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HOUSE BILL NO. 1423

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Science and Technology
on January 30, 2006)

(Patron Prior to Substitute—Delegate Barlow)

A BILL to amend the Code of Virginia by adding in Chapter 26 of Title 45.1 sections numbered 45.1-393 and 45.1-394, relating to the Biofuels Production Incentive Grant Program and Fund; established.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 26 of Title 45.1 sections numbered 45.1-393 and 45.1-394 as follows:

§ 45.1-393 Biofuels Production Fund established.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Biofuels Production Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. All moneys appropriated by the General Assembly 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 providing grants to producers of biofuels as specified § 45.1-394. 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 Director of the Division of Energy.

§ 45.1-394. Biofuels Production Incentive Grant Program.

A. For purposes of this section:

"Biodiesel fuels" means a renewable, biodegradable, mono-alkyl ester combustible liquid fluid fuel from agricultural plant oils or animal fats that meets American Society for Testing and Materials (ASTM) Specification D6751-03a for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels.

"Biofuels" means neat biodiesel fuel or neat ethanol fuel that is not blended with a traditional fuel such as gasoline or diesel.

"Ethanol fuels" means fermentation ethyl alcohol derived from agricultural products, including potatoes, cereal grains, dry mill corn, whey, and sugar beets; forest products; or other renewable resources, including residue and waste generated from the production, processing, and marketing of agricultural products, forest products, and other renewable resources, that:

1. Meets all of the specifications in ASTM D4806-04a or D5798-99(2004); and

2. Is denatured as specified in Code of Federal Regulations, Title 27, Parts 20 and 21.

"Feedstock" means the agricultural or other renewable resources, whether plant or animal derived, used to produce biofuels.

"Producer" means any person or entity physically located in the Commonwealth that, in a calendar year, produces in excess of 10 million gallons of biofuels using feedstock originating domestically within the United States.

B. Any producer of neat biofuels located in Virginia and commencing eligible sales on January 1, 2006, shall be entitled to receive a biofuels production incentive grant in an amount of \$0.20 per gallon of production at a cost share of up to 50% of production per calendar year. The maximum grant amount shall be \$8,000,000, representing a total actual production of 80 million gallons of neat biofuels in a calendar year. To be eligible for an incentive grant in any given calendar year a producer must produce at least 10 million gallons of neat biofuels in that calendar year. Grants awarded under this section shall be paid from the Biofuels Production Fund (the Fund).

C. In the event applications for grants pursuant to subsection B exceed the total amount of money allocated in the Fund, disbursements from the Fund shall be made on a pro-rata basis to all qualified applicants.

D. Any producer entitled to apply for a grant pursuant to this section shall provide evidence in the form of a production report, satisfactory to the Director of the Department of Mines, Minerals and Energy, that the producer produced in excess of 10 million gallons of neat biofuels in Virginia using feedstock originating domestically within the United States. The production report shall be filed no later than March 31 following the calendar year in which the biofuels eligible for the grant were produced. Failure to meet the filing deadline shall render the applicant ineligible to receive a grant. The postmark cancellation shall govern the date of the filing determination unless the Director has approved an alternative means of filing.

E. The Director shall certify to the Comptroller the grant amount a producer of biofuels is eligible to receive in a given calendar year. Payments shall be paid by check issued by the State Treasurer on

60 *warrant of the Comptroller.*

61 *F. The Director, upon presenting appropriate credentials, may examine the records, books, invoices,*
62 *bills of lading, storage and production facilities, and other applicable documents to determine whether*
63 *the production of biofuels meets the requirements for grants as set forth in this section.*

64 **2. That the provisions of this act shall expire on December 31, 2016.**