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HOUSE BILL NO. 2575

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Finance
on February 2, 1995)

(Patron Prior to Substitute—Delegate Stump)

A BILL to amend and reenact §§ 58.1-433 and 58.1-2626.1 of the Code of Virginia; to amend the Code of Virginia by adding in Article 13 of Chapter 3 of Title 58.1 a section numbered 58.1-439.1; and to amend and reenact the third enactment of Chapter 730 of the 1988 Acts of Assembly and the fourth enactment of Chapter 429 of the 1989 Acts of Assembly, relating to coal industry tax credits.

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-433 and 58.1-2626.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 13 of Chapter 3 of Title 58.1 a section numbered 58.1-439.1 as follows:

§ 58.1-433. Qualifying cogenerators and small power producers credit.

A. For all taxable years beginning on and after January 1, 1988, every cogenerator as defined in § 58.1-2600 shall be allowed a credit against the tax imposed by § 58.1-400 in the following amount: one dollar per ton for each ton of coal mined in Virginia, purchased by any cogenerator which sells electric power to a public service corporation in Virginia.

B. For all taxable years beginning on and after January 1, 1989, every cogenerator as defined in § 58.1-2600 shall be allowed an additional credit against the tax imposed by § 58.1-400 in the following amount: one dollar per ton for each ton of coal mined in Virginia, purchased by any cogenerator which sells electric power to a public service corporation in Virginia.

C. In order to receive the credit under this section the cogenerator shall include a certification from the coal producer that the coal was mined in Virginia. In no event shall the credit allowed hereunder exceed the total amount of tax liability of such cogenerator. Any tax credit not usable for the taxable year may be carried over to the extent usable for the next five succeeding taxable years or until the full credit is utilized, whichever is sooner.

D. The credit allowed under this section shall be limited to coal purchased under a contract which existed on February 1, 1995.

§ 58.1-439.1. Coalfield employment enhancement tax credit.

A. For tax years beginning on and after January 1, 1996, any person who has an economic interest in coal mined in the Commonwealth shall be allowed a credit against the tax imposed by § 58.1-400 and any other tax imposed by the Commonwealth in accordance with the following:

1. For coal mined in Virginia and sold for ultimate consumption outside the United States, a credit in the amount of sixty cents per ton for coal sold in 1996, seventy-two cents per ton for coal sold in 1997 and eighty cents per ton for coal sold in 1998 or after.

2. For coal mined by underground methods, the credit amount shall be based on the seam thickness as follows:

Seam Thickness	Credit per Ton		
	1996	1997	1998 and after
Up to and including 28"	\$1.26	\$1.51	\$1.67
More than 28" and up to and including 30"	1.08	1.29	1.43
More than 30" and up to and including 32"	.90	1.08	1.19
More than 32" and up to and including 34"	.72	.86	.95
More than 34" and up to and including 38"	.54	.65	.72
More than 38" and up to and including 42"	.24	.29	.32
Over 42"	.12	.14	.16

The seam thickness shall be based on the weighted average isopach mapping of actual coal thickness by mine as certified by a professional engineer. Copies of such certification shall be maintained by the person qualifying for the credit under this section for a period of three years after the credit is applied for and received and shall be available for inspection by the Department of Taxation. The Department of Mines, Minerals and Energy is hereby authorized to audit all information upon which the isopach

59 mapping is based.

60 3. For coal mined by surface mining methods, a credit in the amount of twelve cents per ton for coal
61 sold in 1996, fourteen cents per ton for coal sold in 1997 and sixteen cents per ton for coal sold in
62 1998 or after.

63 B. In addition to the credit allowed in subsection A, for tax years beginning on and after January 1,
64 1996, any person who is a producer of coalbed methane shall be allowed a credit in the amount of one
65 cent per million BTUs of coalbed methane produced in the Commonwealth against the tax imposed by
66 § 58.1-400 and any other tax imposed by the Commonwealth on such person.

67 C. For purposes of this section, economic interest is the same as the economic ownership interest
68 required by § 611 of the Internal Revenue Code which was in effect on December 31, 1977. A party
69 who only receives an arm's length royalty shall not be considered as having an economic interest in
70 coal mined in the Commonwealth.

71 D. If the credit exceeds the person's state tax liability for the tax year, the excess may be redeemable
72 by the Tax Commissioner on behalf of the Commonwealth for ninety-five percent of the face value
73 within ninety days after filing the return. If the Commonwealth does not redeem such excess amount, it
74 shall be transferable by sale.

75 E. No person may utilize more than one of the credits on a given ton of coal described in subsection
76 A. No person may claim a credit pursuant to this section for any ton of coal for which a credit has
77 been claimed under § 58.1-433 or § 58.1-2626.1 Persons who qualify for the credit may not apply such
78 credit to their tax returns prior to January 1, 1999, and only one year of credits shall be allowed
79 annually beginning in 1999. No credit authorized by subsections A and B shall be taken by any taxpayer
80 in 1999 unless general fund revenue in fiscal year 1997-98 exceeds the official estimate of general fund
81 revenue by at least the cost of the credits authorized by subsections A and B as estimated by the
82 Department of Taxation. In each following year no credit shall be taken by any taxpayer unless general
83 fund revenue in the fiscal year ending the prior June 30 exceeds the official estimate of general fund
84 revenue by at least the cost of the credits authorized by subsections A and B.

85 § 58.1-2626.1. The Virginia coal employment and production incentive tax credit.

86 A. For the tax years beginning on and after January 1, 1988, every corporation in the Commonwealth
87 doing the business of furnishing water, heat, light or power to the Commonwealth or its citizens,
88 whether by means of electricity, gas or steam shall be allowed a credit against the tax imposed by
89 § 58.1-2626 in the following amount: one dollar per ton for each ton of coal contracted for purchase by
90 such corporation after July 1, 1986, provided such coal was mined in Virginia as certified by the
91 producer of such coal. This credit shall be prorated equally against the corporation's estimated payments
92 made in September and December and the final payment.

93 B. For tax years beginning on and after January 1, 1989, every corporation in the Commonwealth
94 doing the business of furnishing water, heat, light or power to the Commonwealth or its citizens,
95 whether by means of electricity, gas or steam shall be allowed additional credit against the tax imposed
96 by § 58.1-2626 in the following amount: one dollar per ton for each ton of coal purchased by such
97 corporation, provided such coal was mined in Virginia as certified by such seller. The credit shall be
98 prorated equally against the corporation's estimated payments made in September and December and the
99 final payment.

100 C. For tax years beginning on and after January 1, 1991, every corporation in the Commonwealth
101 doing the business of furnishing water, heat, light or power to the Commonwealth or its citizens,
102 whether by means of electricity, gas or steam, shall be allowed additional credit against the tax imposed
103 by § 58.1-2626 in the following amount: one dollar per ton for each ton of coal purchased by such
104 corporation, provided such coal was mined in Virginia as certified by such seller. The credit shall be
105 prorated equally against the corporation's estimated payments made in September and December and the
106 final payment.

107 D. The credit allowed under this section shall be limited to coal purchased under a contract which
108 existed on February 1, 1995.

109 2. That the third enactment of Chapter 730 of the 1988 Acts of Assembly is amended and
110 reenacted as follows:

111 3. That the provisions of this act shall expire on December 31, 1996 2005.

112 3. That the fourth enactment of Chapter 429 of the 1989 Acts of Assembly is amended and
113 reenacted as follows:

114 4. That the provisions of the act shall expire for all tax years beginning on and after January 1, 2001
115 2005.