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HOUSE BILL NO. 400**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the House Committee on Finance
on February 15, 2000)

(Patron Prior to Substitute—Delegate Bennett)

A BILL to amend the Code of Virginia by adding in Articles 3 and 13 of Chapter 3 of Title 58.1 sections numbered 58.1-339.8 and 58.1-439.12, respectively, relating to tax credits.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Articles 3 and 13 of Chapter 3 of Title 58.1 sections numbered 58.1-339.8 and 58.1-439.12, respectively, as follows:

§ 58.1-339.8. Investment in small technology business tax credit.

A. For taxable years beginning on and after January 1, 2000, any taxpayer who invests in a small technology business, as defined in this section, shall be eligible for a credit against the tax imposed pursuant to Article 2 (§ 58.1-320 et seq.) of this chapter in an amount equal to twenty-five percent of the total amount invested, not to exceed \$50,000 per taxpayer. For purposes of this section, the amount of any credit attributable to a partnership, electing small business corporation (S corporation), or limited liability company shall be limited to twenty-five percent of the total amount invested, not to exceed \$100,000, and shall be allocated to the individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entities. In no event shall more than five million dollars in credits be allowed for any taxable year; however, if credits exceed five million dollars for a taxable year, they shall be allocated by the Department of Taxation on a pro rata basis. Such a credit shall require application by the taxpayer as provided in subsection C.

B. For purposes of this section, a "small technology business" means a private business (i) whose business purpose is to research and develop or commercialize information technology or biotechnology, (ii) that employs ten or fewer full-time employees, and (iii) that is engaged in such business in the Commonwealth.

C. A taxpayer eligible for a credit under this section shall apply for the credit by making application to the Department of Taxation. Each application shall be accompanied by a certification of eligibility by the Secretary of Technology or his designee. The Secretary of Technology and the Tax Commissioner shall promulgate regulations, in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.), relating to claiming a credit under this section.

D. A taxpayer claiming the qualified equity and subordinated debt investments tax credit under § 58.1-339.4 shall not be eligible for the credit provided under this section.

E. The provisions of this section shall be applicable to small technology businesses located in those localities that have average unemployment rates for the most recent calendar year that are 150 percent higher than the final statewide average unemployment rate for the most recent calendar year.

§ 58.1-439.12. Investment in small technology business tax credit.

A. For taxable years beginning on and after January 1, 2000, any taxpayer who invests in a small technology business, as defined in this section, shall be eligible for a credit against the tax imposed pursuant to Article 10 (§ 58.1-400 et seq.) of this chapter in an amount equal to twenty-five percent of the total amount invested, not to exceed \$100,000 per taxpayer. For purposes of this section, the amount of any credit attributable to a partnership, electing small business corporation (S corporation), or limited liability company shall be limited to twenty-five percent of the total amount invested, not to exceed \$100,000, and shall be allocated to the individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entities. In no event shall more than five million dollars in credits be allowed for any taxable year; however, if credits exceed five million dollars for a taxable year, they shall be allocated by the Department of Taxation on a pro rata basis. Such a credit shall require application by the taxpayer as provided in subsection C.

B. For purposes of this section, a "small technology business" means a private business (i) whose business purpose is to research and develop or commercialize information technology or biotechnology, (ii) that employs ten or fewer full-time employees, and (iii) that is engaged in such business in the Commonwealth.

C. A taxpayer eligible for a credit under this section shall apply for the credit by making application to the Department of Taxation. Each application shall be accompanied by a certification of eligibility by the Secretary of Technology or his designee. The Secretary of Technology and the Tax Commissioner shall promulgate regulations, in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.), relating to claiming a credit under this section.

D. A taxpayer claiming the qualified equity and subordinated debt investments tax credit under § 58.1-339.4 shall not be eligible for the credit provided under this section.

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60 *E. The provisions of this section shall be applicable to small technology businesses located in those*
61 *localities that have average unemployment rates for the most recent calendar year that are 150 percent*
62 *higher than the final statewide average unemployment rate for the most recent calendar year.*