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**HOUSE BILL NO. 1767****AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the House Committee on Finance  
on January 30, 2013)

(Patron Prior to Substitute—Delegate Watson)

A *BILL to amend the Code of Virginia by adding in Article 13 of Chapter 3 of Title 58.1 a section numbered 58.1-439.12:11, relating to income tax credits for donations of machinery and equipment to community colleges and vocational schools.*

**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 58.1-439.12:11 as follows:**

**§ 58.1-439.12:11. Tax credit for donations of machinery and equipment to community colleges and vocational schools.**

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

"Community college" means any community college that is a part of the Virginia Community College System.

"Council" means the State Council of Higher Education for Virginia.

"Machinery and equipment" means engines, machines, motors, mechanical devices, laboratory trainers, computers, printers, tools, parts, and similar machinery and equipment as set forth in guidelines developed by the Department.

"Vocational school" means any entity, offering formal instructional programs of study, (i) that is certified to operate in Virginia by the Council or that is exempt from such certification requirement and whose instructional programs do not lead to an associate or higher level degree, or (ii) that offers career or technical education administered by the Department of Education pursuant to § 22.1-227. "Vocational school" does not include instructional programs that are intended solely for recreation, enjoyment, personal interest, or as a hobby, or courses or programs of instruction that prepare individuals to teach such pursuits.

B. For taxable years beginning on or after January 1, 2013, but before January 1, 2018, any business that during the taxable year donates new machinery and equipment in good working condition, purchased within the last 12 months by the business, to a community college or vocational school that will be principally used in Virginia in teaching or training students of such college or school shall be allowed a credit against any tax due under Article 2 (§ 58.1-320 et seq.) or Article 10 (§ 58.1-400 et seq.) in an amount equal to 20 percent of the purchase price paid by the business to acquire the machinery and equipment but not to exceed an aggregate credit of \$5,000 for all such donations of the business during such year.

C. In order to be allowed the credit, the business shall submit an application to the Department. The application shall include a written certification made by the donee community college or vocational school that identifies the donee community college or vocational school, the business donating the machinery and equipment, the date of the donation, and the number of units of each item of machinery and equipment donated. The certification shall also include a statement by the donee community college or vocational school that the machinery and equipment will be principally used in Virginia in teaching or training students of the donee community college or vocational school. The Department shall determine whether an applicant has met the requirements of this section and shall issue the tax credit to those businesses meeting such requirements. The Department shall not issue more than \$1 million in tax credits pursuant to this section in any fiscal year of the Commonwealth and shall not issue any tax credits after June 30, 2018. The Department shall develop procedures to issue tax credits in the event that applications for tax credits exceed \$1 million for the fiscal year.

D. The amount of the credit claimed shall not exceed the total amount of tax imposed by this chapter upon the business 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 business in the next five succeeding taxable years or until the total amount of the tax credit has been taken, whichever is sooner.

E. 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.

F. The Department shall maintain and update as necessary on its website a list of machinery and equipment that qualifies for the credit under this section. The Council shall maintain and update as necessary on its website a list of vocational schools to which donations of machinery and equipment may qualify for the credit under this section.

G. The Tax Commissioner shall develop guidelines implementing the provisions of this section. Such

**60** *guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).*