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SENATE BILL NO. 393

Offered January 14, 2026

A BILL to amend and reenact § 58.1-512 of the Code of Virginia; to amend the Code of Virginia by adding in Title 10.1 a chapter numbered 21.3, consisting of sections numbered 10.1-2141, 10.1-2142, and 10.1-2143, and by adding in Chapter 17 of Title 58.1 an article numbered 13, consisting of sections numbered 58.1-1749 and 58.1-1750; and to repeal § 2.2-1509.4 of the Code of Virginia, relating to Virginia's Great Outdoors Act established; data center land conservation tax; land preservation distributions and appropriations.

Patrons—Perry and Stuart

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-512 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Title 10.1 a chapter numbered 21.3, consisting of sections numbered 10.1-2141, 10.1-2142, and 10.1-2143, and by adding in Chapter 17 of Title 58.1 an article numbered 13, consisting of sections numbered 58.1-1749 and 58.1-1750, as follows:

CHAPTER 21.3.**VIRGINIA'S GREAT OUTDOORS ACT.****§ 10.1-2141. Cooperation in the protection and preservation of lands.**

It shall be the policy of the Commonwealth, and it is the purpose of this chapter, to ensure the ongoing protection and preservation of lands of ecological, cultural, or historical importance, lands for recreational purposes, and working farm and forest lands for the benefit of all current and future citizens of the Commonwealth. The General Assembly further determines and finds that acquisition of public lands and trails is a core function of state government and that stewarding those lands and trails and providing access to the public is an ongoing responsibility. It also is the responsibility of government to assist private landowners who wish to conserve their lands for the benefit of the public. The General Assembly further determines and finds that land conservation and recreation are shared responsibilities among state government entities, local governments, and private conservation organizations and that this chapter authorizes and encourages cooperative programs to provide these services to the citizens of the Commonwealth.

§ 10.1-2142. Commitment of certain tax revenues.

A. In accordance with the provisions of § 10.1-2141, the Commonwealth shall provide distributions of certain tax revenues for the protection and preservation of lands as described in this section.

B. Beginning July 1, 2028, no less than \$250 million of revenues collected from the data center land conservation tax imposed under Article 13 (§ 58.1-1749 et seq.) of Title 58.1 shall be distributed as provided in § 58.1-1750 each year.

§ 10.1-2143. Virginia Tribal Commitment Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Tribal Commitment Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds deposited pursuant to subdivision A 14 of § 58.1-1750, all funds appropriated for such purpose, and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of assisting and supporting Virginia tribes with tribal nation building, cultural revitalization, tribal capacity building, land acquisition, and other purposes that protect and preserve tribes and tribal lands. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Secretary of the Commonwealth.

§ 58.1-512. Land preservation tax credits for individuals and corporations.

A. 1. For taxable years beginning on or after January 1, 2000, there shall be allowed as a credit against the tax liability imposed by §§ 58.1-320 and 58.1-400, an amount equal to 50 percent of the fair market value of any land or interest in land located in Virginia that is conveyed for the purpose of agricultural and forestal use, open space, natural resource, and/or biodiversity conservation, or land, agricultural, watershed and/or historic preservation, as an unconditional donation by the landowner/taxpayer to a public or private conservation agency eligible to hold such land and interests therein for conservation or preservation purposes. For such conveyances made on or after January 1, 2007, the tax credit shall be 40 percent of the fair market

59 value of the land or interest in land so conveyed.

60 2. a. If the Commonwealth or an instrumentality thereof operates a facility on a conveyance, including
61 charging fees for the use of such facility, such operation shall not disqualify the conveyance from eligibility
62 for the tax credit, so long as any fees are used for conservation or preservation purposes.

63 b. If the Commonwealth or an instrumentality thereof enters into an agreement with a third party to lease
64 or manage a facility on a conveyance, the fact that such third party is operated primarily as a business with
65 intent for profit shall not disqualify the conveyance from eligibility for the tax credit, so long as such
66 agreement is for conservation or preservation purposes.

67 B. The fair market value of qualified donations made under this section shall be determined in accordance
68 with § 58.1-512.1 and substantiated by a "qualified appraisal" prepared by a "qualified appraiser," as those
69 terms are defined under applicable federal law and regulations governing charitable contributions. The value
70 of the donated interest in land that qualifies for credit under this section, as determined according to
71 appropriate federal law and regulations, shall be subject to the limits established by United States Internal
72 Revenue Code § 170(e). In order to qualify for a tax credit under this section, the qualified appraisal shall be
73 signed by the qualified appraiser, who must be licensed in the Commonwealth of Virginia as provided in
74 § 54.1-2011, and a copy of the appraisal shall be submitted to the Department. In the event that any appraiser
75 falsely or fraudulently overstates the value of the contributed property in an appraisal that the appraiser has
76 signed, the Department may disallow further appraisals signed by the appraiser and shall refer the appraiser to
77 the Real Estate Appraiser Board for appropriate disciplinary action pursuant to § 54.1-2013, which may
78 include, but need not be limited to, revocation of the appraiser's license. Any appraisal that, upon audit by the
79 Department, is determined to be false or fraudulent, may be disregarded by the Department in determining
80 the fair market value of the property and the amount of tax credit to be allowed under this section.

81 C. 1. The amount of the credit that may be claimed by each taxpayer, including credit claimed by applying
82 unused credits as provided under subsection C of § 58.1-513, shall not exceed \$50,000 for 2000 taxable
83 years; \$75,000 for 2001 taxable years; \$100,000 for each of 2002 through 2008 taxable years; \$50,000 for
84 each of 2009, 2010, and 2011 taxable years; \$100,000 for each of 2012, 2013, and 2014 taxable years;
85 \$20,000 for each of 2015, 2016, and 2017 taxable years; and \$50,000 for 2018 taxable years and for each
86 taxable year thereafter. However, for any fee simple donation of land conveyed to the Commonwealth on or
87 after January 1, 2015, the amount of the credit claimed shall not exceed \$100,000 for each taxable year,
88 provided that no part of the charitable contributions deduction under § 170 of the Internal Revenue Code
89 related to such fee simple donation is allowable by reason of a sale or exchange of property. In addition, for
90 each taxpayer, in any one taxable year the credit used may not exceed the amount of individual, fiduciary or
91 corporate income tax otherwise due. Any portion of the credit that is unused in any one taxable year may be
92 carried over for a maximum of 10 consecutive taxable years following the taxable year in which the credit
93 originated until fully expended. A credit shall not be reduced by the amount of unused credit that could have
94 been claimed in a prior year by the taxpayer but was unclaimed. For taxpayers affected by the credit
95 reduction for taxable years 2009, 2010, 2011, and 2015 and thereafter, any portion of the credit that is unused
96 in any one taxable year may be carried over for a maximum of 13 consecutive taxable years following the
97 taxable year in which the credit originated until fully expended.

98 2. Qualified donations shall include the conveyance of a fee interest in real property or the conveyance in
99 perpetuity of a less-than-fee interest in real property, such as a conservation restriction, preservation
100 restriction, agricultural preservation restriction, or watershed preservation restriction, provided that such less-
101 than-fee interest qualifies as a charitable deduction under § 170(h) of the United States Internal Revenue
102 Code of 1986, as amended.

103 The Department of Conservation and Recreation shall compile an annual report on qualified donations of
104 less-than-fee interests accepted by any public or private conservation agency in the respective calendar year
105 and shall submit the report by December 1 of each year to the Chairmen of the House Committee on
106 Appropriations, House Committee on Finance, and the Senate Committee on Finance and Appropriations. In
107 preparing such report, the Department of Conservation and Recreation shall consult and coordinate with the
108 Department of Taxation and the Departments of Forestry and Agriculture and Consumer Services to provide
109 an estimate of the number of acres of land currently being used for "production agriculture and silviculture"
110 as defined in § 3.2-300 that have been protected by qualified donations of less-than-fee interests. This report
111 shall include information, when available, on land qualifying for credits being used for "production
112 agriculture and silviculture" that have onsite operational best management practices, which are designed to
113 reduce the amount of nutrients and sediment entering public waters. In addition, the report shall include
114 information, when available, on riparian buffers, both vegetated/forested buffers and no-plow buffers,
115 required by deed restriction on land qualifying for credits in order to protect water quality. This information
116 shall be reported in summary fashion as appropriate to preserve confidentiality of information. Qualified
117 donations shall not include the conveyance of a fee interest, or a less-than-fee interest, in real property by a
118 charitable organization that (i) meets the definition of "holder" in § 10.1-1009 and (ii) holds one or more
119 conservation easements acquired pursuant to the authority conferred on a "holder" by § 10.1-1010.

120 3. Any fee interest, or a less-than-fee interest, in real property that has been dedicated as open space

within, or as part of, a residential subdivision or any other type of residential or commercial development; dedicated as open space in, or as part of, any real estate development plan; or dedicated for the purpose of fulfilling density requirements to obtain approvals for zoning, subdivision, site plan, or building permits shall not be a qualified donation under this article.

4. Qualified donations shall be eligible for the tax credit herein described if such donations are made to the Commonwealth of Virginia, an instrumentality thereof, or a charitable organization described in § 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, if such charitable organization (i) meets the requirements of § 509(a)(2) or (ii) meets the requirements of § 509(a)(3) and is controlled by an organization described in § 509(a)(2).

5. The preservation, agricultural preservation, historic preservation or similar use and purpose of such property shall be assured in perpetuity. In the case of conveyances of a fee interest to a charitable organization that is a "holder" as defined in § 10.1-1009, the credit shall not be allowed until the charitable organization agrees that subsequent conveyances of the fee interest in the property will be (i) subject to a previous conveyance in perpetuity of a conservation easement, as that term is defined in § 10.1-1009, or subject to the conveyance in perpetuity of an open-space easement, as that term is defined in § 10.1-1700, or (ii) conveyed to the Commonwealth of Virginia or to a federal conservation agency. No credit shall be allowed with respect to any subsequent conveyances by the charitable organization.

D. The issuance of tax credits under this article for donations made on and after January 1, 2007, shall be in accordance with procedures and deadlines established by the Department and shall be administered under the following conditions:

1. The taxpayer shall apply for a credit after completing the donation by submitting a form or forms prescribed by the Department in consultation with the Department of Conservation and Recreation. If the application requests a credit of \$1 million or more or if the donation meets the conditions of subdivision 3 c, then a copy of the application shall also be filed with the Department of Conservation and Recreation by the taxpayer. The application shall include, but not be limited to:

- a. A description of the conservation purpose or purposes being served by the donation;
- b. The fair market value of land being donated in the absence of any easement or other restriction;
- c. The public benefit derived from the donation;
- d. The extent to which water quality best management practices will be implemented on the property; and
- e. Whether the property is fully or partially forested and a forest management plan is included in the terms of the donation.

2. Applications for otherwise qualified donations of a less-than-fee interest shall be accompanied by an affidavit describing how the donated interest in land meets the requirements of § 170(h) of the United States Internal Revenue Code of 1986, as amended, and the regulations adopted thereunder. The application with accompanying affidavit shall be submitted to the Department of Taxation, with a copy also provided to the Department of Conservation and Recreation.

3. a. No credit in the amount of \$1 million or more shall be issued with respect to a donation unless the conservation value of the donation has been verified by the Director of the Department of Conservation and Recreation, based on the criteria adopted by the Virginia Land Conservation Foundation for this purpose. Such criteria and subsequent amendments shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.), but the Virginia Land Conservation Foundation shall provide for adequate public participation, including adequate notice and opportunity to provide comments on the proposed criteria. The Director shall act on applications within 90 days of his receipt of a complete application and shall notify the taxpayer and the Department of Taxation of his action.

b. For purposes of determining whether a credit requires verification of the conservation value, the credits allowed under this article with respect to donations of any other portion of a recorded parcel of land within the preceding 11 years shall be aggregated with the credit claimed for the current donation. This subdivision shall not apply if (i) all owners of the parcel who have been allowed credit for a qualified donation are not affiliated with the person or entity seeking credit for the current donation of a different portion of the parcel and (ii) in the case of an individual seeking credit, the individual has not previously made a qualified donation for any portion of the parcel and is not an immediate family member of any such owners.

c. If (i) the real property that is the subject of the donation was partitioned from or part of another parcel of land and any other portion of such parcel, or any land partitioned from such parcel of land, has been allowed a tax credit under this article (or an application for tax credit is pending) within three years of such donation and (ii) the tax credit that would otherwise be allowed to the donor for such donation is at least \$250,000, then no credit under this article shall be issued with respect to such donation described in clause (i) unless the conservation value of the donation has been verified by the Director of the Department of Conservation and Recreation. The Director shall act on applications within 90 days of his receipt of a complete application and shall notify the taxpayer and the Department of Taxation of his action. Nothing in this subdivision shall be construed or interpreted (a) as allowing additional tax credit for any land or interest in land previously conveyed for which tax credit has already been allowed under this article or (b) affecting the validity of any tax credit allowed under this article for a prior conveyance of any land or interest in land.

4. a. Tax credits shall be issued on a calendar year basis, and in no case shall the Department issue more than the maximum allowed for the calendar year. The maximum amount of credits that may be issued in a calendar year shall be \$100 million plus any credits previously issued under this article but subsequently disallowed or invalidated by the Department. Credits previously issued but subsequently disallowed or invalidated shall be reissued in a subsequent calendar year. All credits shall be issued in the order that each complete application is filed. For filings by mail or a recognized commercial delivery service, the postmark or confirmation of shipment shall determine the date of filing. If within 30 days after an application for credits has been filed the Tax Commissioner provides written notice to the donor that he has determined that the preparation of a second qualified appraisal is warranted, the application shall not be deemed complete until the fair market value of the donation has been finally determined by the Tax Commissioner. The Tax Commissioner shall make a final determination within 180 days of notifying the donor, unless the donor has filed an appeal. The donor shall have the right to appeal any decision of the Department in accordance with the provisions of Chapter 18 (§ 58.1-1800 et seq.). If more than one complete application is filed at the same time, the credits with respect to those applications shall be issued in the order that the conveyances were recorded in the appropriate circuit court of the Commonwealth. In the event that a credit requires verification of the conservation value by the Department of Conservation and Recreation and such verification has not been received at the time the maximum \$100 million allowed is reached for the calendar year of the donation, such credit shall not be issued for that calendar year but shall be issued in the calendar year that the conservation value of the credit is verified by the Department of Conservation and Recreation.

No credit shall be allowed for any land or interest in land conveyed unless (i) for a conveyance made before January 1, 2020, a complete application for tax credit with regard to the conveyance has been filed with the Department by December 31 of the third year following the calendar year of the conveyance or (ii) for a conveyance made on or after January 1, 2020, a complete application for tax credit with regard to the conveyance has been filed with the Department by December 31 of the second year following the calendar year of the conveyance. For filings by mail or a recognized commercial delivery service, the postmark or confirmation of shipment shall determine the date of filing. Solely for purposes of this condition, any application for which the Tax Commissioner has given written notice to the donor that the preparation of a second qualified appraisal is warranted shall be deemed timely filed, provided that the application was otherwise complete as of such filing deadline. For conveyances made on and after January 1, 2017, the deadlines provided by clauses (i) and (ii) of this subdivision shall be extended for any number of days exceeding 90 during which an application for tax credit is being reviewed for verification of conservation value by the Department of Conservation and Recreation, if the application was otherwise complete at the time of the original filing deadline.

b. Beginning with calendar year 2008, the \$100 million amount contained in subdivision 4 a shall be increased by an amount equal to \$100 million multiplied by the percentage by which the consumer price index for all-urban consumers published by the United States Department of Labor (CPI-U) for the 12-month period ending August 31 of the preceding year exceeds the CPI-U for the 12-month period ending August 31, 2006.

c. Beginning with calendar year 2015, the maximum amount of credits that may be issued in a calendar year shall not exceed \$75 million. In no case shall the Department issue any tax credit for a donation from any allocation or pool of tax credits attributable to a calendar year prior to the year in which the complete tax credit application for the donation was filed.

Beginning with the submission due on or before December 20, 2015, and in each year thereafter, the Governor shall include in "The Budget Bill" submitted pursuant to subsection A of § 2.2-1509 or in his amendments to the general appropriation act in effect submitted pursuant to subsection E of § 2.2-1509 a recommended appropriation from the general fund equal to the difference between the amount calculated pursuant to subdivision b and \$75 million, but not more than \$20 million, to be allocated as follows: 80 percent to the Virginia Land Conservation Fund to be used in accordance with § 10.1-1020, with no less than 50 percent of such appropriation to be used for fee simple acquisitions with public access or acquisitions of easements with public access; 10 percent to the Virginia Battlefield Preservation Fund to be used in accordance with § 10.1-2202.4; and 10 percent to the Virginia Farmland and Forestland Preservation Fund to be used in accordance with § 10.1-1119.3.

5. a. Any taxpayer that has been issued a tax credit by the Department shall be allowed to use such credit for his or its taxable year that begins in the calendar year for which such credit was issued and for succeeding taxable years in accordance with the 10 consecutive taxable year carryforward provisions of this article, except for any taxpayer affected by the credit limitation for taxable years 2009, 2010, 2011, and 2015 and taxable years thereafter. Such a taxpayer shall be allowed to use such credit for his or its taxable year that begins in the calendar year for which such credit was issued and for succeeding taxable years in accordance with the 13 consecutive taxable year carryforward provisions of this article.

b. Any taxpayer to whom a credit has been transferred may use such credit for the taxable year in which the transfer occurred and unused amounts may be carried forward to succeeding taxable years, but in no event may such transferred credit be used more than 11 years after it was originally issued by the Department or in

any taxable year of such taxpayer that ended prior to the date of transfer, except for any taxpayer affected by the credit limitation for taxable years 2009, 2010, 2011, and 2015 and taxable years thereafter. Such a taxpayer may use such credit for the taxable year in which the transfer occurred and unused amounts may be carried forward to succeeding taxable years, but in no event may such transferred credit be used more than 14 years after it was originally issued by the Department or in any taxable year of such taxpayer that ended prior to the date of transfer.

6. Neither the verification of conservation value by the Department of Conservation and Recreation nor the issuance of a credit by the Department of Taxation shall in any way be construed or interpreted as prohibiting the Department of Taxation or the Tax Commissioner from auditing any credit claimed pursuant to the provisions of this article or from assessing tax relating to the claiming of any credit under this article.

E. In any review or appeal before the Tax Commissioner or in any court in the Commonwealth the burden of proof shall be on the taxpayer to show that the fair market value and conservation value at the time of the qualified donation is consistent with this section and that all requirements of this article have been satisfied.

Article 13.

Data Center Land Conservation Tax.

§ 58.1-1749. Definitions; levy of data center land conservation tax.

A. For purposes of this section:

"Data center" means the same as provided in subdivision A 43 of § 58.1-3506.

"Data center facility footprint" means the total square footage specified in a certificate of occupancy or similar certification that is issued by a locality to the operator of a data center prior to business operations commencing at the data center.

B. On and after January 1, 2027, there is hereby levied and imposed upon every data center operator in the Commonwealth, a data center land conservation tax in an amount equal to \$3 per square foot of each data center facility footprint. Such tax shall not be imposed on any data centers with a data center facility footprint that is less than 25,000 square feet.

§ 58.1-1750. Distribution of data center land conservation tax revenues for the protection and preservation of lands.

A. In accordance with the provisions of Chapter 21.3 (§ 10.1-2141 et seq.) of Title 10.1, beginning July 1, 2028, of the revenues from the tax imposed pursuant to § 58.1-1749, no less than \$250 million of such amount shall be distributed as follows:

1. No less than \$70 million to the State Park Conservation Resources Fund to be used in accordance with § 10.1-202;

2. No less than \$50 million for infrastructure improvements and other capital projects to improve public access and visitor experience on Virginia's public lands, allocated as follows: (i) \$30 million to the Department of Conservation and Recreation for state parks and (ii) \$20 million divided evenly among (a) the Department of Wildlife Resources, (b) the Department of Forestry, and (c) the Department of Conservation and Recreation's Natural Heritage Division for improvements to the public lands each such entity manages;

3. No less than \$30 million to the Virginia Land Conservation Fund to be used in accordance with § 10.1-1020;

4. No less than \$30 million to the Virginia Land Conservation Fund to be allocated evenly between (i) the Department of Wildlife Resources, (ii) the Department of Forestry, (iii) the Department of Conservation and Recreation's State Parks Division, and (iv) the Department of Conservation and Recreation's Natural Heritage Division. However, in any year where the directors of the Department of Wildlife Resources, the Department of Forestry, and the Department of Conservation and Recreation certify a written agreement regarding an alternative funding allocation among the entities receiving an allocation under this subdivision, the Virginia Land Conservation Board of Trustees (the Board) may approve such allocation. Any funds distributed and allocated pursuant to this subdivision shall be used only for the acquisition of land or interests in land. Any entity allocated funding pursuant to this subdivision shall annually provide a list of completed and anticipated acquisition projects to the Board;

5. No less than \$25 million to the Department of Conservation and Recreation to be used to establish and maintain a statewide system of trails as provided in § 10.1-204;

6. No less than \$25 million to the Department of Transportation for regional multi-use trails pursuant to the State Trails Plan, including new regional trails and projects that improve connectivity of existing trail networks with geographic diversity;

7. No less than \$5 million to the Virginia Black, Indigenous, and People of Color Historic Preservation Fund to be used in accordance with § 10.1-2202.5;

8. No less than \$5 million to the Virginia Battlefield Preservation Fund to be used in accordance with § 10.1-2202.4;

9. No less than \$5 million to the Virginia Farmland and Forestland Preservation Fund to be used in accordance with § 10.1-1119.3;

10. No less than \$2.5 million to the Virginia Outdoors Foundation, established pursuant to § 10.1-1800, to be spent for the purpose of providing grants to agencies of the Commonwealth, localities, other political

307 subdivisions, state-recognized or federally recognized Virginia Indian Tribes, educational institutions or
308 other organizations exempt from taxation pursuant to § 501(c)(3) of the Internal Revenue Code, solely for the
309 purpose of increasing access to open space in Virginia's communities. Projects eligible for such grants shall
310 include land acquisitions, studies, planning and conceptual development, capacity building, and
311 infrastructure that enables safe use of or access to public open spaces. Priority for such grants shall be given
312 to shovel-ready projects with tangible, defined, and measurable results in underserved areas;

313 11. No less than \$1 million to the Department of Wildlife Resources to be used to provide grants for
314 projects that preserve or enhance wildlife corridors prioritized by the Wildlife Corridor Action Plan
315 prepared pursuant to § 29.1-579 and associated wildlife crossing infrastructure projects;

316 12. No less than \$500,000 to the Department of Conservation and Recreation Office of Environmental
317 Education to be used for programs in accordance with subdivision A 6 of § 10.1-104;

318 13. No less than \$500,000 to the Office of the Secretary of Natural and Historic Resources to establish
319 and operate an Office of Outdoor Recreation to coordinate and promote Virginia's outdoor recreation
320 industry; and

321 14. No less than \$500,000 to the Virginia Tribal Commitment Fund established pursuant to § 10.1-2143.

322 B. Such distribution amounts may be utilized for any administrative expenses incurred in the distribution
323 of such funds by the authorized official in the agency or entity overseeing receipt of such funding only after
324 approval from the cabinet secretary overseeing such agency or entity.

325 **2. That § 2.2-1509.4 of the Code of Virginia is repealed.**