

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 1451

Short Title: Biodiesel Incentive Fund. (Public)

Sponsors: Senators Snow; Allran and Atwater.

Referred to: Commerce, Small Business and Entrepreneurship.

March 26, 2007

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH A BIODIESEL INCENTIVE FUND.

3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** Chapter 106 of the General Statutes is amended by adding a
5 new Article to read:

6 "Article 70.

7 "Biodiesel Incentive Fund.

8 "**§ 106-830. Biodiesel Incentive Fund established.**

9 (a) Establishment. – The Biodiesel Incentive Fund is established as a special
10 revenue fund in the Department of Agriculture and Consumer Services.

11 (b) Purposes. – Moneys in the Biodiesel Incentive Fund may only be allocated
12 pursuant to this subsection. Moneys may be allocated to biodiesel producers to
13 encourage the development of biodiesel in this State from feedstock sources in this
14 State. The Commissioner of Agriculture shall make discretionary grants from the Fund
15 based on applications received and evaluated by the Commissioner.

16 "**§ 106-831. Applications.**

17 (a) Producers of biodiesel may make applications to the Commissioner of
18 Agriculture for grants from the Biodiesel Incentive Fund. Applications must be under
19 oath and in a form prescribed by the Commissioner. Applications must contain at least
20 the following information:

21 (1) The name of the owners of the biodiesel producer.

22 (2) The location of the biodiesel producer.

23 (3) The number of people employed in this State by the biodiesel
24 producer.

25 (4) The amount of North Carolina agricultural products or North Carolina
26 waste products used by the producer in the production of biodiesel in
27 this State and the total amount of agricultural products used by the
28 producer in the production of biodiesel in this State.

29 (5) The amount of biodiesel produced by the producer.

1 (6) A copy of the biodiesel producer license required under Article 36C of
2 Chapter 105 of the General Statutes.

3 (7) Any other information required by the Commissioner.

4 (b) Evaluation. – The Commissioner shall evaluate applications received under
5 this section. The Commissioner shall select applicants to receive grants under the Fund
6 based on strength of the applications. Priority consideration shall be given to biodiesel
7 producers that use only North Carolina agricultural productions or North Carolina waste
8 products in the production of biodiesel. However, the Commissioner shall waive the
9 priority consideration requirement if the production facility produces less than
10 5,000,000 gallons of biodiesel per year and is in a geographic destination where it
11 would be too costly to use North Carolina agricultural products or waste products.

12 **"§ 106-832. Grants.**

13 Grants made under the program shall be for a term of five years. Grants shall be
14 based on the amount of biodiesel produced by the producer at the applicable location.
15 The grant shall equal thirty cents (30¢) per gallon for the first 2,500,000 gallons
16 produced by the producer at the applicable location each year and ten cents (10¢) per
17 gallon for each gallon in excess of 2,500,000 gallons per year. In no case may the
18 amount of a grant with respect to a single location exceed one million dollars
19 (\$1,000,000) per year.

20 **"§ 106-833. Reports.**

21 (a) Grantee Business. – No later than March 1 of each year, for the preceding
22 grant year, every producer that is awarded a grant under this Article shall submit to the
23 Committee a report showing the amount of biodiesel produced during the preceding
24 year and the amount of North Carolina agricultural product used in the production of the
25 biodiesel. The Commissioner may require the grant recipient to submit any other
26 information that the Commissioner finds relevant.

27 (b) Commissioner. – No later than April 1 of each year, the Commissioner shall
28 publish a report on the expenditure of funds under this Article. The Commissioner shall
29 submit a copy of the report to the Joint Legislative Commission on Governmental
30 Operations, the chairs of the House of Representatives and Senate Appropriations
31 Committees, and the Fiscal Research Division of the General Assembly.

32 **"§ 106-834. Expiration.**

33 The Commissioner's authority to award new grants under this Article expires
34 January 1, 2014."

35 **SECTION 2.** Chapter 106 of the General Statutes is amended by adding a
36 new Article to read:

37 "Article 71.

38 "Division of Biofuels Production and Development.

39 **"§ 106-840. Division of Biofuels Production and Development.**

40 (a) Creation of Division. – The North Carolina Division of Biofuels Production
41 and Development is established within the Department of Agriculture and Consumer
42 Services. The Division shall consist of a Director and other staff as deemed necessary
43 by the Director and the Commissioner of Agriculture. The Director and other staff shall

1 devote their full time to their official duties. The staff and Director of the Division shall
2 be employees of the State of North Carolina.

3 (b) Purposes. – The purpose of the Division is to consolidate and bring into one
4 Division and Department the administration and discharge of the legal, technical, and
5 other requirements necessary for a current or prospective biofuel producer in North
6 Carolina to start and continue operations. The power and duties of this office include
7 but are not be limited to:

- 8 (1) Licensing and permitting of biofuel producers for all biofuels and their
9 components with the exception of the petroleum used in blends.
- 10 (2) Acting as an advocate for biofuels development through the relevant
11 agencies that have regulatory authority for biofuels.
- 12 (3) Ensuring ASTM and other applicable quality standards are enforced
13 and met by producers.
- 14 (4) Coordinating regulatory proposals for the benefit and development of
15 the biofuels industry.
- 16 (5) Developing applications and other permits that will speed and ease the
17 application process for local and small producers of biofuels.
- 18 (6) Regulating the biofuels industry in North Carolina.
- 19 (7) Completing other tasks as deemed relevant by the Commissioner for
20 the purpose of expanding the use of biofuels and the biofuel industry
21 in North Carolina."

22 **SECTION 3.** There is appropriated from the General Fund to the Biodiesel
23 Incentive Fund, created under Section 1 of this act, the sum of one million dollars
24 (\$1,000,000) for the 2007-2008 fiscal year and the sum of two million dollars
25 (\$2,000,000) for the 2008-2009 fiscal year.

26 **SECTION 4.** There is appropriated from the General Fund to the Division of
27 Biofuels Production and Development of the Department of Agriculture and Consumer
28 Services, created pursuant to Section 2 of this act, the sum of ten million dollars
29 (\$10,000,000) for each year of the 2007-2009 fiscal biennium.

30 **SECTION 5.** This act becomes effective July 1, 2007.