HOUSE SUBSTITUTE

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HOUSE BILL NO. 1230

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Finance

on ________________)

(Patron Prior to Substitute—Delegate Sewell)

A BILL to amend the Code of Virginia by adding in Article 13 of Chapter 3 of Title 58.1 a section numbered 58.1-439.12:13, relating to income tax; sustainable aviation fuel production tax credit.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 13 of Chapter 3 of Title 58.1 a section numbered 58.1-439.12:13 as follows:

§ 58.1-439.12:13. Sustainable aviation fuel production tax credit.

A. For purposes of this section:

"Eligible producer" means a taxpayer that manufactures sustainable aviation fuel or blends of such sustainable aviation fuel in the Commonwealth from feedstock or biomass, at least 10 percent of which is grown or produced within the Commonwealth.

"Sustainable aviation fuel" means liquid fuel that:

1. a. Meets the criteria set forth in § 40B of the Internal Revenue Code; or

b. Consists of synthesized hydrocarbons and meets the requirements of (i) ASTM International standard D7566 or (ii) the Fischer-Tropsch provisions of ASTM International standard D1655, Annex A1;

2. Is derived from biomass as defined in § 10.1-1308.1, renewable energy sources, or gaseous carbon oxides;

3. Is not derived from palm fatty acid distillates or from pyrolysis oil or similar substances manufactured from plastic or municipal solid waste; and

4. Achieves at least a 50 percent lifecycle greenhouse gas emissions reduction in comparison with petroleum-based jet fuel, as determined by a test that shows:

a. The fuel production pathway achieves at least a 50 percent reduction of the aggregate attributional core lifecycle emissions and the positive induced land use change values under the lifecycle methodology for sustainable aviation fuels adopted by the International Civil Aviation Organization with the agreement of the United States; or

b. The fuel production pathway achieves at least a 50 percent reduction of the aggregate attributional core lifecycle greenhouse gas emissions values utilizing the most recent version of Argonne National Laboratory's GREET model, inclusive of agricultural practices and carbon capture and sequestration.

B. For taxable years beginning on and after January 1, 2027, but before January 1, 2032, an eligible producer shall be allowed a nonrefundable credit against the tax levied pursuant to § 58.1-320 or 58.1-400 in an amount equal to the lesser of (i) $0.75 per gallon of sustainable aviation fuel produced in the taxable year or (ii) $5 million. The aggregate amount of credits allowable under this subdivision shall not exceed $20 million per taxable year. Credits shall be allocated by the Department on a first-come, first-served basis.

C. The amount of the credit claimed shall not exceed the total amount of tax imposed pursuant to § 58.1-320 or 58.1-400 upon the taxpayer for the taxable year. Any credit not usable for the taxable year for which the credit was first allowed may be carried over for credit against the income taxes of the taxpayer in the next five succeeding taxable years or until the total amount of the tax credit has been taken, whichever is sooner.

D. Credits granted to a partnership, limited liability company, or electing small business corporation (S corporation) shall be allocated to the individual partners, members, or shareholders, respectively, in proportion to their ownership or interest in such business entities.

E. The Tax Commissioner shall develop guidelines for claiming the credit provided by this section. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

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