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HOUSE BILL NO. 1771**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the House Committee on Finance
on January 27, 2021)

(Patron Prior to Substitute—Delegate Freitas)

A *BILL to amend the Code of Virginia by adding in Article 3 of Chapter 1 of Title 44 a section numbered 44-41.3, relating to Employers of National Guard Members Grant Fund and Program.*

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 3 of Chapter 3 of Title 44 a section numbered 44-41.3 as follows:

§ 44-41.3. Employers of National Guard Members Grant Fund and Program.

A. For purposes of this section:

"Department" means the Department of Military Affairs.

"Employer" means the same as that term is defined in § 58.1-460.

"Fund" means the Employers of National Guard Members Grant Fund.

"National Guard employee" means a person who is (i) an employee, as defined in § 58.1-460, of an employer and (ii) an active member of the National Guard of the Commonwealth of Virginia.

"Program" means the Employers of National Guard Members Grant Program.

"Self-employed National Guard member" means an active member of the National Guard of the Commonwealth of Virginia who derives a substantial portion of his income from a trade or business (i) operated by the member as a sole proprietor, (ii) through which the member has attempted to earn taxable income, and (iii) for which the member has filed the appropriate Internal Revenue Service Form 1040, Schedule C or F, for the previous taxable year.

"Wages" means the same as that term is defined in § 58.1-460 and includes wages or salaries paid during the deployment of a National Guard employee.

B. There is hereby created in the state treasury a special nonreverting fund to be known as the Employers of National Guard Members Grant Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. 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 (i) providing grants to employers of National Guard employees and to self-employed National Guard members through the Program established pursuant to subsection C and (ii) administering and implementing the Fund and Program. 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 Department.

C. The Employers of National Guard Employees Grant Program is hereby established for the purpose of awarding grants to employers of National Guard employees and to self-employed National Guard members. The program shall be administered by the Department. In administering the Program, the Department shall consult with the Department of Taxation and publish guidelines and criteria for grant awards, including requirements for eligible recipients to claim and receive grants. Grants shall be awarded on an annual basis (i) to employers for a portion of the wages paid to a National Guard employee during the preceding taxable year and (ii) to self-employed National Guard members for a portion of income attributable to his trade or business during the preceding taxable year. The amount of the grants paid pursuant to clause (i) shall be 25 percent of the wages paid if such employee was in a military pay status for 65 days or more during the preceding taxable year or 15 percent of the wages paid if such employee was in a military pay status for more than 44 days but fewer than 65 days during the preceding taxable year. The grant shall not be allowed if such employee was in a military pay status for fewer than 45 days during such taxable year. For grants provided pursuant to clause (ii), the amount of the grants shall be in an amount equal to 25 percent of the income attributable to his trade or business during the preceding taxable year if such self-employed National Guard member was in a military pay status for 65 days or more during such taxable year or 15 percent of the income attributable to his trade or business during the taxable year if such self-employed individual was in a military pay status for more than 44 days but fewer than 65 days during such taxable year. The grant shall not be allowed if such employee was in a military pay status for fewer than 45 days during such taxable year. No grant shall be allowed pursuant to clause (ii) if an employer claimed a grant pursuant to clause (i) for the same National Guard member.

D. Grants shall be paid to eligible recipients no later than July 1 of each year; however, no grants

60 *shall be awarded for any wages paid or income received during any taxable year beginning on or*
61 *before January 1, 2020.*