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SENATE BILL NO. 262  
AMENDMENT IN THE NATURE OF A SUBSTITUTE  
(Proposed by the Governor  
on April 10, 2006)

(Patron Prior to Substitute—Senator Wagner)

A BILL to amend and reenact §§ 2.2-1132, 23-135.7:6, 45.1-390, 56-249.6, 58.1-322, and 58.1-3660 of the Code of Virginia and to amend the Code of Virginia by adding a title numbered 67, consisting of a chapter numbered 1, consisting of sections numbered 67-100 through 67-102; a chapter numbered 2, consisting of sections numbered 67-200 through 67-203; a chapter numbered 3, consisting of a section numbered 67-300; a chapter numbered 4, consisting of sections numbered 67-400 through 67-403; a chapter numbered 5, consisting of sections numbered 67-500 through 67-502; a chapter numbered 6, consisting of sections numbered 67-600 through 67-604; a chapter numbered 7, consisting of sections numbered 67-700 and 67-701; a chapter numbered 8, consisting of sections numbered 67-800 and 67-801; a chapter numbered 9, consisting of sections numbered 67-900 through 67-903; and a chapter numbered 10, consisting of sections numbered 67-1000 through 67-1003, relating to energy policy; offshore gas and oil resource development; grants for purchasing, producing or using clean and efficient energy; recovery of fuel and purchased power costs under utility rate caps; income tax credits for purchases of certain energy-efficient appliances and equipment; exempting certain certified pollution control equipment and facilities from local property taxation; clean coal projects; energy efficiency in state buildings; use of biodiesel fuel in public transportation vehicles and fuel alcohol in gasoline; covenants restricting the use of solar energy collection devices; motor vehicle fuel efficiency standards; and the establishment of a coastal energy research center, all of which comprise components of the Virginia Energy Plan.

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-1132, 23-135.7:6, 45.1-390, 56-249.6, 58.1-322, and 58.1-3660 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a title numbered 67, consisting of a chapter numbered 1, consisting of sections numbered 67-100 through 67-102; a chapter numbered 2, consisting of sections numbered 67-200 through 67-203; a chapter numbered 3, consisting of a section numbered 67-300; a chapter numbered 4, consisting of sections numbered 67-400 through 67-403; a chapter numbered 5, consisting of sections numbered 67-500 through 67-502; a chapter numbered 6, consisting of sections numbered 67-600 through 67-604; a chapter numbered 7, consisting of sections numbered 67-700 and 67-701; a chapter numbered 8, consisting of sections numbered 67-800 and 67-801; a chapter numbered 9, consisting of sections numbered 67-900 through 67-903; and a chapter numbered 10, consisting of sections numbered 67-1000 through 67-1003, as follows:

§ 2.2-1132. Administration of capital outlay construction; exception for certain educational institutions.

A. The Division shall provide assistance in the administration of capital outlay construction projects set forth in the appropriation act, other than highway construction undertaken by the Department of Transportation and the acquisition or improvement of specialized cargo-handling equipment and related port infrastructure including, but not limited to, port construction, renovation, and demolition that is required in a timely manner to meet market demands to enhance commerce through the Virginia Port Authority, the review and approval of plans and specifications, and acceptance of completed projects.

B. The Division may establish standards, as needed, for construction by the Commonwealth and may, with the advice of the Attorney General, establish standard contract provisions and procedures for the procurement and administration of construction and for the procurement and administration of architectural and engineering services relating to construction, which shall be used by all departments, agencies and institutions of the Commonwealth. All departments, agencies and institutions of the Commonwealth shall ensure that the design and construction of state-owned buildings comply with the standards governing energy use and efficiency established by the Division. The standards may provide for incentive contracting that offers a contractor whose bid is accepted the opportunity to share in any cost savings realized by the Commonwealth when project costs are reduced by the contractor, without affecting project quality, during construction of the project. The fee, if any, charged by the project engineer or architect for determining the cost savings shall be paid as a separate cost and shall not be calculated as part of any cost savings.

C. Notwithstanding any standards established by the Division or law to the contrary except as provided in this subsection, any public institution of higher education that has in effect a signed memorandum of understanding with the Secretary of Administration regarding participation in the nongeneral fund decentralization program as set forth in the appropriation act may enter into contracts

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60 for specific construction projects without the preliminary review and approval of the Division, provided  
61 such institutions are in compliance with the requirements of the Virginia Public Procurement Act  
62 (§ 2.2-4300 et seq.) and utilize the general terms and conditions for those forms of procurement  
63 approved by the Division and the Office of the Attorney General. The authority granted in this  
64 subsection shall only become effective if the institution meets the conditions prescribed in subsection B  
65 of § 23-38.88. The Secretary of Administration shall establish guidelines to assist institutions in  
66 evaluating alternative project delivery methods prior to entering into a contract. For projects constructed  
67 pursuant to this subsection, the responsibility of the Division of Engineering and Buildings shall be as  
68 set forth in subsection C of § 36-98.1.

69 For purposes of this section, "construction" shall include new construction, reconstruction, renovation,  
70 restoration, major repair, demolition and all similar work upon buildings and ancillary facilities owned  
71 or to be acquired by the Commonwealth. It shall not include buildings or other facilities ancillary to the  
72 use of state highways that are located within the right-of-way of any state highway, or assets for use by  
73 the Virginia Port Authority within the boundaries of property owned or leased by the Virginia Port  
74 Authority.

75 § 23-135.7:6. Powers and duties of Center.

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

77 1. To develop a degree program in energy production and conservation research at the master's level  
78 in conjunction with the State Council on Higher Education;

79 2. To develop and provide programs of continuing education and in-service training for persons who  
80 work in the field of coal or other energy research, development or production;

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

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

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

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

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

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

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

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

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

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

100 § 45.1-390. Division of Energy established; findings and policy; powers and duties.

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

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

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

115 The Division shall:

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

118 2. Maintain liaison with appropriate agencies of the federal government on the activities of the  
119 federal government related to energy production, consumption, transportation and energy resource  
120 management in general-;

121 3. Provide services to encourage efforts by and among Virginia businesses, industries, utilities,

122 academic institutions, state and local governments and private institutions to develop energy conservation  
123 programs and energy resources; and

124 4. *In consultation with the State Corporation Commission, the Department of Environmental Quality,*  
125 *and the Center for Coal and Energy Research, prepare the Virginia Energy Plan pursuant to § 67-201;*  
126 *and*

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

129 § 56-249.6. Recovery of fuel and purchased power costs.

130 A. 1. Each electric utility that purchases fuel for the generation of electricity or purchases power and  
131 that was not, as of July 1, 1999, bound by a rate case settlement adopted by the Commission that  
132 extended in its application beyond January 1, 2002, shall submit to the Commission its estimate of fuel  
133 costs, including the cost of purchased power, for the 12-month period beginning on the date prescribed  
134 by the Commission. Upon investigation of such estimates and hearings in accordance with law, the  
135 Commission shall direct each company to place in effect tariff provisions designed to recover the fuel  
136 costs determined by the Commission to be appropriate for that period, adjusted for any over-recovery or  
137 under-recovery of fuel costs previously incurred.

138 2. The Commission shall continuously review fuel costs and if it finds that any utility described in  
139 subdivision A 1 is in an over-recovery position by more than five percent, or likely to be so, it may  
140 reduce the fuel cost tariffs to correct the over-recovery.

141 B. All fuel costs recovery tariff provisions in effect on January 1, 2004, for any electric utility that  
142 purchases fuel for the generation of electricity and that was, as of July 1, 1999, bound by a rate case  
143 settlement adopted by the Commission that extended in its application beyond January 1, 2002, shall  
144 remain in effect until the earlier of (i) July 1, 2007; (ii) the termination of capped rates pursuant to the  
145 provisions of subsection C of § 56-582; or (iii) the establishment of tariff provisions under subsection C.  
146 Any such utility shall continue to report to the Commission annually its actual fuel costs, including the  
147 cost of purchased power until July 1, 2007.

148 C. ~~Unless~~ *Until the capped rates for such utility expire or are terminated pursuant to the provisions*  
149 *of subsection C of § 56-582 prior to July 1, 2007, the Commission shall direct, each electric utility*  
150 *described in subsection B to shall submit annually to the Commission its estimate of fuel costs,*  
151 *including the cost of purchased power, for the 42-month period successive 12-month periods beginning*  
152 *July 1, 2007, and ending December 31, 2010 on July 1, 2007, 2008, and 2009, and the six-month period*  
153 *beginning July 1, 2010. Upon investigation of such estimate estimates and hearing hearings in*  
154 *accordance with law, the Commission shall direct each such utility to place in effect tariff provisions*  
155 *designed to recover the fuel costs determined by the Commission to be appropriate for such period*  
156 *periods, without adjustment adjusted for any over-recovery or under-recovery of fuel costs previously*  
157 *incurred; however, (i) no such adjustment for any over-recovery or under-recovery of fuel costs*  
158 *previously incurred shall be made for any period prior to July 1, 2007, and (ii) the Commission may*  
159 *order that up to 40 percent of any increase in fuel tariffs determined by the Commission to be*  
160 *appropriate for the 12-month period beginning July 1, 2007, above the fuel tariffs previously existing,*  
161 *shall be deferred and recovered during the period from July 1, 2008, through December 31, 2010. Such*  
162 *tariff provisions shall remain in effect until the capped rates for such utility expire or are terminated*  
163 *pursuant to the provisions of § 56-582.*

164 D. 1. In proceedings under subsections A and C, the Commission may, to the extent deemed  
165 appropriate, offset against fuel costs and purchased power costs to be recovered the revenues attributable  
166 to sales of power pursuant to interconnection agreements with neighboring electric utilities.

167 2. In proceedings under subsections A and C, the Commission shall disallow recovery of any fuel  
168 costs that it finds without just cause to be the result of failure of the utility to make every reasonable  
169 effort to minimize fuel costs or any decision of the utility resulting in unreasonable fuel costs, giving  
170 due regard to reliability of service and the need to maintain reliable sources of supply, economical  
171 generation mix, generating experience of comparable facilities, and minimization of the total cost of  
172 providing service.

173 3. The Commission is authorized to promulgate, in accordance with the provisions of this section, all  
174 rules and regulations necessary to allow the recovery by electric utilities of all of their prudently  
175 incurred fuel costs under subsections A and C, including the cost of purchased power, as precisely and  
176 promptly as possible, with no over-recovery or under-recovery, except as provided in subsection C, in a  
177 manner that will tend to assure public confidence and minimize abrupt changes in charges to consumers.

178 The Commission may, however, dispense with the procedures set forth above for any electric utility  
179 if it finds, after notice and hearing, that the electric utility's fuel costs can be reasonably recovered  
180 through the rates and charges investigated and established in accordance with other sections of this  
181 chapter.

182 § 58.1-322. Virginia taxable income of residents.

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

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

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

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

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

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

200 5. through 8. [Repealed.]

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

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

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

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

211 3. [Repealed.]

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

214 4a. Through December 31, 2000, the same amount used in computing the federal credit allowed  
215 under § 22 of the Internal Revenue Code by a retiree under age 65 who qualified for such retirement on  
216 the basis of permanent and total disability and who is a qualified individual as defined in § 22 (b) (2) of  
217 the Internal Revenue Code; however, any person who claims a deduction under subdivision 5 of  
218 subsection D of this section may not also claim a subtraction under this subdivision.

219 4b. For taxable years beginning on or after January 1, 2001, up to \$20,000 of disability income, as  
220 defined in § 22 (c) (2) (B) (iii) of the Internal Revenue Code; however, any person who claims a  
221 deduction under subdivision 5 of subsection D of this section may not also claim a subtraction under  
222 this subdivision.

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

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

227 7, 8. [Repealed.]

228 9. [Expired.]

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

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

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

241 13. [Repealed.]

242 14. [Expired.]

243 15, 16. [Repealed.]

244 17. For taxable years beginning on and after January 1, 1995, the amount of "qualified research

245 expenses" or "basic research expenses" eligible for deduction for federal purposes, but which were not  
 246 deducted, on account of the provisions of § 280C (c) of the Internal Revenue Code and which shall be  
 247 available to partners, shareholders of S corporations, and members of limited liability companies to the  
 248 extent and in the same manner as other deductions may pass through to such partners, shareholders, and  
 249 members.

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

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

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

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

273 22. For taxable years beginning on or after January 1, 2000, the gain derived from the sale or  
 274 exchange of real property or the sale or exchange of an easement to real property which results in the  
 275 real property or the easement thereto being devoted to open-space use, as that term is defined in  
 276 § 58.1-3230, for a period of time not less than 30 years. To the extent a subtraction is taken in  
 277 accordance with this subdivision, no tax credit under this chapter for donating land for its preservation  
 278 shall be allowed for three years following the year in which the subtraction is taken.

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

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

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

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

290 27. Effective for all taxable years beginning on and after January 1, 1999, income received as a  
 291 result of (i) the "Master Settlement Agreement," as defined in § 3.1-1106; (ii) the National Tobacco  
 292 Grower Settlement Trust dated July 19, 1999; and (iii) the Tobacco Loss Assistance Program, pursuant  
 293 to 7 C.F.R. Part 1464 (Subpart C, §§ 1464.201 through 1464.205), by (a) tobacco farmers; (b) any  
 294 person holding a tobacco marketing quota, or tobacco farm acreage allotment, under the Agricultural  
 295 Adjustment Act of 1938; or (c) any person having the right to grow tobacco pursuant to such a quota or  
 296 allotment, but only to the extent that such income has not been subtracted pursuant to subdivision C 18  
 297 of § 58.1-402.

298 28. For taxable years beginning on and after January 1, 2000, items of income attributable to,  
 299 derived from or in any way related to (i) assets stolen from, hidden from or otherwise lost by an  
 300 individual who was a victim or target of Nazi persecution or (ii) damages, reparations, or other  
 301 consideration received by a victim or target of Nazi persecution to compensate such individual for  
 302 performing labor against his will under the threat of death, during World War II and its prelude and  
 303 direct aftermath. This subtraction shall not apply to assets acquired with such items of income or with  
 304 the proceeds from the sale of assets stolen from, hidden from or otherwise lost to, during World War II  
 305 and its prelude and direct aftermath, a victim or target of Nazi persecution. The provisions of this

306 subdivision shall only apply to an individual who was the first recipient of such items of income and  
307 who was a victim or target of Nazi persecution, or a spouse, widow, widower, or child or stepchild of  
308 such victim.

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

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

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

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

327 30. Effective for all taxable years beginning on and after January 1, 2002, but before January 1,  
328 2005, the indemnification payments received by contract poultry growers and table egg producers from  
329 the U.S. Department of Agriculture as a result of the depopulation of poultry flocks because of low  
330 pathogenic avian influenza in 2002. In no event shall indemnification payments made to owners of  
331 poultry who contract with poultry growers qualify for this subtraction.

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

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

339 1. a. The amount allowable for itemized deductions for federal income tax purposes where the  
340 taxpayer has elected for the taxable year to itemize deductions on his federal return, but reduced by the  
341 amount of income taxes imposed by the Commonwealth or any other taxing jurisdiction and deducted  
342 on such federal return and increased by an amount which, when added to the amount deducted under  
343 § 170 of the Internal Revenue Code for mileage, results in a mileage deduction at the state level for  
344 such purposes at a rate of 18 cents per mile; or

345 b. Three thousand dollars for single individuals for taxable years beginning on and after January 1,  
346 1989; \$5,000 for married persons (one-half of such amounts in the case of a married individual filing a  
347 separate return) for taxable years beginning on and after January 1, 1989, but before January 1, 2005;  
348 and \$6,000 for married persons (one-half of such amounts in the case of a married individual filing a  
349 separate return) for taxable years beginning on and after January 1, 2005; provided that the taxpayer has  
350 not itemized deductions for the taxable year on his federal income tax return. For purposes of this  
351 section, any person who may be claimed as a dependent on another taxpayer's return for the taxable year  
352 may compute the deduction only with respect to earned income.

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

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

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

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

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

368 5. a. Effective for all taxable years beginning on or after January 1, 1996, but before January 1,  
369 2004, a deduction in the amount of \$12,000 for taxpayers age 65 or older, or \$6,000 for taxpayers age  
370 62 through 64.

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

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

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

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

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

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

391 7. a. A deduction shall be allowed to the purchaser or contributor for the amount paid or contributed  
392 during the taxable year for a prepaid tuition contract or savings trust account entered into with the  
393 Virginia College Savings Plan, pursuant to Chapter 4.9 (§ 23-38.75 et seq.) of Title 23. Except as  
394 provided in subdivision 7 c, the amount deducted on any individual income tax return in any taxable  
395 year shall be limited to \$2,000 per prepaid tuition contract or savings trust account. No deduction shall  
396 be allowed pursuant to this section if such payments or contributions are deducted on the purchaser's or  
397 contributor's federal income tax return. If the purchase price or annual contribution to a savings trust  
398 account exceeds \$2,000, the remainder may be carried forward and subtracted in future taxable years  
399 until the purchase price or savings trust contribution has been fully deducted; however, except as  
400 provided in subdivision 7 c, in no event shall the amount deducted in any taxable year exceed \$2,000  
401 per contract or savings trust account. Notwithstanding the statute of limitations on assessments contained  
402 in § 58.1-312, any deduction taken hereunder shall be subject to recapture in the taxable year or years in  
403 which distributions or refunds are made for any reason other than (i) to pay qualified higher education  
404 expenses, as defined in § 529 of the Internal Revenue Code or (ii) the beneficiary's death, disability, or  
405 receipt of a scholarship. For the purposes of this subdivision, the term "purchaser" or "contributor"  
406 means the person shown as such on the records of the Virginia College Savings Plan as of December 31  
407 of the taxable year. In the case of a transfer of ownership of a prepaid tuition contract or savings trust  
408 account, the transferee shall succeed to the transferor's tax attributes associated with a prepaid tuition  
409 contract or savings trust account, including, but not limited to, carryover and recapture of deductions.

410 b. The amount paid for a prepaid tuition contract during taxable years beginning on or after January  
411 1, 1996, but before January 1, 1998, shall be deducted in taxable years beginning on or after January 1,  
412 1998, and shall be subject to the limitations set out in subdivision 7 a.

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

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

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

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

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

434 11. For taxable years beginning on and after January 1, 2007, an amount equal to 20 percent of the  
 435 sum paid by an individual pursuant to Chapter 6 (§ 58.1-600 et seq.) of this title, not to exceed \$500 in  
 436 each taxable year, in purchasing for his own use the following items of tangible personal property: (i)  
 437 any clothes washers, room air conditioners, dishwashers, and standard size refrigerators that meet or  
 438 exceed the applicable energy star efficiency requirements developed by the United States Environmental  
 439 Protection Agency and the United States Department of Energy; (ii) any fuel cell that (a) generates  
 440 electricity using an electrochemical process, (b) has an electricity-only generation efficiency greater than  
 441 35%, and (c) has a generating capacity of at least two kilowatts; (iii) any gas heat pump that has a  
 442 coefficient of performance of at least 1.25 for heating and at least 0.70 for cooling; (iv) any electric  
 443 heat pump hot water heater that yields an energy factor of at least 1.7; (v) any electric heat pump that  
 444 has a heating system performance factor of at least 8.0 and a cooling seasonal energy efficiency ratio of  
 445 at least 13.0; (vi) any central air conditioner that has a cooling seasonal energy efficiency ratio of at  
 446 least 13.5; (vii) any advanced gas or oil water heater that has an energy factor of at least 0.65; (viii)  
 447 any advanced oil-fired boiler with a minimum annual fuel-utilization rating of 85; (ix) any advanced  
 448 oil-fired furnace with a minimum annual fuel-utilization rating of 85; and (ix) programmable  
 449 thermostats.

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

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

455 § 58.1-3660. Certified pollution control equipment and facilities.

456 A. Certified pollution control equipment and facilities, as defined herein, are hereby declared to be a  
 457 separate class of property and shall constitute a classification for local taxation separate from other such  
 458 classification of real or personal property and such property. The governing body of any county, city or  
 459 town may, by ordinance, exempt or partially exempt such property from local taxation. *Certified*  
 460 *pollution control equipment and facilities consisting of equipment used in collecting, processing, and*  
 461 *distributing, or generating electricity from, landfill gas or synthetic or natural gas recovered from waste,*  
 462 *including equipment used to grind, chip, or mulch trees, tree stumps, underbrush, and other vegetative*  
 463 *cover for reuse as landfill gas or synthetic or natural gas recovery from waste, placed in service on or*  
 464 *after July 1, 2006, shall be exempt from state and local taxation pursuant to subsection d of Section 6*  
 465 *of Article X of the Constitution of Virginia.*

466 B. As used in this section:

467 "Certified pollution control equipment and facilities" shall mean any property, including real or  
 468 personal property, equipment, facilities, or devices, used primarily for the purpose of abating or  
 469 preventing pollution of the atmosphere or waters of the Commonwealth and which the state certifying  
 470 authority having jurisdiction with respect to such property has certified to the Department of Taxation as  
 471 having been constructed, reconstructed, erected, or acquired in conformity with the state program or  
 472 requirements for abatement or control of water or atmospheric pollution or contamination. Such property  
 473 shall include, but is not limited to, any equipment used to grind, chip, or mulch trees, tree stumps,  
 474 underbrush, and other vegetative cover for reuse as mulch, compost, *landfill gas, synthetic or natural*  
 475 *gas recovery from waste or other fuel, and equipment used in collecting, processing, and distributing, or*  
 476 *generating electricity from, landfill gas or synthetic or natural gas recovered from waste, whether or not*  
 477 such property has been certified to the Department of Taxation by a state certifying authority.

478 "State certifying authority" shall mean the State Water Control Board, for water pollution; the State  
 479 Air Pollution Control Board, for air pollution; the Department of Mines, Minerals and Energy, for coal,  
 480 oil, and gas production, including gas, natural gas, and coalbed methane gas; and the Virginia Waste  
 481 Management Board, for waste disposal facilities, *natural gas recovery from waste facilities, and landfill*  
 482 *gas production facilities,* and shall include any interstate agency authorized to act in place of a certifying  
 483 authority of the Commonwealth.

#### 484 TITLE 67.

#### 485 VIRGINIA ENERGY PLAN.

#### 486 CHAPTER 1.

#### 487 ENERGY POLICY OF THE COMMONWEALTH.

488 § 67-100. Legislative findings.

489 The General Assembly hereby finds that:

490 1. Energy is essential to the health, safety, and welfare of the people of this Commonwealth and to

491 *the Commonwealth's economy;*

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

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

498 *§ 67-101. Energy objectives.*

499 *The Commonwealth recognizes each of the following objectives pertaining to energy issues will*  
500 *advance the health, welfare, and safety of the residents of the Commonwealth:*

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

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

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

506 *4. Using energy resources more efficiently;*

507 *5. Facilitating conservation;*

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

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

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

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

518 *10. Developing energy resources and facilities in a manner that does not impose a disproportionate*  
519 *adverse impact on economically disadvantaged or minority communities;*

520 *11. Recognizing the need to foster those economically developable alternative sources of energy that*  
521 *can be provided at market prices as vital components of a diversified portfolio of energy resources; and*

522 *12. Increasing Virginia's reliance on biodiesel and ethanol produced from corn, soybeans, hullless*  
523 *barley, and other suitable crops grown in the Commonwealth that will create jobs and income, produce*  
524 *clean-burning fuels that will help to improve air quality, and provide the new markets for Virginia's*  
525 *agricultural products needed to preserve farm employment, conserve farmland, and help pay for*  
526 *agricultural best management practices to protect water quality.*

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

529 *§ 67-102. Commonwealth Energy Policy.*

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

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

532 *2. Ensure that the combination of energy supplies and energy-saving systems are sufficient to support*  
533 *the demands of economic growth;*

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

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

537 *5. Ensure the availability of affordable natural gas throughout the Commonwealth by expanding*  
538 *Virginia's natural gas distribution and transmission pipeline infrastructure; developing coalbed methane*  
539 *gas resources and methane hydrate resources; encouraging the productive use of landfill gas; and siting*  
540 *one or more liquefied natural gas terminals;*

541 *6. Promote the generation of electricity through technologies that do not contribute to greenhouse*  
542 *gases and global warming;*

543 *7. Facilitate the development of new, and the expansion of existing, petroleum refining facilities*  
544 *within the Commonwealth;*

545 *8. Promote the use of motor vehicles that utilize alternate fuels and are highly energy efficient;*

546 *9. Support efforts to reduce the demand for imported petroleum by developing alternative*  
547 *technologies, including but not limited to the production of synthetic and hydrogen-based fuels, and the*  
548 *infrastructure required for the widespread implementation of such technologies;*

549 *10. Promote the use of biodiesel and ethanol produced from agricultural crops grown in the*  
550 *Commonwealth;*

551 *11. Ensure that development of new, or expansion of existing, energy resources or facilities does not*

552 *have a disproportionate adverse impact on economically disadvantaged or minority communities; and*  
 553 *12. Ensure that energy generation and delivery systems that may be approved for development in the*  
 554 *Commonwealth, including liquefied natural gas and related delivery and storage systems, should be*  
 555 *located so as to minimize impacts to pristine natural areas and other significant onshore natural*  
 556 *resources, and as near to compatible development as possible.*

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

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

562 *D. The Commonwealth Energy Policy is intended to provide guidance to the agencies and political*  
 563 *subdivisions of the Commonwealth in taking discretionary action with regard to energy issues, and shall*  
 564 *not be construed to amend, repeal, or override any contrary provision of applicable law. The failure or*  
 565 *refusal of any person to recognize the elements of the Commonwealth Energy Policy, to act in a manner*  
 566 *consistent with the Commonwealth Energy Policy, or to take any other action whatsoever, shall not*  
 567 *create any right, action, or cause of action or provide standing for any person to challenge the action*  
 568 *of the Commonwealth or any of its agencies or political subdivisions.*

#### 569 CHAPTER 2.

#### 570 VIRGINIA ENERGY PLAN.

571 *§ 67-200. Definitions.*

572 *As used in this title:*

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

574 *"Plan" means the Virginia Energy Plan prepared pursuant to this chapter, including any updates*  
 575 *thereto.*

576 *§ 67-201. Development of the Virginia Energy Plan.*

577 *A. The Division, in consultation with the State Corporation Commission, the Department of*  
 578 *Environmental Quality, and the Center for Coal and Energy Research, shall prepare a comprehensive*  
 579 *Virginia Energy Plan covering a 10-year period. The Plan shall propose actions, consistent with the*  
 580 *objectives enumerated in § 67-101, that will implement the Commonwealth Energy Policy set forth in*  
 581 *§ 67-102.*

582 *B. In addition, the Plan shall include:*

583 *1. Projections of energy consumption in the Commonwealth, including but not limited to the use of*  
 584 *fuel sources and costs of electricity, natural gas, gasoline, coal, renewable resources, and other forms of*  
 585 *energy resources used in the Commonwealth;*

586 *2. An analysis of the adequacy of electricity generation, transmission, and distribution resources in*  
 587 *the Commonwealth for the natural gas and electric industries, and how regional generation,*  
 588 *transmission, and distribution resources affect the Commonwealth;*

589 *3. An analysis of siting requirements for electric generation resources and natural gas and electric*  
 590 *transmission and distribution resources;*

591 *4. An analysis of fuel diversity for electricity generation, recognizing the importance of flexibility in*  
 592 *meeting future capacity needs;*

593 *5. An analysis of the efficient use of energy resources and conservation initiatives;*

594 *6. An analysis of how these Virginia-specific issues relate to regional initiatives to assure the*  
 595 *adequacy of fuel production, generation, transmission, and distribution assets;*

596 *7. An analysis of siting of energy resource development, refining or transmission facilities to identify*  
 597 *any disproportionate adverse impact of such activities on economically disadvantaged or minority*  
 598 *communities; and*

599 *8. Recommendations, based on the analyses completed under subdivisions 1 through 7, for*  
 600 *legislative, regulatory, and other public and private actions to implement the elements of the*  
 601 *Commonwealth Energy Policy.*

602 *C. In preparing the Plan, the Division and other agencies involved in the planning process shall*  
 603 *utilize state geographic information systems, to the extent deemed practicable, to assess how*  
 604 *recommendations in the plan may affect pristine natural areas and other significant onshore natural*  
 605 *resources.*

606 *D. In preparing the Plan, the Division and other agencies involved in the planning process shall*  
 607 *develop a system for ascribing numerical scores to parcels of real property based on the extent to which*  
 608 *the parcels are suitable for the siting of a wind energy facility or solar energy facility. For wind energy*  
 609 *facilities, the scoring system shall address the wind velocity, sustained velocity, turbulence, proximity to*  
 610 *electric power transmission systems, potential impacts to natural and historic resources and to*  
 611 *economically disadvantaged or minority communities, and compatibility with the local land use plan.*  
 612 *For solar energy facilities, the scoring system shall address the parcel's proximity to electric power*  
 613 *transmission lines, potential impacts of such a facility to natural and historic resources and to*

614 economically disadvantaged or minority communities, and compatibility with the local land use plan.  
615 The system developed pursuant to this section shall allow the suitability of the parcel for the siting of a  
616 wind energy facility or solar energy facility to be compared to the suitability of other parcels so scored,  
617 and shall be based on a scale that allows the suitability of the parcel for the siting of a such an energy  
618 facility to be measured against the hypothetical score of an ideal location for such a facility.

619 E. After July 1, 2007, upon receipt by the Division of a recommendation from the Department of  
620 General Services, a local governing body, or the parcel's owner that a parcel of real property is a  
621 potentially suitable location for a wind energy facility or solar energy facility, the Division shall analyze  
622 the suitability of the parcel for the location of such a facility. In conducting its analysis, the Division  
623 shall ascribe a numerical score to the parcel using the scoring system developed pursuant to subsection  
624 D.

625 § 67-202. Schedule.

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

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

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

630 § 67-203. Submission of Plan.

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

636 CHAPTER 3.

637 OFFSHORE NATURAL GAS AND WIND RESOURCES.

638 § 67-300. Offshore natural gas and wind resources.

639 A. In recognition of the need for energy independence, it shall be the policy of the Commonwealth to  
640 support federal efforts to determine the extent of natural gas resources 50 miles or more off the Atlantic  
641 shoreline, including appropriate federal funding for such an investigation. The policy of the  
642 Commonwealth shall further support the inclusion of the Atlantic Planning Areas in the Minerals  
643 Management Service's draft environmental impact statement with respect to natural gas exploration 50  
644 miles or more off the Atlantic shoreline. Nothing in this Act shall be construed as a policy statement on  
645 the executive or Congressional moratoria on production and development of natural gas off the Atlantic  
646 shoreline.

647 B. It shall be the policy of the Commonwealth to support federal efforts to examine the feasibility of  
648 offshore wind energy being utilized in an environmentally responsible fashion.

649 CHAPTER 4.

650 CLEAN COAL PROJECTS.

651 § 67-400. Definitions.

652 As used in this chapter:

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

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

659 § 67-401. Permitting process for clean coal projects.

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

664 § 67-402. Center for excellence for clean coal technologies.

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

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

671 § 67-403. Clean Coal Technology Research Fund.

672 A. There is hereby established in the state treasury a special nonreverting fund to be known as the  
673 Clean Coal Technology Research Fund. The Fund shall consist of such moneys as may be appropriated  
674 by the General Assembly from time to time. Any moneys deposited to or remaining in the Fund during

675 or at the end of each fiscal year or biennium, including interest thereon, shall not revert to the general  
 676 fund but shall remain in the Fund and be available for allocation under this chapter in ensuing fiscal  
 677 years. Interest on all moneys in the Fund shall remain in the Fund and be credited to it. The Fund shall  
 678 be used solely for the payment of grants to state institutions of higher education to assist in the  
 679 development and implementation of clean coal technologies. The Center shall administer the Fund.

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

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

683 D. Beginning in calendar year 2007, by June 30 of each year, the Center shall (i) determine the  
 684 amount of the grants to be allocated to eligible institutions and (ii) certify to the Comptroller and each  
 685 eligible grant applicant the amount of the grant allocated to successful applicants. Payment of such  
 686 grants shall be made by the State Treasurer on warrant of the Comptroller within 60 days of such  
 687 certification.

#### 688 CHAPTER 5. 689 BIOFUELS.

690 § 67-500. Definitions.

691 As used in this chapter:

692 "Biodiesel fuel" means a renewable, biodegradable, mono-alkyl ester combustible liquid fluid fuel  
 693 from agricultural plant oils or animal fats that meets the applicable American Society for Testing and  
 694 Materials (ASTM) Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels.

695 "Fuel alcohol" shall have the same meaning as is provided for in § 58.1-2201.

696 "Gasoline" shall have the same meaning as is provided for in § 58.1-2201.

697 § 67-501. Use of biodiesel and other alternative fuels in vehicles providing public transportation.

698 The Commonwealth Transportation Board shall encourage the use of biodiesel and other alternative  
 699 fuels, to the extent practicable, in buses and other vehicles used to provide public transportation in the  
 700 Commonwealth.

701 § 67-502. Fuel alcohol content of gasoline.

702 A. Upon request from the Secretary of Commerce and Trade, any producer of fuel alcohol in  
 703 Virginia shall provide the Secretary information identifying the number of gallons of fuel alcohol  
 704 produced on a quarterly basis for a minimum of the last five calendar quarters. Based upon the  
 705 information gathered as provided in this subsection, once the production of fuel alcohol in Virginia has  
 706 exceeded 300 million gallons on an annualized basis and has been maintained at that level of  
 707 production or greater for at least three months, the Secretary of Commerce and Trade shall publish a  
 708 notice in the Virginia Register certifying such production level.

709 B. Beginning 12 months after the date on which a notice is published in the Virginia Register  
 710 pursuant to subsection A, all gasoline sold and delivered for use in Virginia, except gasoline with an  
 711 American Society for Testing Materials octane number of 91 or greater, shall be blended with, at a  
 712 minimum, 10 percent alcohol by volume.

713 C. If the production of fuel alcohol in Virginia drops below 150 million gallons on an annualized  
 714 basis, the Secretary of Commerce and Trade may waive the requirements of subsection B, by publication  
 715 of a notice in the Virginia Register.

#### 716 CHAPTER 6. 717 VIRGINIA COASTAL ENERGY RESEARCH CONSORTIUM.

718 § 67-600. Virginia Coastal Energy Research Consortium established.

719 The Virginia Coastal Energy Research Consortium, hereinafter referred to as the Research  
 720 Consortium, is hereby created to include Old Dominion University, the Virginia Institute of Marine  
 721 Science, the Virginia Tech Advanced Research Institute, James Madison University, and Norfolk State  
 722 University and is to be located at Old Dominion University.

723 § 67-601. Functions, powers, and duties of the Research Consortium.

724 The Coastal Energy Research Consortium shall serve as an interdisciplinary study, research, and  
 725 information resource for the Commonwealth on coastal energy issues. As used in this chapter, "coastal  
 726 energy" includes wave or tidal action, currents, offshore winds, thermal differences, and methane  
 727 hydrates. The Research Consortium shall (i) consult with the General Assembly, federal, state, and local  
 728 agencies, nonprofit organizations, private industry and other potential users of coastal energy research;  
 729 (ii) establish and administer agreements with other universities of the Commonwealth to carry out  
 730 research projects relating to the feasibility of recovering fuel gases from methane hydrates and  
 731 increasing the Commonwealth's reliance on other forms of coastal energy; (iii) disseminate new  
 732 information and research results; (iv) apply for grants made available pursuant to federal legislation,  
 733 including but not limited to the federal Methane Hydrate Research and Development Act of 1999, P.L.  
 734 106-193 and from other sources; and (v) facilitate the application and transfer of new coastal energy  
 735 technologies.

736 § 67-602. Control and supervision.

737 The Research Consortium shall be governed by a board which shall consist of nine members as  
738 follows: (i) the Director of the Department of Mines, Minerals and Energy or his designee; (ii) the  
739 Commissioner of Marine Resources or his designee; (iii) a member of the maritime industry to be  
740 appointed by the Virginia Manufacturers Association; (iv) a member of the maritime industry to be  
741 appointed by the Hampton Roads Maritime Association; (v) the Director of the Virginia Tech Advanced  
742 Research Institute or his designee; (vi) the President of Old Dominion University or his designee; (vii)  
743 the Director of the Virginia Institute of Marine Sciences or his designee; (viii) the President of Norfolk  
744 State University or his designee; and (ix) the President of James Madison University or his designee.

745 § 67-603. Appointment of a director.

746 The board of the Research Consortium shall appoint a director to serve as the principal  
747 administrative officer of the Research Consortium. The director shall report to the board and be under  
748 its supervision.

749 § 67-604. Powers and duties of the director.

750 The director shall exercise all powers imposed upon him by law, carry out the specific duties  
751 imposed on him by the board of the Research Consortium, and develop appropriate policies and  
752 procedures for (i) identifying priority coastal energy research projects; (ii) cooperating with the General  
753 Assembly, federal, state, and local governmental agencies, nonprofit organizations and private industry  
754 in formulating its research projects; (iii) selecting research projects to be funded; and (iv) disseminating  
755 information and transferring technology related to coastal energy within the Commonwealth. The  
756 director shall employ such personnel and secure such services as may be required to carry out the  
757 purposes of this chapter, expend appropriated funds, and accept moneys from federal or private sources  
758 for cost-sharing on coastal energy projects.

759 CHAPTER 7.

760 COVENANTS RESTRICTING SOLAR ENERGY COLLECTION DEVICES.

761 § 67-700. Definitions.

762 As used in this chapter:

763 "Community association" means an unincorporated association or corporation that owns or has  
764 under its care, custody, or control real estate subject to a recorded declaration of covenants that  
765 obligates a person, by virtue of ownership of specific real estate, to be a member of the unincorporated  
766 association or corporation.

767 "Solar energy collection device" means any device that facilitates the collection and beneficial use of  
768 solar energy, including passive heating panels or building components and solar photovoltaic apparatus.

769 § 67-701. Covenants regarding solar power.

770 A. Except to the extent provided in the condominium instruments, declaration, or rules and  
771 regulations duly adopted pursuant thereto, no community association shall enact any provisions  
772 restricting solar power or the use of solar energy collection device on units or lots that are part of the  
773 development.

774 B. The community association may prohibit or restrict the installation and use of such solar energy  
775 collection devices on the common elements or common areas.

776 CHAPTER 8.

777 MOTOR VEHICLE FUEL EFFICIENCY STANDARDS.

778 § 67-800. Definitions.

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

782 § 67-801. Efforts to increase CAFE standards.

783 It is the policy of the Commonwealth to support federal action that provides for:

784 1. An increase the CAFE standards from the current standard by promoting performance-based tax  
785 credits for advanced technology, fuel-efficient vehicles to facilitate the introduction and purchase of such  
786 vehicles; and

787 2. Market incentives and education programs to build demand for high-efficiency, cleaner vehicles,  
788 including tax incentives for highly efficient vehicles.

789 CHAPTER 9.

790 RENEWABLE ELECTRICITY PRODUCTION GRANT PROGRAM.

791 § 67-900. Definitions.

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

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

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

796 "Fund" means the Renewable Electricity Production Grant Fund established pursuant to § 67-902.

797 "Qualified energy resources" means the same as that term is defined by Internal Revenue Code

798 § 45(c)(1), and includes wind, closed-loop biomass, organic, livestock, and poultry waste resources and  
799 lignin and other organic by-products of kraft pulping processes, bark, chip rejects, sawdust, fines and  
800 other wood waste, regardless of the point of origin.

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

803 § 67-901. Eligibility for grants for production of qualified energy resources.

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

811 § 67-902. Renewable Electricity Production Grant Fund.

812 A. There is hereby established in the state treasury a special nonreverting fund to be known as the  
813 Renewable Electricity Production Grant Fund. The Fund shall consist of such moneys as may be  
814 appropriated by the General Assembly from time to time. Any moneys deposited to or remaining in the  
815 Fund during or at the end of each fiscal year or biennium, including interest thereon, shall not revert to  
816 the general fund but shall remain in the Fund and be available for allocation under this chapter in  
817 ensuing fiscal years. Interest on all moneys in the Fund shall remain in the Fund and be credited to it.  
818 The Fund shall be used solely for the payment of the grants provided under this chapter. The  
819 Department shall administer the Fund.

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

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

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

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

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

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

844 § 67-903. Requirements for grants generally.

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

849 B. The application shall be filed with the director of the Department no later than March 31 each  
850 year following the calendar year in which such kilowatt hours of electricity were sold or used in  
851 production by a qualified Virginia facility. Failure to meet the filing deadline shall render the applicant  
852 ineligible to receive a grant for such kilowatt hours of electricity sold or so used in the prior calendar  
853 year. For filings by mail, the postmark cancellation shall govern the date of the filing determination.

854 C. The application shall provide evidence, satisfactory to the Department, of the number of kilowatt  
855 hours of electricity produced by the corporation from qualified energy resources at a qualified Virginia  
856 facility that were sold, or used in production by a qualified Virginia facility, by such corporation in the  
857 prior calendar year.

858 D. As a condition of receipt of a grant, an eligible corporation shall make available to the  
859 Department for inspection upon request all relevant and applicable documents to determine whether the

860 requirements for the receipt of grants as set forth in this chapter have been satisfied. All such  
861 documents appropriately identified by the eligible corporation shall be considered confidential and  
862 proprietary.

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

867 CHAPTER 10.

868 PHOTOVOLTAIC, SOLAR, AND WIND ENERGY UTILIZATION GRANT PROGRAM.

869 § 67-1000. Definitions.

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

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

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

874 "Fund" means the Photovoltaic, Solar, and Wind Energy Utilization Grant Fund established pursuant  
875 to § 67-1002.

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

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

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

884 "Wind-powered electrical generator" means an electrical generating unit that (i) has a capacity of  
885 not more than 10 kilowatts, (ii) uses wind as its total source of fuel, (iii) is located on the individual's  
886 or corporation's premises, and (iv) is intended primarily to offset all or part of the individual's or  
887 corporation's own electricity requirements.

888 § 67-1001. Eligibility for grants for installation of photovoltaic property, solar water heating  
889 property, and wind-powered electrical generators.

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

- 896 1. \$2,000 for each system of photovoltaic property;
- 897 2. \$1,000 for each system of solar water heating property; and
- 898 3. \$1,000 for each system of wind-powered electrical generators.

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

902 § 67-1002. Photovoltaic, Solar, and Wind Energy Utilization Grant Fund.

903 A. There is hereby established in the state treasury a special nonreverting fund to be known as the  
904 Photovoltaic, Solar, and Wind Energy Utilization Grant Fund. The Fund shall consist of such moneys as  
905 may be appropriated by the General Assembly from time to time. Any moneys deposited to or remaining  
906 in the Fund during or at the end of each fiscal year or biennium, including interest thereon, shall not  
907 revert to the general fund but shall remain in the Fund and be available for allocation under this  
908 chapter in ensuing fiscal years. Interest on all moneys in the Fund shall remain in the Fund and be  
909 credited to it. The Fund shall be used solely for the payment of the grants provided under this chapter.  
910 The Department shall administer the Fund.

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

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

921 *D. Beginning in calendar year 2007, by June 30 of each year, the Department shall (i) determine the*  
922 *amount of the grants to be allocated to eligible individuals and corporations, and (ii) certify to the*  
923 *Comptroller and each eligible grant applicant the amount of the grant allocated to such applicant.*  
924 *Payment of such grants shall be made by the State Treasurer on warrant of the Comptroller within 60*  
925 *days of such certification.*

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

931 *F. In no case shall the Department certify grants from the Fund for photovoltaic property, solar*  
932 *water heating property, or wind-powered electrical generators placed in service prior to January 1,*  
933 *2006.*

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

936 *§ 67-1003. Requirements for grants generally.*

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

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

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

950 *D. An individual or corporation receiving a grant pursuant to this chapter for a system of*  
951 *photovoltaic property, solar water heating property, or wind-powered electrical generators may not use*  
952 *such system as the basis for claiming any other grant or credit against taxes, as provided under the*  
953 *Code of Virginia or in an appropriation act.*

954 **2. That the Department of Mines, Minerals and Energy shall develop guidelines, in accordance**  
955 **with the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia), for purposes of**  
956 **carrying out the provisions of Chapters 9 (§ 67-900 et seq.) and 10 (§ 67-1000 et seq.) of Title 67 of**  
957 **the Code of Virginia.**

958 **3. That the Department of Mines, Minerals and Energy, working with the Department of General**  
959 **Services, the State Council on Higher Education, and representatives of other agencies and**  
960 **institutions that construct and operate facilities shall analyze current energy performance**  
961 **standards that agencies and institutions use in facility design, make recommendations for changes**  
962 **to the current design and construction practices that will enhance energy performance and**  
963 **efficiency, and research facility energy performance and efficiency benchmarks and metrics that**  
964 **may be used to measure facility performance.**

965 **4. That the State Corporation Commission and Secretary of Natural Resources shall develop a**  
966 **proposal for a coordinated review of permits for an energy facility requiring (i) an environmental**  
967 **permit that is subject to issuance by any agency or board within the Secretariat of Natural**  
968 **Resources and (ii) a certificate of public convenience and necessity that is subject to issuance by**  
969 **the Commission. The State Corporation Commission and Secretary of Natural Resources shall**  
970 **submit their proposal for a coordinated review process, together with a listing of the types of**  
971 **projects and permits to be reviewed under the coordinated process, an analysis of the potential**  
972 **costs and benefits of such a process, and any legislation required to establish the coordinated**  
973 **review process, to the Governor and the chairmen of the House Committee on Commerce and**  
974 **Labor, the House Committee on Agriculture, Chesapeake and Natural Resources, the Senate**  
975 **Committee on Commerce and Labor, and the Senate Committee on Agriculture, Conservation and**  
976 **Natural Resources by December 1, 2006.**

977 **5. That the Department of Taxation shall develop guidelines that describe the items that qualify**  
978 **for the deduction under subdivision D 11 of § 58.1-322 of the Code of Virginia for energy-efficient**  
979 **appliances and equipment, and shall make such guidelines available, both electronically and in**  
980 **hard copy, no later than October 1, 2006.**

981 **6. That if the Fund established under § 67-403 of the Code of Virginia does not receive a deposit**  
982 **of general funds, nongeneral funds, grant funds, or other funds before July 1, 2009, then §§ 67-402**

983 and 67-403 shall expire on July 1, 2009.

984 7. That if the Virginia Coastal Energy Research Consortium established under § 67-600 of the  
985 Code of Virginia is not funded before July 1, 2009, then Chapter 6 of Title 67 (§ 67-600 et seq.)  
986 shall expire on July 1, 2009.

987 8. That if the Fund established under § 67-902 of the Code of Virginia does not receive a deposit  
988 of general funds, nongeneral funds, grant funds, or other funds before July 1, 2009, then the  
989 provisions of Chapter 9 of Title 67 (§ 67-900 et seq.) shall expire on July 1, 2009.

990 9. That if the Fund established under § 67-1002 of the Code of Virginia does not receive a deposit  
991 of general funds, nongeneral funds, grant funds, or other funds before July 1, 2009, then the  
992 provisions of Chapter 10 of Title 67 (§ 67-1000 et seq.) shall expire on July 1, 2009.