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HOUSE BILL NO. 2467

Offered January 10, 2001

Prefiled January 10, 2001

A BILL to amend the Code of Virginia by adding in Articles 3 and 13 of Chapter 3 of Title 58.1 sections numbered 58.1-339.11 and 58.1-439.12:01, respectively, relating to tax credits.

Patrons—Bennett, Christian, May and Plum; Senator: Ticer

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 Articles 3 and 13 of Chapter 3 of Title 58.1 sections numbered 58.1-339.11 and 58.1-439.12:01, respectively, as follows:

§ 58.1-339.11. Investment in small technology business tax credit.

A. As used in this section:

"Biotechnology" means the continually expanding body of fundamental knowledge about the functioning of biological systems from the macro level to the molecular and subatomic 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.

"Information technology" means all electronic information processing hardware and software, including telecommunications.

"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.

B. For taxable years beginning on and after January 1, 2002, 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.

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 who claims credit pursuant to this section may not use such qualified investment as the basis for claiming any other credit or grant provided under the Code of Virginia.

§ 58.1-439.12:01. Investment in small technology business tax credit.

A. As used in this section:

"Biotechnology" means the continually expanding body of fundamental knowledge about the functioning of biological systems from the macro level to the molecular and subatomic 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.

"Information technology" means all electronic information processing hardware and software, including telecommunications.

"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.

B. For taxable years beginning on and after January 1, 2002, 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

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70 the basis for claiming any other credit or grant provided under the Code of Virginia.