical assistance in determining appropriate specifications for certified equipment which would provide for more precise pesticide and fertilizer application to reduce the potential for adverse environmental impacts. The equipment shall be divided into the following categories:

1. Sprayers for pesticides and liquid fertilizers;
2. Pneumatic fertilizer applicators;
3. Monitors, computer regulators, and height adjustable booms for sprayers and liquid fertilizer applicators;
4. Manure applicators;
5. Tramline adapters; and
6. Starter fertilizer banding attachments for planters.

B. The amount of such credit shall not exceed \$3,750 or the total amount of the tax imposed by this chapter, whichever is less, in the year of purchase. If the amount of such credit exceeds the taxpayer's tax liability for such taxable year, the amount which exceeds the tax liability may be carried over for credit against the income taxes of such individual in the next five taxable years until the total amount of the tax credit has been taken.

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SB1485

59 C. For purposes of this section, the amount of any credit attributable to the purchase of equipment
 60 certified by the Virginia Soil and Water Conservation Board as providing more precise pesticide and
 61 fertilizer application by a partnership or electing small business corporation (S corporation) shall be
 62 allocated to the individual partners or shareholders in proportion to their ownership or interest in the
 63 partnership or S corporation.

64 **§ 58.1-339.2. Historic rehabilitation tax credit.**

65 A. Effective for taxable years beginning on and after January 1, 1997, *but before January 1, 2022*,
 66 any individual, trust or estate, or corporation incurring eligible expenses in the rehabilitation of a
 67 certified historic structure shall be entitled to a credit against the tax imposed by Articles 2 (§ 58.1-320
 68 et seq.), 6 (§ 58.1-360 et seq.) and 10 (§ 58.1-400 et seq.) of Chapter 3; Chapter 12 (§ 58.1-1200 et
 69 seq.); Article 1 (§ 58.1-2500 et seq.) of Chapter 25; and Article 2 (§ 58.1-2620 et seq.) of Chapter 26, in
 70 accordance with the following schedule:

| 71 Year | % of Eligible Expenses |
|------------------------|------------------------|
| 72 1997 | 10% |
| 73 1998 | 15% |
| 74 1999 | 20% |
| 75 2000 and thereafter | 25% |

76 If the amount of such credit exceeds the taxpayer's tax liability for such taxable year, the amount that
 77 exceeds the tax liability may be carried over for credit against the taxes of such taxpayer in the next ~~ten~~
 78 10 taxable years or until the full credit is used, whichever occurs first. Credits granted to a partnership
 79 or electing small business corporation (S corporation) shall be passed through to the partners or
 80 shareholders, respectively. Credits granted to a partnership or electing small business corporation (S
 81 corporation) shall be allocated among all partners or shareholders, respectively, either in proportion to
 82 their ownership interest in such entity or as the partners or shareholders mutually agree as provided in
 83 an executed document, the form of which shall be prescribed by the Director of the Department of
 84 Historic Resources.

85 B. Effective for taxable years beginning on and after January 1, 2000, *but before January 1, 2022*,
 86 any individual, trust, estate, or corporation resident in Virginia that incurs eligible expenses in the
 87 rehabilitation of a certified historic structure in any other state that has in effect a reciprocal historic
 88 structure rehabilitation tax credit program and agreement for residents of that state who rehabilitate
 89 historic structures in Virginia shall be entitled to a credit to the same extent as provided in subsection A
 90 and other applicable provisions of law; however, no eligible party shall receive any credit authorized
 91 under this subsection prior to taxable years beginning on and after January 1, 2002.

92 C. To claim the credit authorized under this section, the taxpayer shall apply to the Virginia
 93 Department of Historic Resources, which shall determine the amount of eligible rehabilitation expenses
 94 and issue a certificate thereof to the taxpayer. The taxpayer shall attach the certificate to the Virginia tax
 95 return on which the credit is claimed.

96 D. When used in this section:

97 "Certified historic structure" means a property listed individually on the Virginia Landmarks Register,
 98 or certified by the Director of the Virginia Department of Historic Resources as contributing to the
 99 historic significance of a historic district that is listed on the Virginia Landmarks Register or certified by
 100 the Director of the Virginia Department of Historic Resources as meeting the criteria for listing on the
 101 Virginia Landmarks Register.

102 "Eligible rehabilitation expenses" means expenses incurred in the material rehabilitation of a certified
 103 historic structure and added to the property's capital account.

104 "Material rehabilitation" means improvements or reconstruction consistent with "The Secretary of the
 105 Interior's Standards for Rehabilitation," the cost of which amounts to at least ~~fifty~~ 50 percent of the
 106 assessed value of such building for local real estate tax purposes for the year prior to the initial
 107 expenditure of any rehabilitation expenses, unless the building is an owner-occupied building, in which
 108 case the cost shall amount to at least ~~twenty-five~~ 25 percent of the assessed value of such building for
 109 local real estate tax purposes for the year prior to the initial expenditure of any rehabilitation expenses.

110 "Owner-occupied building" means any building that is used as a personal residence by the owner.

111 E. The Director of the Department of Historic Resources shall establish by regulation the
 112 requirements needed for this program, including the fees to defray necessary expenses thereof, and,
 113 except as otherwise prohibited by this section, the extent to which the availability of the credit provided
 114 by this section is coextensive with the availability of the federal tax credit for the rehabilitation of
 115 certified historic resources.

116 F. Any gain or income under federal law from the allocation or application of a tax credit under this
 117 section shall not be (i) taxable gain or income for purposes of the tax imposed pursuant to Article 2
 118 (§ 58.1-320 et seq.), (ii) taxable gain or income for purposes of the tax imposed pursuant to Article 6
 119 (§ 58.1-360 et seq.), or (iii) taxable gain or income for purposes of the tax imposed pursuant to Article
 120 10 (§ 58.1-400 et seq.). However, nothing in this subsection shall be construed or interpreted as allowing

a subtraction or deduction for such gain or income under federal law if the gain or income is otherwise excluded, deducted, or subtracted in computing the respective tax set forth under clauses (i) through (iii).

§ 58.1-339.3. Agricultural best management practices tax credit.

A. For all taxable years beginning on and after January 1, 1998, *but before January 1, 2022*, any individual who is engaged in agricultural production for market, or has equines that create needs for agricultural best management practices to reduce nonpoint source pollutants, and has in place a soil conservation plan approved by the local Soil And Water Conservation District (SWCD), shall be allowed a credit against the tax imposed by § 58.1-320 of an amount equaling 25 percent of the first \$70,000 expended for agricultural best management practices by the individual.

As used in this section, "agricultural best management practice" means a practice approved by the Virginia Soil and Water Conservation Board (VSWCB) which will provide a significant improvement to water quality in the state's streams and rivers and the Chesapeake Bay and is consistent with other state and federal programs that address agricultural, nonpoint-source-pollution management. Eligible practices shall include, but are not limited to, the following:

1. Livestock-waste and poultry-waste management;
2. Soil erosion control;
3. Nutrient and sediment filtration and detention;
4. Nutrient management; and
5. Pest management and pesticide handling.

A detailed list of the standards and criteria for practices eligible for credit shall be found in the most recently approved "Virginia Agricultural BMP Manual" published annually prior to July 1 by the Department of Conservation and Recreation.

B. Any practice approved by the local Soil and Water Conservation District Board shall be completed within the taxable year in which the credit is claimed. After the practice installation has been completed, the local SWCD Board shall certify the practice as approved and completed, and eligible for credit. The applicant shall forward the certification to the Department of Taxation on forms provided by the Department. The credit shall be allowed only for expenditures made by the taxpayer from funds of his own sources.

C. 1. The amount of such credit shall not exceed \$17,500 or the total amount of the tax imposed by this chapter, whichever is less, in the year the project was completed, as certified by the Board. Any taxpayer claiming a tax credit under this section shall not claim a credit under any similar Virginia law for costs related to the same eligible practices.

2. If the amount of the credit exceeds the taxpayer's liability for such taxable year, the excess may be refunded by the Tax Commissioner. Tax credits shall be refunded by the Tax Commissioner on behalf of the Commonwealth for 100 percent of face value. Tax credits shall be refunded within 90 days after the filing date of the income tax return on which the individual applies for the refund.

D. For purposes of this section, the amount of any credit attributable to agricultural best management practices by a pass-through entity such as a partnership, limited liability company, or electing small business corporation (S Corporation) shall be allocated to the individual partners, members, or shareholders in proportion to their ownership or interest in such entity.

E. A pass-through tax entity, such as a partnership, limited liability company or electing small business corporation (S corporation), may appoint a tax matters representative, who shall be a general partner, member-manager or shareholder, and register that representative with the Tax Commissioner. The Tax Commissioner shall be entitled to deal with the tax matters representative as representative of the taxpayers to whom credits have been allocated by the entity under this article with respect to those credits. In the event a pass-through tax entity allocates tax credits arising under this article to its partners, members or shareholders and the allocated credits shall be disallowed, in whole or in part, such that an assessment of additional tax against a taxpayer shall be made, the Tax Commissioner shall first make written demand for payment of any additional tax, together with interest and penalties, from the tax matters representative. In the event such payment demand is not satisfied, the Tax Commissioner shall proceed to collection against the taxpayers in accordance with the provisions of Chapter 18 (§ 58.1-1800 et seq.).

§ 58.1-339.4. Qualified equity and subordinated debt investments tax credit.

A. As used in this section:

"Commercialization investment" means a qualified investment in a qualified business that was created to commercialize research developed at or in partnership with an institution of higher education.

"Equity" means common stock or preferred stock, regardless of class or series, of a corporation; a partnership interest in a limited partnership; or a membership interest in a limited liability company, which is not required or subject to an option on the part of the taxpayer to be redeemed by the issuer within three years from the date of issuance.

"Qualified business" means a business which (i) has annual gross revenues of no more than \$3

million in its most recent fiscal year, (ii) has its principal office or facility in the Commonwealth, (iii) is engaged in business primarily in or does substantially all of its production in the Commonwealth, (iv) has not obtained during its existence more than \$3 million in aggregate gross cash proceeds from the issuance of its equity or debt investments (not including commercial loans from chartered banking or savings and loan institutions), and (v) is primarily engaged, or is primarily organized to engage, in the fields of advanced computing, advanced materials, advanced manufacturing, agricultural technologies, biotechnology, electronic device technology, energy, environmental technology, information technology, medical device technology, nanotechnology, or any similar technology-related field determined by regulation by the Department of Taxation to fall under the purview of this section.

"Qualified investment" means a cash investment in a qualified business in the form of equity or subordinated debt; however, an investment shall not be qualified if the taxpayer who holds such investment, or any of such taxpayer's family members, or any entity affiliated with such taxpayer, receives or has received compensation from the qualified business in exchange for services provided to such business as an employee, officer, director, manager, independent contractor or otherwise in connection with or within one year before or after the date of such investment. For the purposes hereof, reimbursement of reasonable expenses incurred shall not be deemed to be compensation.

"Subordinated debt" means indebtedness of a corporation, general or limited partnership, or limited liability company that (i) by its terms required no repayment of principal for the first three years after issuance; (ii) is not guaranteed by any other person or secured by any assets of the issuer or any other person; and (iii) is subordinated to all indebtedness and obligations of the issuer to national or state-chartered banking or savings and loan institutions.

B. For taxable years beginning on or after January 1, 1999, *but before January 1, 2022*, a taxpayer shall be allowed a credit against the tax levied pursuant to §§ 58.1-320 and 58.1-360 in an amount equal to 50 percent of such taxpayer's qualified investments during such taxable year. No credit shall be allowed to any taxpayer that has committed capital under management in excess of \$10 million and engages in the business of making debt or equity investments in private businesses, or to any taxpayer that is allocated a credit as a partner, shareholder, member or owner of an entity that engages in such business.

C. The amount of any credit attributable to a qualified investment by a partnership, electing small business corporation (S corporation), or limited liability company shall be allocated to the individual partners, shareholders, or members, as the case may be, as they may determine.

D. The aggregate amount of the credit for each taxpayer shall not exceed the lesser of (i) the tax imposed for such taxable year or (ii) \$50,000. Any credit not usable for the taxable year in which the credit was allowed may be, to the extent usable, carried over for the next 15 succeeding taxable years or until the total amount of the tax credit has been taken, whichever occurs first.

E. The amount of tax credits available under this section for a calendar year shall be \$5 million. Of the amount of available credits, one-half of the amount shall be allocated exclusively for credits for commercialization investments. Such allocation of tax credits shall constitute the minimum amount of tax credits to be allocated for commercialization investments. However, if the amount of tax credits requested for commercialization investments is less than one-half of the total amount of credits available under this section, the balance of such credits shall be allocated for qualified investments in any qualified business under this section.

F. Unless the taxpayer transfers the equity received in connection with a qualified investment as a result of (i) the liquidation of the qualified business issuing such equity, (ii) the merger, consolidation or other acquisition of such business with or by a party not affiliated with such business, or (iii) the death of the taxpayer, any taxpayer that fails to hold such equity for at least three full calendar years following the calendar year for which a tax credit for a qualified investment is allocated pursuant to this section shall forfeit both used and unused tax credits and in addition shall pay the Department of Taxation interest on the total allowed credits at the rate of one percent per month, compounded monthly, from the date the tax credits were allocated to the taxpayer. The Department of Taxation shall deposit any amounts received under this subsection into the general fund of the Commonwealth.

G. Prior to December 31, 1998, the Department of Taxation shall promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) (i) establishing procedures for claiming the tax credit provided by this section and (ii) providing for the allocation of tax credits among taxpayers requesting credits in the event the amount of credits for which requests are made exceeds the available amount of credits in any one calendar year. Notwithstanding the foregoing, the Department of Taxation shall permit an application for certification as a qualified business to be filed at any time during the calendar year regardless of when the investment was made during the calendar year.

§ 58.1-339.7. Livable home tax credit.

A. For taxable years beginning on and after January 1, 2000, any taxpayer who purchases a new residence or retrofits or hires someone to retrofit an existing residence, provided that such new residence or the retrofitting of such existing residence is designed to improve accessibility, provide universal

visitability, and meets the eligibility requirements established by guidelines developed by the Department of Housing and Community Development, shall be allowed a credit against the tax imposed pursuant to § 58.1-320 of an amount equal to \$500, or \$2,000 for taxable years beginning on or after January 1, 2010, for such new residence or 25 percent of the total amount spent for the retrofitting of such existing residence. For taxable years beginning on or after January 1, 2010, the 25 percent shall increase to 50 percent. The amount of the credit allowed for the retrofitting of an existing residence shall not exceed \$500, or \$2,000 for taxable years beginning on or after January 1, 2010. Such a credit shall require application by the taxpayer as provided in subsection C. For purposes of this section, the purchase of a new residence means a transaction involving the first sale of a residence or dwelling. The provisions of this subsection shall not be applicable for taxable years beginning on or after January 1, 2011.

B. For taxable years beginning on or after January 1, 2011, *but before January 1, 2022*, an individual shall be allowed a credit against the tax imposed by § 58.1-320 for a portion of the total purchase price paid by him for a new residence or the total amount expended by him to retrofit an existing residence, provided that the new residence or the retrofitting of the existing residence is designed to improve accessibility, to provide universal visitability, and it meets the eligibility requirements established by guidelines developed by the Department of Housing and Community Development. In addition, a licensed contractor, as defined in § 54.1-1100, shall be allowed a credit against the tax imposed by § 58.1-320 or 58.1-400 for a portion of the total amount it expended in constructing a new residential structure or unit or retrofitting or renovating an existing residential structure or unit, provided that the new residential structure or unit or the retrofitting or renovating of the existing residential structure or unit is designed to improve accessibility, to provide universal visitability, and it meets the eligibility requirements established by guidelines developed by the Department of Housing and Community Development.

The credit shall be allowed for the taxable year in which the residence has been purchased or construction, retrofitting, or renovation of the residence or residential structure or unit has been completed. The credit allowed under this section shall not exceed (i) \$5,000 for the purchase of each new residence or the construction of each new residential structure or unit or (ii) 50 percent of the total amount expended, but not to exceed \$5,000, for the retrofitting or renovation of each existing residence or residential structure or unit.

No credit shall be allowed under this section for the purchase, construction, retrofitting, or renovation of residential rental property.

C. Eligible taxpayers shall apply for the credit by making application to the Department of Housing and Community Development. The Department of Housing and Community Development shall issue a certification for an approved application to the taxpayer. The taxpayer shall attach the certification to the applicable income tax return. The total amount of tax credits granted under this section for any fiscal year shall not exceed \$1 million. In each year, the Department of Housing and Community Development shall allocate \$500,000 in tax credits for the purchase or construction of new residences and \$500,000 in tax credits for the retrofitting or renovation of existing residences or residential structures or units. If the amount of tax credits approved in a fiscal year for the purchase or construction of new residences is less than \$500,000, the Director of the Department of Housing and Community Development shall allocate the remaining balance of such tax credits for the retrofitting or renovation of existing residences or residential structures or units. If the amount of tax credits approved in a fiscal year for the retrofitting or renovation of existing residences or residential structures or units is less than \$500,000, the Director of the Department of Housing and Community Development shall allocate the remaining balance of such tax credits for the purchase or construction of new residences. In the event applications for the tax credit exceed the amount allocated by the Director for the fiscal year, the Department of Housing and Community Development shall issue the tax credits pro rata based upon the amount of tax credit approved for each taxpayer and the amount of tax credits allocated by the Director.

In no case shall the Director issue any tax credit relating to transactions or dealings between affiliated entities. In no case shall the Director issue any tax credit more than once to the same or different persons relating to the same retrofitting, renovation, or construction project.

D. In no case shall the amount of credit taken by a taxpayer pursuant to this section exceed the taxpayer's income tax liability for the taxable year. If the amount of credit allowed for the taxable year in which the residence has been purchased or construction, retrofitting, or renovation of the residence or residential structure or unit has been completed exceeds the taxpayer's income tax liability imposed for such taxable year, then the amount that exceeds the tax liability may be carried over for credit against the income taxes of such taxpayer in the next seven taxable years or until the total amount of the tax credit issued has been taken, whichever is sooner. 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.

§ 58.1-339.10. Riparian forest buffer protection for waterways tax credit.

A. For all taxable years beginning on or after January 1, 2000, *but before January 1, 2022*, any individual who owns land abutting a waterway on which timber is harvested, and who forbears harvesting timber on certain portions of the land near the waterway, shall be allowed a credit against the tax imposed by § 58.1-320 as set forth in this section. For purposes of this section, "waterway" means any perennial or intermittent stream of water depicted on the then most current United States Geological Survey topographical map. For purposes of this section and for taxable years beginning on and after January 1, 2008, "individual" means an individual person and an individual's grantor trust.

B. The State Forester shall develop guidelines setting forth the general requirements of qualifying for the credit, including the land for which credit is eligible. To qualify for the credit, the individual must comply with an individualized Forest Stewardship Plan to be certified by the State Forester. In no event shall the distance from such waterway to the far end of the timber buffer, on which the tax credit is based, be less than ~~thirty-five~~ 35 feet or more than three hundred feet. The minimum duration for the buffer shall be ~~fifteen~~ 15 years. The State Forester shall check each certified buffer annually to verify its continued compliance with the individual's Forest Stewardship Plan. If the State Forester discovers that the timber in that portion of the land retained as a buffer has been harvested prior to the end of the required term, written notification of such violation shall be delivered to the individual by the State Forester.

C. The tax credit shall be an amount equal to ~~twenty-five~~ 25 percent of the value of timber in that portion of the land retained as a buffer. The amount of such credit shall not exceed \$17,500 or the total amount of the tax imposed by this chapter, whichever is less, in the year that the timber outside the buffer was harvested. If the amount of the credit exceeds the individual's liability for such taxable year, the excess may be carried over for credit against income taxes in the next five taxable years until the total amount of the tax credit has been taken. For purposes of this section, the amount of any credit attributable to qualified buffer protection by a partnership or electing small business corporation (S Corporation) shall be allocated to the individual partners or shareholders in proportion to their ownership or interest in the partnership or S Corporation. The land which is the subject of a tax credit under this section cannot again be the subject of a tax credit under this section for at least ~~fifteen~~ 15 years. The State Forester shall check each certified buffer annually to verify its continued compliance with the individual's Forest Stewardship Plan. If the State Forester discovers that the timber in that portion of the land retained as a buffer has been harvested prior to the end of the required term, written notification of such noncompliance shall be delivered to the individual by the State Forester.

D. To claim the credit authorized under this section, the individual shall apply to the State Forester, who shall determine the amount of credit, using the assessed value of the timber in that portion of land retained as a buffer, and issue a certificate thereof to the individual. The individual shall attach the certificate to the Virginia tax return on which the credit is claimed. In the event the timber in that portion of land retained as a buffer is harvested by the individual or any other person prior to the end of the term originally established in the individual's Forest Stewardship Plan, the individual shall repay the tax credit claimed. Within ~~sixty~~ 60 days after receiving written notification from the State Forester that the individual's plan no longer qualifies for the credit, repayment shall be made to the Department of Taxation. If repayment is not made within the ~~sixty-day~~ 60-day period, the State Forester shall notify the locality's Commonwealth Attorney for assistance in collecting the funds from the individual.

§ 58.1-339.12. Farm wineries and vineyards tax credit.

A. As used in this section, unless the context requires a different meaning:

"Qualified capital expenditures" means all expenditures made by the taxpayer for the purchase and installation of barrels, bins, bottling equipment, capsuling equipment, chemicals, corks, crushers and destemmers, dirt, fermenters, or other recognized fermentation devices, fertilizer and soil amendments, filters, grape harvesters, grape plants, hoses, irrigation equipment, labeling equipment, poles, posts, presses, pumps, refractometers, refrigeration equipment, seeders, tanks, tractors, vats, weeding and spraying equipment, wine tanks, and wire.

"Virginia vineyard" means agricultural lands located in the Commonwealth consisting of at least one contiguous acre dedicated to the growing of grapes that are used or are intended to be used in the production of wine by a Virginia farm winery as well as any plants or other improvements located thereon.

"Virginia farm winery" means an establishment located in the Commonwealth that is licensed as a Virginia farm winery pursuant to § 4.1-207.

B. For taxable years beginning on and after January 1, 2011, *but before January 1, 2022*, any Virginia farm winery or vineyard shall be entitled to a credit against the tax levied pursuant to §§ 58.1-320 and 58.1-400 for qualified capital expenditures made in connection with the establishment of new Virginia farm wineries or vineyards and capital improvements made to existing Virginia farm wineries or vineyards. The amount of the credit shall be equal to 25 percent of all qualified capital expenditures.

C. The total amount of tax credits available under this section for a calendar year shall not exceed \$250,000. In the event that applications for such credit exceed \$250,000 for any calendar, the Department of Taxation shall allocate the credits on a pro rata basis.

D. If the amount of the credit exceeds the taxpayer's tax liability for the taxable year, the excess may be carried over for credit against the income taxes of the taxpayer in the next 10 taxable years, or until the total credit amount has been taken, whichever occurs first.

E. For purposes of this section, the amount of any credit attributable to a partnership, electing small business corporation (S corporation), or limited liability company shall be allocated to the individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entities.

F. The credit allowed in this section shall not be claimed to the extent the taxpayer has claimed a deduction for the same expenses for federal income tax purposes under § 179 of the Internal Revenue Code, as amended.

§ 58.1-432. Tax credit for purchase of conservation tillage equipment.

A. ~~Any~~ For taxable years beginning before January 1, 2022, any corporation shall be allowed a credit against the tax imposed by § 58.1-400 of an amount equaling 25 percent of all expenditures made for the purchase and installation of conservation tillage equipment used in agricultural production by the purchaser. As used in this section, the term "conservation tillage equipment" means a planter, drill, or other equipment used to reduce soil compaction commonly known as a "no-till" planter, drill, or other equipment used to reduce soil compaction including guidance systems to control traffic patterns that are designed to minimize disturbance of the soil in planting crops, including such planters, drills, or other equipment used to reduce soil compaction which may be attached to equipment already owned by the taxpayer.

B. The amount of such credit shall not exceed \$4,000 or the total amount of tax imposed by this chapter, whichever is less, in the year of purchase. If the amount of such credit exceeds the taxpayer's tax liability for such tax year, the amount which exceeds such tax liability may be carried over for credit against income taxes in the next five taxable years until the total amount of the tax credit has been taken.

C. For purposes of this section, the amount of any credit attributable to the purchase and installation of conservation tillage equipment by a partnership or electing small business corporation (S corporation) shall be allocated to the individual partners or shareholders in proportion to their ownership or interest in the partnership or S corporation.

§ 58.1-436. Tax credit for purchase of advanced technology pesticide and fertilizer application equipment.

A. ~~Any~~ For taxable years beginning before January 1, 2022, any corporation engaged in agricultural production for market which has in place a nutrient management plan approved by the local Soil and Water Conservation District by the required tax return filing date of the corporation shall be allowed a credit against the tax imposed by § 58.1-400 of an amount equaling ~~twenty-five~~ 25 percent of all expenditures made by such corporation for the purchase of equipment certified by the Virginia Soil and Water Conservation Board as providing more precise pesticide and fertilizer application. Virginia Polytechnic Institute and State University and Virginia State University shall provide at the request of the Virginia Soil and Water Conservation Board technical assistance in determining appropriate specifications for certified equipment which would provide for more precise pesticide and fertilizer application to reduce the potential for adverse environmental impacts. The equipment shall be divided into the following categories:

1. Sprayers for pesticides and liquid fertilizers;
2. Pneumatic fertilizer applicators;
3. Monitors, computer regulators, and height adjustable booms for sprayers and liquid fertilizer applicators;
4. Manure applicators;
5. Tramlane adapters; and
6. Starter fertilizer banding attachments for planters.

B. The amount of such credit shall not exceed \$3,750 or the total amount of the tax imposed by this chapter, whichever is less, in the year of purchase. If the amount of such credit exceeds the taxpayer's tax liability for such taxable year, the amount which exceeds the tax liability may be carried over for credit against the income taxes of such corporation in the next five taxable years until the total amount of the tax credit has been taken. Credits granted to a partnership or electing small business corporation (S corporation) shall be passed through to the partners or shareholders, respectively.

C. For purposes of this section, the amount of any credit attributable to the purchase of equipment certified by the Virginia Soil and Water Conservation Board as providing more precise pesticide and fertilizer application by a partnership or S corporation shall be allocated to the individual partners or

shareholders in proportion to their ownership or interest in the partnership or S corporation.

§ 58.1-438.1. Tax credit for vehicle emissions testing equipment, clean-fuel vehicles and certain refueling property.

Any For taxable years beginning before January 1, 2022, any corporation, individual or public service corporation shall be allowed a credit against the income or gross receipts taxes imposed by Subtitle I (§ 58.1-100 et seq.) and Chapter 26 (§ 58.1-2600 et seq.) of Title 58.1 of (i) an amount equal to ~~ten~~ 10 percent of the deduction allowed to such corporation, individual or public service corporation under Section 179A of the Internal Revenue Code for purchases of clean-fuel vehicles principally garaged in Virginia or certain refueling property placed in service in Virginia or ~~ten~~ 10 percent of the costs used to compute the credit under Section 30 of the Internal Revenue Code and (ii) an amount equal to ~~twenty~~ 20 percent of the purchase or lease price paid during the taxable year for equipment certified by the Department of Environmental Quality for vehicle emissions testing, located within, or within any county, city or town adjacent to, any county, city or town wherein implementation of an enhanced vehicle emissions inspection program, as defined in § 46.2-1176, is required. Credits granted to a partnership or S corporation shall be passed through to the partners or shareholders, respectively. If the credit exceeds the tax liability in a year, the credit may be carried forward up to five succeeding years.

§ 58.1-439.4. Day-care facility investment tax credit.

A. For taxable years beginning on and after January 1, 1997, *but before January 1, 2022*, any taxpayer shall be allowed a credit against the taxes imposed by § 58.1-320 or § 58.1-400 in an amount equal to ~~twenty-five~~ 25 percent of all expenditures paid or incurred by such taxpayer in such taxable year for planning, site preparation, construction, renovation, or acquisition of facilities for the purpose of establishing a child day-care facility to be used primarily by the children of such taxpayer's employees, and equipment installed for permanent use within or immediately adjacent to such facility, including kitchen appliances, to the extent that such equipment or appliances are necessary in the use of such facility for purposes of child day-care; however, the amount of credit allowed to any taxpayer under this section shall not exceed \$25,000. If two or more taxpayers share in the cost of establishing the child day-care facility for the children of their employees, each such taxpayer shall be allowed such credit in relation to the respective share paid or incurred by such taxpayer, of the total expenditures for the facility in such taxable year.

B. The credits provided under this section shall be allowed only if (i) the child day-care facility shall be operated under the authority of a license issued by the Commissioner of Social Services pursuant to § 63.2-1701, (ii) an application for a building permit for the facility is made after July 1, 1996, and (iii) the Tax Commissioner approves a taxpayer's application for a credit. Proper applications submitted to the Department for the credit shall be approved in the order received. For each application approved for credit it shall be assumed that the amount of the credit will be \$25,000, and the amount of the credit will be taken in the fiscal year in which the application is approved and the following two fiscal years. Approval of applications shall be limited to those that are assumed to result in no more than \$100,000 of credits in any fiscal year based on the assumptions set forth in this subsection.

C. Any tax credit not usable for the taxable year may be carried over to the extent usable for the next three taxable years; however, the balance of a credit shall not be claimed for any succeeding taxable year in which the child day-care facility is operated for purposes of child day-care for less than six months.

D. For purposes of this section, the amount of any credit attributable to a partnership, electing small business corporation (S corporation), or limited liability company shall be allocated to the individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entities.

§ 58.1-439.5. Agricultural best management practices tax credit.

A. For all taxable years beginning on and after January 1, 1998, *but before January 1, 2022*, any corporation engaged in agricultural production for market who has in place a soil conservation plan approved by the local Soil and Water Conservation District (SWCD) shall be allowed a credit against the tax imposed by § 58.1-400 of an amount equaling ~~twenty-five~~ 25 percent of the first \$70,000 expended for agricultural best management practices by the corporation. As used in this section, "agricultural best management practice" means a practice approved by the Virginia Soil and Water Conservation Board (VSWCB) which will provide a significant improvement to water quality in the state's streams and rivers and the Chesapeake Bay and is consistent with other state and federal programs that address agricultural, nonpoint-source-pollution management. Eligible practices shall include, but are not limited to, the following:

1. Livestock-waste and poultry-waste management;
2. Soil erosion control;
3. Nutrient and sediment filtration and detention;
4. Nutrient management; and
5. Pest management and pesticide handling.

A detailed list of the standards and criteria for practices eligible for credit shall be found in the most recently approved "Virginia Agricultural BMP Implementation Manual" published by the Department of Conservation and Recreation.

B. Any practice approved by the local Soil and Water Conservation District Board shall be completed within the taxable year in which the credit is claimed. After the practice installation has been completed, the local SWCD Board shall certify the practice as approved and completed, and eligible for credit. The applicant shall forward the certification to the Department of Taxation on forms provided by the Department. The credit shall be allowed only for expenditures made by the taxpayer from funds of his own sources.

C. The amount of such credit shall not exceed \$17,500 or the total amount of the tax imposed by this chapter, whichever is less, in the year the project was completed, as certified by the Board. If the amount of the credit exceeds the taxpayer's liability for such taxable year, the excess may be carried over for credit against income taxes in the next five taxable years until the total amount of the tax credit has been taken.

D. For purposes of this section, the amount of any credit attributable to agricultural best management practices by a partnership or electing small business corporation (S Corporation) shall be allocated to the individual partners or shareholders in proportion to their ownership or interest in the partnership or S Corporation.

§ 58.1-439.9. Tax credit for certain employers hiring recipients of Temporary Assistance for Needy Families.

A. As used in this section:

"Qualified business employer" means an employer whose business employed not more than 100 employees at the time that the employer first hired a qualified employee.

"Qualified employee" means an employee who is a Virginia resident and is a recipient of Temporary Assistance for Needy Families (TANF) in accordance with the provisions of Chapter 6 (§ 63.2-600 et seq.) of Title 63.2.

B. For taxable years beginning on and after January 1, 1999, *but before January 1, 2022*, a qualified business employer shall be allowed a credit against the taxes imposed by Articles 2 (§ 58.1-320 et seq.), 6 (§ 58.1-360 et seq.), and 10 (§ 58.1-400 et seq.) of Chapter 3 of this title in an amount equal to five percent of the annual salary actually paid during the taxable year to a qualified employee. However, the annual amount of the credit shall not exceed \$750 per qualified employee. Qualified business employers entitled to the credit pursuant to this section shall provide written evidence, satisfactory to the Tax Commissioner, of employing such qualified employee for the taxable year in which the credit is claimed.

C. For purposes of this section, the amount of any credit attributable to a partnership, electing small business corporation (S corporation), or limited liability company shall be allocated to the individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entities.

D. Any credit not usable for the taxable year may be carried over for the next three taxable years. The amount of credit allowed pursuant to this section shall not exceed the tax imposed for such taxable year. No credit shall be carried back to a preceding taxable year. If a qualified business employer that is subject to the tax limitation imposed pursuant to this subsection is allowed another credit pursuant to any other section of this Code, or has a credit carryover from a preceding taxable year, such employer shall be considered to have first utilized any credit allowed which does not have a carryover provision, and then any credit which is carried forward from a preceding taxable year, prior to the utilization of any credit allowed pursuant to this section.

E. The amount of tax credits available under this section in any fiscal year shall not exceed the amount appropriated for such year as provided in the general appropriation act.

F. The State Board of Social Services shall promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) establishing procedures for claiming the tax credit provided by this section.

§ 58.1-439.10. Tax credit for purchase of waste motor oil burning equipment.

A. For taxable years beginning on and after January 1, 1999, *but before January 1, 2022*, a taxpayer who operates a business facility within the Commonwealth which accepts waste motor oil from the public shall be allowed a credit against the taxes imposed pursuant to Articles 2 (§ 58.1-320 et seq.) and 10 (§ 58.1-400 et seq.) of this chapter in an amount equal to ~~fifty~~ 50 percent of the purchase price paid during the taxable year for equipment used exclusively for burning waste motor oil at the business facility. The total credit allowed to any taxpayer under this section in any taxable year shall not exceed \$5,000.

B. The Department of Environmental Quality shall certify that such equipment is used to burn waste motor oil at a business facility within the Commonwealth which accepts waste motor oil from the public

before the taxpayer shall be entitled to the tax credit under this section. The taxpayer shall also submit with his income tax return such receipts, invoices, and other documentation as may be necessary to confirm the taxpayer's statement of the purchase price paid for the waste motor oil burning equipment. Any tax credit under this section shall be used only for the taxable year in which the purchase price of the waste motor oil burning equipment was paid.

C. For purposes of this section, the amount of any credit attributable to the purchase of equipment used exclusively for burning waste motor oil by a partnership or electing small business corporation (S corporation) shall be allocated to the individual partners or shareholders in proportion to their ownership or interest in the partnership or S corporation.

§ 58.1-439.12. Riparian forest buffer protection for waterways tax credit.

A. For all taxable years beginning on or after January 1, 2000, *but before January 1, 2022*, any corporation that owns land abutting a waterway on which timber is harvested, and that forbears harvesting timber on certain portions of the land near the waterway, shall be allowed a credit against the tax imposed by § 58.1-400 as set forth in this section. For purposes of this section, "waterway" means any perennial or intermittent stream of water depicted on the then most current United States Geological Survey topographical map.

B. The State Forester shall develop guidelines setting forth the general requirements of qualifying for the credit, including the land for which credit is eligible. To qualify for the credit the corporation must comply with an individualized Forest Stewardship Plan to be certified by the State Forester. In no event shall the distance from such waterway to the far end of the timber buffer, on which the tax credit is based, be less than ~~thirty-five~~ 35 feet or more than three hundred feet. The minimum duration for the buffer shall be ~~fifteen~~ 15 years. The State Forester shall check each certified buffer annually to verify its continued compliance with the taxpayer's Forest Stewardship Plan. If the State Forester discovers that the timber in that portion of the land retained as a buffer has been harvested prior to the end of the required term, written notification of such noncompliance shall be delivered to the taxpayer by the State Forester.

C. The tax credit shall be an amount equal to ~~twenty-five~~ 25 percent of the value of timber in that portion of land retained as a buffer. The amount of such credit shall not exceed \$17,500 or the total amount of the tax imposed by this chapter, whichever is less, in the year that the timber outside the buffer was harvested. If the amount of the credit exceeds the taxpayer's liability for such taxable year, the excess may be carried over for credit against income taxes in the next five taxable years until the total amount of the tax credit has been taken. The land which is the subject of a tax credit under this section cannot again be the subject of a tax credit under this section for at least ~~fifteen~~ 15 years.

D. To claim the credit authorized under this section, the taxpayer shall apply to the State Forester, who shall determine the amount of credit, using the assessed value of the timber in that portion of land retained as a buffer, and issue a certificate thereof to the taxpayer. The taxpayer shall attach the certificate to the Virginia tax return on which the credit is claimed. In the event the timber in that portion of land retained as a buffer is harvested by the taxpayer or any other person prior to the end of the term originally established in the taxpayer's individualized Forest Stewardship Plan, the taxpayer shall repay the tax credit claimed. Within ~~sixty~~ 60 days after receiving written notification from the State Forester that the taxpayer's plan no longer qualifies for the credit, repayment shall be made to the Department of Taxation. If repayment is not made within the ~~sixty-day~~ 60-day period, the State Forester shall notify the locality's Commonwealth Attorney for assistance in collecting the funds from the taxpayer.

§ 58.1-439.12:02. Biodiesel and green diesel fuels producers tax credit.

A. For purposes of this section:

"Biodiesel fuel" means a fuel composed of mono-alkyl esters of long-chain fatty acids derived from vegetable oils or animal fats, designated B100, and meeting the requirements of ASTM D6751.

"Green diesel fuel" means a fuel produced from nonfossil renewable resources including agricultural or silvicultural plants, animal fats, residue and waste generated from the production, processing, and marketing of agricultural products, silvicultural products, and other renewable resources, and meeting applicable ASTM specifications.

"Feedstock" means the agricultural or other renewable resources, whether plant or animal derived, used to produce biodiesel or green diesel fuels.

"Producer" means any person, entity, or agricultural cooperative association, as defined in the Agricultural Cooperative Association Act (§ 13.1-312 et seq.) that, in a calendar year, produces in the Commonwealth up to two million gallons of biodiesel or green diesel fuels using feedstock originating domestically within the United States.

B. For taxable years beginning on or after January 1, 2008, *but before January 1, 2022*, any taxpayer who is a biodiesel fuel or green diesel fuel producer shall be entitled to a nonrefundable credit against the taxes imposed by § 58.1-320 or 58.1-400 in an amount equal to \$0.01 per gallon of biodiesel or green diesel fuels produced by such taxpayer. However, the annual amount of the credit shall not exceed

\$5,000. The taxpayer shall be eligible for the credit during the first three years of production of biodiesel or green diesel fuels.

Any taxpayer entitled to a credit under this section may transfer unused but otherwise allowable credits for use by another taxpayer on Virginia income tax returns. A taxpayer who transfers any amount of the credit in accordance with this section shall file a notification of such transfer to the Department of Taxation in accordance with procedures and forms prescribed by the Tax Commissioner.

C. The Department of Mines, Minerals and Energy shall certify that the biodiesel or green diesel fuels producer has satisfied the requirements of this section for the taxable year in which the credit is allowed. In addition, the taxpayer shall submit with his income tax return all documentation as required by the Department of Taxation. Any credit not usable for the taxable year may be carried over the next three taxable years. The amount of the credit allowed pursuant to this section shall not exceed the tax imposed for such taxable year.

D. For purposes of this section, the amount of any credit attributable to a partnership, electing small business corporation (S corporation), or limited liability company shall be allocated to the individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entity.

§ 58.1-439.12:04. Tax credits for technology industries grants for investment and research and development in tobacco-dependent localities.

A. As used in this section, unless the context clearly shows otherwise, the term or phrase:

"Dwelling unit" means an individual housing unit in an apartment building, an individual housing unit in multifamily residential housing, a single-family residence, or any similar individual housing unit.

"Eligible housing area" means a census tract in the Richmond Metropolitan Statistical area in which less than 10 percent of the residents live below the poverty level, as defined by the United States government and determined by the most recent United States census.

"Housing authority" means a housing authority created under Article 1 (§ 36-1 et seq.) of Chapter 1 of Title 36 of this Code or other government agency that is authorized by the United States government under the United States Housing Act of 1937 (42 U.S.C. § 1437 et seq.) to administer a housing choice voucher program, or the authorized agent of such a housing authority that is authorized to act upon that authority's behalf. The term shall also include the Virginia Housing Development Authority.

"Housing choice voucher" means tenant-based assistance by a housing authority pursuant to 42 U.S.C. § 1437f et seq.

"Participating landlord" means any person engaged in the business of the rental of dwelling units who is (i) subject to the Virginia Residential Landlord and Tenant Act (§ 55-248.2 et seq.) and (ii) performing obligations under a contract with a housing authority relating to the rental of qualified housing units.

"Qualified housing unit" means a dwelling unit that is located in an eligible housing area for which a portion of the rent is paid by a housing authority, which payment is pursuant to a housing choice voucher program.

B. For taxable years beginning on or after January 1, 2010, *but before January 1, 2022*, a participating landlord renting a qualified housing unit shall be eligible for a credit against the tax levied pursuant to § 58.1-320 or 58.1-400 in an amount equal to 10 percent of the fair market value of the rent for the unit, computed for that portion of the taxable year in which the unit was rented by such landlord to a tenant participating in a housing choice voucher program. The Department of Housing and Community Development shall administer and issue the tax credit under this section. If (i) the same parcel of real property contains four or more dwelling units and (ii) the total number of qualified housing units on the parcel in the relevant taxable year exceeds 25 percent of the total dwelling units on the parcel, then the tax credit under this section shall apply only to a limited number of qualified housing units with regard to such parcel of real property, with the limited number being equal to 25 percent of the total dwelling units on such parcel of real property in the taxable year.

C. The Department of Housing and Community Development shall issue tax credits under this section on a fiscal year basis. The maximum amount of tax credits that may be issued under this section in each fiscal year shall be \$250,000.

D. Participating landlords shall apply to the Department of Housing and Community Development for tax credits under this section. The Department of Housing and Community Development shall determine the credit amount allowable to the participating landlord for the taxable year and shall also determine the fair market value of the rent for the qualified housing unit based on the fair market rent approved by the United States Department of Housing and Urban Development as the basis for the tenant-based assistance provided through the housing choice voucher program for the qualified housing unit. In issuing tax credits under this section, the Department of Housing and Community Development shall provide a written certification to the participating landlord, which certification shall report the amount of the tax credit approved by the Department. The participating landlord shall attach the

674 certification to the applicable income tax return.

675 E. The Board of Housing and Community Development shall establish and issue guidelines for
676 purposes of implementing the provisions of this section. The guidelines shall provide for the allocation
677 of tax credits among participating landlords requesting credits. The guidelines shall be exempt from the
678 Administrative Process Act (§ 2.2-4000 et seq.).

679 F. In no case shall the amount of credit taken by a participating landlord for any taxable year exceed
680 the total amount of tax imposed by this chapter for the taxable year. If the amount of credit issued by
681 the Department of Housing and Community Development for a taxable year exceeds the landlord's tax
682 liability imposed by this chapter for such taxable year, then the amount that exceeds the tax liability
683 may be carried over for credit against the income taxes of the participating landlord in the next five
684 taxable years or until the total amount of the tax credit issued has been taken, whichever is sooner.
685 Credits granted to a partnership, limited liability company, or electing small business corporation (S
686 corporation) shall be allocated to the individual partners, members, or shareholders, respectively, in
687 proportion to their ownership or interest in such business entities.

688 G. In the event that the amount of the qualified requests for tax credits for participating landlords in
689 the fiscal year exceeds \$250,000, the Department of Housing and Community Development shall pro
690 rate the tax credits among the qualified applicants.