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HOUSE BILL NO. 2542

Offered January 10, 2001

Prefiled January 10, 2001

A BILL to amend the Code of Virginia by adding in Article 10 of Chapter 3 of Title 58.1 a section numbered 58.1-422, relating to the corporation tax benefit certificate program.

 Patron—Katzen

 Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 10 of Chapter 3 of Title 58.1 a section numbered 58.1-422 as follows:

§ 58.1-422. Corporation tax benefit certificate program.

A. As used in this section, unless the context clearly requires a different meaning:

"Authority" means the Innovative Technology Authority established pursuant to § 9-252.

"Biotechnology" means the continually expanding body of fundamental knowledge about the functioning of biological systems from the macro level to the molecular and sub-atomic levels and the products, services, technologies, and sub-technologies developed as a result of insights gained from research advances that add to that body of fundamental knowledge.

"Biotechnology company" means a corporation taxpayer that (i) does business, leases or owns capital or property, or maintains an office, headquarters, or base of operations in Virginia; (ii) is engaged in the research, development, production, or provision of biotechnology for the purpose of developing or providing products or processes for specific commercial or public purposes, including but not limited to, medical, pharmaceutical, nutritional, and other health-related, agricultural, and environmental purposes; and (iii) has fewer than 100 employees, of whom seventy-five percent are Virginia-based employees filling positions or jobs in Virginia.

"Technology company" means a corporation taxpayer that (i) does business, leases or owns capital or property, or maintains an office, headquarters, or base of operations in Virginia; (ii) employs highly educated or trained managers and workers, or both, who use sophisticated scientific research service or production equipment, processes or knowledge to discover, develop, test, transfer or manufacture a product or service; and (iii) has fewer than 100 employees, of whom seventy-five percent are Virginia-based employees filling positions or jobs in Virginia.

B. The Authority shall establish a corporation tax benefit certificate program to allow technology and biotechnology companies to surrender unused but otherwise allowable carry-over of tax credits pursuant to Article 13 (§ 58.1-430 et seq.) of this chapter, for use by other corporation taxpayers in Virginia on their corporation tax returns in exchange for private financial assistance, in an amount equal to at least seventy-five percent of the amount of the surrendered tax benefit, to be paid by the corporation taxpayer that is the recipient of the corporation tax benefit certificate to the technology or biotechnology company to assist in funding its costs.

C. The Authority, in cooperation with the Department of Taxation, shall review and approve applications from technology or biotechnology companies with unused but otherwise allowable tax benefits to surrender those tax benefits in exchange for private financial assistance paid pursuant to subsection B. Upon approval, the Authority shall issue a corporate tax benefit certificate to the technology or biotechnology company in the amount of the tax benefit surrendered. The Authority shall be authorized to approve the transfer of no more \$50,000,000 of tax benefits for fiscal year 2002 and \$40,000,000 of tax benefits for each fiscal year thereafter.

D. The Authority, in cooperation with the Department of Taxation, shall review and approve applications from corporation taxpayers subject to Article 10 (§ 58.1-400 et seq.) of this chapter to acquire surrendered tax benefit certificates approved and issued pursuant to subsection C.

E. The Authority shall coordinate applications for surrender of unused but otherwise allowable tax benefits and the acquisition of tax benefit certificates in a manner that best stimulates and encourages the extension of private financial assistance to technology and biotechnology companies. Prior to the transfer of any corporation tax benefit certificate, the Authority shall require the technology or biotechnology company and the corporation taxpayer to sign a written agreement that specifies the price of the transfer and such other terms and conditions as the parties deem necessary, convenient, and desirable.

F. A taxpayer that has acquired a corporation tax benefit certificate pursuant to this section that includes the right to a tax credit carry-over shall attach that certificate to any return the taxpayer is

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59 *required to file under Article 14 (§ 58.1-440 et seq.) of this chapter, and shall otherwise apply the credit*
60 *carry-over as evidenced by the certificate according to the provisions of Article 14 of this chapter and*
61 *any rules or regulations the Tax Commissioner may adopt to carry out the provisions of this section.*

62 *A technology or biotechnology company that has surrendered or transferred an unused tax credit*
63 *carry-over pursuant to this section shall not be allowed a tax credit carry-over based upon the right to*
64 *such a credit carry-over.*

65 *G. The Tax Commissioner shall promulgate rules and regulations in accordance with the*
66 *Administrative Process Act (§ 9-6.14:1 et seq.) to carry out the provisions of this article.*