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HOUSE BILL NO. 1365

Offered January 25, 1994

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, relating to the establishment of a job creation tax credit under the Virginia income tax laws.

Patrons—Reynolds and Armstrong; Senator: Goode

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 13 of Chapter 3 of Title 58.1 a section numbered 58.1-439 as follows:

§ 58.1-439. Job creation tax credit.

A. Any taxpayer (i) who for at least forty weeks during the year has at least nine employees and (ii) whose business is located, for part or all of his taxable year, in a high stress or above average stress city or county may qualify for a credit against the tax imposed by § 58.1-320 or § 58.1-400 by creating new full-time jobs with the business in the high stress or above average stress city or county during that year. A taxpayer who hires an additional five full-time employees during that year to fill positions located in a high stress or above average stress city or county shall be allowed a credit of \$2,800 for the additional employees. A position is located in a city or county if (i) at least fifty percent of the employee's duties are performed in the city or county, or (ii) the employee is a resident of the city or county. The credit may not be taken in the income year in which the additional employees are hired. The credit shall be taken in the year following the income year in which the additional employees were hired and shall be conditioned on the continued employment by the taxpayer of the number of full-time employees the taxpayer had upon hiring the additional employees that caused the taxpayer to qualify for the credit. If, in the following year in which the credit accrues, the number of the taxpayer's full-time employees falls below the number of full-time employees the taxpayer had in the year in which the taxpayer qualified for the credit or the positions filled by the employees are moved to another city or county, the credit expires and the taxpayer may not take credit.

For purposes of this section, a "full-time job" is a position that requires at least 1,600 hours of work per year and is intended to be held by one employee during the entire year.

B. A taxpayer is eligible for the tax credit allowed by this section only if the Department of Taxation determines that the taxpayer engages in warehousing and distribution, the manufacturing of goods, or that he engages in an industrial activity such as the processing of foods, raw materials, chemicals and process agents, goods in process, or finished products.

C. A high stress or above average stress city or county is a city or county designated as high stress or above average stress by the Commission on Local Government pursuant to its most recent report on fiscal stress, or any city or county that borders two or more high stress or above average stress cities or counties. Each year, on or before December 31, the Commission on Local Government shall provide that information to the Commissioner of the Virginia Department of Taxation. A designation as a high stress or above average stress city or county is effective only for the calendar year following the designation.

D. A taxpayer who, during the year in which a city or county is designated as a high stress or above average stress city or county, signs a letter of commitment with the Department of Taxation to create at least twenty new full-time jobs in within that city or county within two years of the date the letter is signed qualifies for the credit allowed by this section even though the employees are not hired that year. The credit shall be available in the income year after at least twenty employees have been hired if such hiring is within the two-year commitment period. The conditions outlined in subsection A apply to a credit taken under this subsection, except that if the city or county is no longer designated a high stress or above average stress city or county after the year the letter of commitment was signed, the credit is still available. If the taxpayer does not hire the employees within the two-year period, he does not qualify for the credit. However, if the taxpayer qualifies for a credit under subsection A in the year any new employees are hired, he may take the credit under that subsection.

E. The sale, merger, acquisition, or bankruptcy of a business, or any other transaction by which an existing business reformulates itself as another business, does not create new eligibility in a succeeding business with respect to jobs for which the predecessor was not eligible under this section. A taxpayer may, however, take any carried-over portion of a credit that his predecessor could have taken if he had taxable income. Jobs transferred from one city or county in the Commonwealth to another city or county

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60 *in the Commonwealth shall not be considered new jobs for purposes of this section. A credit taken*
61 *under this section may not exceed fifty percent of the tax imposed by § 58.1-320 or § 58.1-400 for the*
62 *taxable year, reduced by the sum of all other credits allowed under Article 13 (§ 58.1-430 et seq.) of*
63 *Chapter 3 of this title, except tax payments made by or on behalf of the taxpayer. Any unused portion of*
64 *the credit may be carried forward for the succeeding five years.*

65 *F. Every taxpayer claiming the credit provided in subsection A shall maintain and make available*
66 *for inspection by the Commissioner of the Department of Taxation, or his agent, such records as may be*
67 *necessary to determine and verify the amount of the credit to which the taxpayer is entitled. The burden*
68 *of proving eligibility for the credit and the amount of the credit shall rest upon the person, and no*
69 *credit shall be allowed to any taxpayer who fails to maintain adequate records or to make them*
70 *available for inspection.*

71 2. That the provisions of this act shall become effective for taxable years on and after January 1,
72 1995.