REVISED
State Corporation Commission
2019 Fiscal Impact Statement

1. **Bill Number:** HB2500

House of Origin	☒	Introduced	☐	Substitute	☐	Engrossed
Second House	☐	In Committee	☐	Substitute	☐	Enrolled

2. **Patron:** Sullivan

3. **Committee:** Commerce and Labor

4. **Title:** Electric utilities; mandatory renewable energy portfolio standard.

5. **Summary from LIS:** Replaces the existing voluntary renewable energy portfolio standard program with a mandatory renewable portfolio standard program that requires each investor-owned electric utility to generate or purchase, from facilities in the Commonwealth, increasing percentages of electric power that is generated from qualifying renewable sources. The required percentages start at a minimum of 20 percent of the total electric energy sold in 2020. The required percentages increase in steps until 2027; in that year and thereafter, at least80 percent of the total electric energy sold is required to be generated from qualifying renewable sources. A utility that fails to comply with an RPS standard established for a year is required to pay a compliance fee of 10 cents for each kilowatt-hour by which it failed to meet the standard.

   Summary from Department of Taxation: This bill would replace the existing voluntary renewable energy portfolio standard program with a mandatory renewable energy portfolio standard program.

   This bill would repeal the statutory provision that prohibits certain expenses incurred or investments made by a utility participating in the existing voluntary renewable energy portfolio standard program from being used to claim the Research and Development Expenses Tax Credit or the Major Research and Development Expenses Tax Credit.

   If enacted during the 2019 Regular Session of the General Assembly, this bill would become effective July 1, 2019.

6. **Budget Amendment Necessary**: No.

7. **Fiscal Impact Estimates:** There is no fiscal impact on the State Corporation Commission. However, the Department of Taxation states the fiscal estimates are not available and to see line 8.

8. **Fiscal Implications:** There is no fiscal impact on the State Corporation Commission.

However, the Department of Taxation states:

Administrative Costs

The Department of Taxation ("the Department") considers implementation of this bill as routine and does not require additional funding.

Revenue Impact

This bill would have an unknown General Fund revenue impact beginning in Fiscal Year 2020. The extent to which utilities previously prohibited from claiming the Research and Development Expenses Tax Credit or the Major Research and Development Expenses Tax Credit for certain expenses would qualify for these credits is unknown.

9. **Specific Agency or Political Subdivisions Affected:** State Corporation Commission and the Department of Taxation

10. **Technical Amendment Necessary:** No.

11. **Other Comments:** **The Department of Taxation provides these further comments on the bill:**

Voluntary Renewable Energy Portfolio Standard Program

To encourage the increased use of renewable energy, Virginia allows certain electric utilities to participate in a renewable energy portfolio standard program. An electric utility that participates in a renewable energy portfolio standard program is required to meet certain renewable energy usage goals from Calendar Year 2010 to Calendar Year 2025. As an incentive to participate in such programs, Virginia allows a participating electric utility that meets a renewable energy usage goal to increase its rate of return for selling energy.

Virginia allows electric utilities participating in a renewable energy portfolio standard program to earn credits toward a renewable energy usage goal for making qualified investments. “Qualified investments” are expenses incurred in Virginia by a participating electric utility for certain research and development activities related to renewable or alternative energy sources. Expenses incurred or investments made by a participating electric utility that constitute a “qualified investment” may not be used to claim the Research and Development Expenses Tax Credit or the Major Research and Development Expenses Tax Credit.

<u>Research and Development Expenses Tax Credit</u>

The Research and Development Expenses Tax Credit is a refundable individual and corporate income tax credit for conducting qualified research and development in Virginia. The credit is allowed for the same calendar year in which qualified research and development expenses are reported on the federal income tax return ("the credit year"), in accordance with the taxpayer's accounting method. The Research and Development Expenses Tax Credit is comprised of a base credit and a supplemental credit that is available only to the extent that the total amount of base credits granted for a fiscal year is less than the annual credit cap. A taxpayer may compute the base credit using the primary method for determining the credit or elect to compute the base credit using the alternative simplified method ("simplified method") for determining the credit.

The base credit for a taxpayer using the primary method is equal to: (i) 15 percent of the Virginia qualified research and development expenses paid or incurred by the taxpayer during the credit year (up to a $45,000 credit), or (ii) 20 percent of the Virginia qualified research and development expenses paid or incurred by the taxpayer during the credit year if the Virginia qualified research was conducted in conjunction with a Virginia public or private college or university (up to a $60,000 credit), to the extent such expenses exceed the taxpayer's Virginia base amount.

The base credit for a taxpayer that elects to utilize the simplified method is equal to 10 percent of the difference between:

- The Virginia qualified research and development expenses paid or incurred by the taxpayer during the taxable year; and
- 50 percent of the average Virginia qualified research and development expenses paid or incurred by the taxpayer for the three immediately preceding taxable years.

If a taxpayer did not pay or incur Virginia qualified research and development expenses in any one of the three preceding taxable years, the base credit is equal to 5 percent of the Virginia qualified research and development expenses paid or incurred by the taxpayer during the relevant taxable year. The annual base credit amount allowed may not exceed
(i) $45,000 or (ii) $60,000 if the Virginia qualified research was conducted in conjunction with a Virginia public or private college or university.

The credit is subject to an annual credit cap of $7 million per fiscal year.

Major Research and Development Expenses Tax Credit

Virginia allows an individual and corporate income tax credit for incurring more than $5 million of Virginia qualified research and development expenses during a taxable year. The amount of the credit is equal to 10 percent of the difference between:

- The Virginia qualified research and development expenses paid or incurred by the taxpayer during the taxable year; and

- 50 percent of the average Virginia qualified research and development expenses paid or incurred by the taxpayer for the three taxable years immediately preceding the taxable years.

If a taxpayer did not pay or incur Virginia qualified research and development expenses in any one of the three taxable years immediately preceding the taxable year for which the credit is being determined, the credit is equal to 5 percent of the Virginia qualified research and development expenses paid or incurred by the taxpayer during the relevant taxable year.

The credit amount claimed by a taxpayer cannot exceed 75 percent of the taxpayer's Virginia income tax liability for the taxable year.

The credit subject to an annual credit cap of $20 million per

fiscal year.

Proposed Legislation

This bill would replace the existing voluntary renewable energy portfolio standard program with a mandatory renewable energy portfolio standard program.

This bill would repeal statutory language currently prohibiting expenses incurred or investments made by a utility participating in the existing voluntary program that constitute a "qualified investment" from being used to claim the Research and Development Expenses Tax Credit or the Major Research and Development Expenses Tax Credit.

If enacted during the 2019 Regular Session of the General Assembly, this bill would become effective July 1, 2019.