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HOUSE BILL NO. 2473

Offered January 10, 2001

Prefiled January 10, 2001

A BILL to amend and reenact §§ 58.1-322, 63.1-321, and 63.1-323 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 58.1-346.16 and by adding in Title 63.1 a chapter numbered 22, consisting of sections numbered 63.1-336 through 63.1-343, relating to home energy assistance; establishment of the home energy assistance fund; Neighborhood Assistance Act tax credit for contributions for energy assistance; income tax refund check-off for contributions to home energy assistance fund; taxable income deduction for contributions to energy assistance programs.

Patrons—Plum, Jones, J.C., Kilgore, Parrish and Woodrum; Senators: Norment, Saslaw and Watkins

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-322, 63.1-321, and 63.1-323 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 58.1-346.16 and by adding in Title 63.1 a chapter numbered 22, consisting of sections numbered 63.1-336 through 63.1-343, as follows:

§ 58.1-322. Virginia taxable income of residents.

A. The Virginia taxable income of a resident individual means his federal adjusted gross income for the taxable year, which excludes combat pay for certain members of the Armed Forces of the United States as provided in § 112 of the Internal Revenue Code, as amended, and with the modifications specified in this section.

B. To the extent excluded from federal adjusted gross income, there shall be added:

1. Interest, less related expenses to the extent not deducted in determining federal income, on obligations of any state other than Virginia, or of a political subdivision of any such other state unless created by compact or agreement to which Virginia is a party;

2. Interest or dividends, less related expenses to the extent not deducted in determining federal taxable income, on obligations or securities of any authority, commission or instrumentality of the United States, which the laws of the United States exempt from federal income tax but not from state income taxes;

3. Unrelated business taxable income as defined by § 512 of the Internal Revenue Code;

4. The amount of a lump sum distribution from a qualified retirement plan, less the minimum distribution allowance and any amount excludable for federal income tax purposes which is excluded from federal adjusted gross income solely by virtue of an individual's election to use the averaging provisions under § 402 of the Internal Revenue Code;

5 through 7. [Repealed.]

8. For taxable years beginning on and after January 1, 1990, and before January 1, 1994, any amount of self-employment tax deduction under § 164 (f) of the Internal Revenue Code; and

9. The amount required to be included in income for the purpose of computing the partial tax on an accumulation distribution pursuant to § 667 of the Internal Revenue Code.

C. To the extent included in federal adjusted gross income, there shall be subtracted:

1. Income derived from obligations, or on the sale or exchange of obligations, of the United States and on obligations or securities of any authority, commission or instrumentality of the United States to the extent exempt from state income taxes under the laws of the United States including, but not limited to, stocks, bonds, treasury bills, and treasury notes, but not including interest on refunds of federal taxes, interest on equipment purchase contracts, or interest on other normal business transactions.

2. Income derived from obligations, or on the sale or exchange of obligations of this Commonwealth or of any political subdivision or instrumentality of this Commonwealth.

3. [Repealed.]

4. Benefits received under Title II of the Social Security Act and other benefits subject to federal income taxation solely pursuant to § 86 of the Internal Revenue Code.

4a. Through December 31, 2000 the same amount used in computing the federal credit allowed under § 22 of the Internal Revenue Code by a retiree under age sixty-five who qualified for such retirement on the basis of permanent and total disability and who is a qualified individual as defined in § 22 (b) (2) of the Internal Revenue Code; however, any person who claims a deduction under subdivision 5 of subsection D of this section may not also claim a subtraction under this subdivision.

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59 4b. For taxable years beginning on or after January 1, 2001, up to \$20,000 of disability income, as
60 defined in § 22 (c) (2) (B) (iii) of the Internal Revenue Code; however, any person who claims a
61 deduction under subdivision 5 of subsection D of this section may not also claim a subtraction under
62 this subdivision.

63 5. The amount of any refund or credit for overpayment of income taxes imposed by the
64 Commonwealth or any other taxing jurisdiction.

65 6. The amount of wages or salaries eligible for the federal Targeted Jobs Credit which was not
66 deducted for federal purposes on account of the provisions of § 280C (a) of the Internal Revenue Code.

67 7. Any amount included therein which is foreign source income as defined in § 58.1-302.

68 8. [Repealed.]

69 9. [Expired.]

70 10. Any amount included therein less than \$600 from a prize awarded by the State Lottery
71 Department.

72 11. The wages or salaries received by any person for active and inactive service in the National
73 Guard of the Commonwealth of Virginia, not to exceed the amount of income derived from thirty-nine
74 calendar days of such service or \$3,000, whichever amount is less; however, only those persons in the
75 ranks of O3 and below shall be entitled to the deductions specified herein.

76 12. Amounts received by an individual, not to exceed \$1,000 in any taxable year, as a reward for
77 information provided to a law-enforcement official or agency, or to a nonprofit corporation created
78 exclusively to assist such law-enforcement official or agency, in the apprehension and conviction of
79 perpetrators of crimes. This provision shall not apply to the following: an individual who is an employee
80 of, or under contract with, a law-enforcement agency, a victim or the perpetrator of the crime for which
81 the reward was paid, or any person who is compensated for the investigation of crimes or accidents.

82 13. [Repealed.]

83 14. (Expires for taxable years beginning on and after January 1, 2004.) The amount of any qualified
84 agricultural contribution as determined in § 58.1-322.2.

85 15. [Repealed.]

86 16. The amounts of self-employment tax required to be added in computing Virginia taxable income
87 for taxable years beginning on and after January 1, 1990, but before January 1, 1994, pursuant to
88 subdivision B 8 of this section, as follows:

89 a. For taxable years beginning on and after January 1, 1994, and before January 1, 1995, the amount
90 of self-employment tax added to federal adjusted gross income in taxable years beginning on and after
91 January 1, 1990, and before January 1, 1991;

92 b. For taxable years beginning on and after January 1, 1995, and before January 1, 1996, the amount
93 of self-employment tax added to federal adjusted gross income in taxable years beginning on and after
94 January 1, 1991, and before January 1, 1992;

95 c. For taxable years beginning on and after January 1, 1996, and before January 1, 1997, the amount
96 of self-employment tax added to federal adjusted gross income in taxable years beginning on and after
97 January 1, 1992, and before January 1, 1993;

98 d. For taxable years beginning on and after January 1, 1997, and before January 1, 1998, the amount
99 of self-employment tax added to federal adjusted gross income in taxable years beginning on and after
100 January 1, 1993, and before January 1, 1994, and any amount of self-employment tax required to be
101 added back for taxable years beginning on and after January 1, 1990, and before January 1, 1994, which
102 was not subtracted in those taxable years.

103 17. For taxable years beginning on and after January 1, 1995, the amount of "qualified research
104 expenses" or "basic research expenses" eligible for deduction for federal purposes, but which were not
105 deducted, on account of the provisions of § 280C(c) of the Internal Revenue Code and which shall be
106 available to partners, shareholders of S corporations, and members of limited liability companies to the
107 extent and in the same manner as other deductions may pass through to such partners, shareholders, and
108 members.

109 18. For taxable years beginning on or after January 1, 1995, all military pay and allowances, not
110 otherwise subtracted under this subsection, earned for any month during any part of which such member
111 performed military service in any part of the former Yugoslavia, including the air space above such
112 location or any waters subject to related naval operations, in support of Operation JOINT ENDEAVOR
113 as part of the NATO Peace Keeping Force. Such subtraction shall be available until the taxpayer
114 completes such service.

115 19. For taxable years beginning on and after January 1, 1996, any income received during the taxable
116 year derived from a qualified pension, profit-sharing, or stock bonus plan as described by § 401 of the
117 Internal Revenue Code, an individual retirement account or annuity established under § 408 of the
118 Internal Revenue Code, a deferred compensation plan as defined by § 457 of the Internal Revenue Code,
119 or any federal government retirement program, the contributions to which were deductible from the
120 taxpayer's federal adjusted gross income, but only to the extent the contributions to such plan or

program were subject to taxation under the income tax in another state.

20. For taxable years beginning on and after January 1, 1997, any income attributable to a distribution of benefits or a refund from a prepaid tuition contract or savings trust account with the Virginia College Savings Plan, created pursuant to Chapter 4.9 (§ 23-38.75 et seq.) of Title 23. The subtraction for any income attributable to a refund shall be limited to income attributable to a refund in the event of a beneficiary's death, disability, or receipt of a scholarship.

21. For taxable years beginning on or after January 1, 1998, all military pay and allowances, to the extent included in federal adjusted gross income and not otherwise subtracted, deducted or exempted under this section, earned by military personnel while serving by order of the President of the United States with the consent of Congress in a combat zone or qualified hazardous duty area which is treated as a combat zone for federal tax purposes pursuant to § 112 of the Internal Revenue Code.

22. For taxable years beginning on or after January 1, 2000, the gain derived from the sale or exchange of real property or the sale or exchange of an easement to real property which results in the real property or the easement thereto being devoted to open-space use, as that term is defined in § 58.1-3230, for a period of time not less than thirty years. To the extent a subtraction is taken in accordance with this subdivision, no tax credit under this chapter for donating land for its preservation shall be allowed for three years following the year in which the subtraction is taken.

23. (Delayed effective date - See notes) Effective for all taxable years beginning on or after January 1, 2000, \$15,000 of military basic pay for military service personnel on extended active duty for periods in excess of ninety days; however, the subtraction amount shall be reduced dollar-for-dollar by the amount which the taxpayer's military basic pay exceeds \$15,000 and shall be reduced to zero if such military basic pay amount is equal to or exceeds \$30,000.

24. Effective for all taxable years beginning on and after January 1, 2000, the first \$15,000 of salary for each federal and state employee whose annual salary is \$15,000 or less.

25. (Delayed effective date) Unemployment benefits taxable pursuant to § 85 of the Internal Revenue Code.

26. For taxable years beginning on and after January 1, 2001, any amount received as military retirement income by an individual awarded the Congressional Medal of Honor.

27. Effective for all taxable years beginning on and after January 1, 1999, income received as a result of (i) the "Master Settlement Agreement," as defined in § 9-380; (ii) the National Tobacco Grower Settlement Trust dated July 19, 1999; and (iii) the Tobacco Loss Assistance Program, pursuant to 7 C.F.R. Part 1464 (Subpart C, §§ 1464.201 through 1464.205), by (a) tobacco farmers; (b) any person holding a tobacco marketing quota, or tobacco farm acreage allotment, under the Agricultural Adjustment Act of 1938; or (c) any person having the right to grow tobacco pursuant to such a quota or allotment, but only to the extent that such income has not been subtracted pursuant to subdivision C 18 of § 58.1-402.

28. For taxable years beginning on and after January 1, 2000, items of income attributable to, derived from or in any way related to (i) assets stolen from, hidden from or otherwise lost by an individual who was a victim or target of Nazi persecution or (ii) damages, reparations, or other consideration received by a victim or target of Nazi persecution to compensate such individual for performing labor against his will under the threat of death, during World War II and its prelude and direct aftermath. This subtraction shall not apply to assets acquired with such items of income or with the proceeds from the sale of assets stolen from, hidden from or otherwise lost to, during World War II and its prelude and direct aftermath, a victim or target of Nazi persecution. The provisions of this subdivision shall only apply to an individual who was the first recipient of such items of income and who was a victim or target of Nazi persecution, or a spouse, widow, widower, or child or stepchild of such victim.

"Victim or target of Nazi persecution" means any individual persecuted or targeted for persecution by the Nazi regime who had assets stolen from, hidden from or otherwise lost as a result of any act or omission in any way relating to (i) the Holocaust; (ii) World War II and its prelude and direct aftermath; (iii) transactions with or actions of the Nazi regime; (iv) treatment of refugees fleeing Nazi persecution; or (v) the holding of such assets by entities or persons in the Swiss Confederation during World War II and its prelude and aftermath. A victim or target of Nazi persecution shall also include any individual forced into labor against his will, under the threat of death, during World War II and its prelude and direct aftermath. As used in this subdivision, "Nazi regime" means the country of Nazi Germany, areas occupied by Nazi Germany, those European countries allied with Nazi Germany, or any other neutral European country or area in Europe under the influence or threat of Nazi invasion.

D. In computing Virginia taxable income there shall be deducted from federal adjusted gross income:

1. a. The amount allowable for itemized deductions for federal income tax purposes where the taxpayer has elected for the taxable year to itemize deductions on his federal return, but reduced by the amount of income taxes imposed by the Commonwealth or any other taxing jurisdiction and deducted

182 on such federal return and increased by an amount which, when added to the amount deducted under
183 § 170 of the Internal Revenue Code for mileage, results in a mileage deduction at the state level for
184 such purposes at a rate of eighteen cents per mile; or

185 b. Two thousand dollars for taxable years beginning January 1, 1987, through December 31, 1987;
186 \$2,700 for taxable years beginning January 1, 1988, through December 31, 1988; and \$5,000 for
187 married persons (one-half of such amounts in the case of a married individual filing a separate return);
188 and \$3,000 for single individuals for taxable years beginning on and after January 1, 1989; provided that
189 the taxpayer has not itemized deductions for the taxable year on his federal income tax return. For
190 purposes of this section, any person who may be claimed as a dependent on another taxpayer's return for
191 the taxable year may compute the deduction only with respect to earned income.

192 2. a. A deduction in the amount of \$700 for taxable years beginning January 1, 1987, through
193 December 31, 1987, and \$800 for taxable years beginning on and after January 1, 1988, for each
194 personal exemption allowable to the taxpayer for federal income tax purposes. For taxable years
195 beginning on and after January 1, 1987, each blind or aged taxpayer as defined under § 63 (f) of the
196 Internal Revenue Code shall be entitled to an additional personal exemption.

197 b. An additional deduction of \$200 for taxable years beginning January 1, 1987, through December
198 31, 1987, for each blind or aged taxpayer as defined under § 63 (f) of the Internal Revenue Code. The
199 additional deduction for blind or aged taxpayers allowed under this subdivision and the additional
200 personal exemption allowed to blind or aged taxpayers under subdivision 2 a of this subsection shall be
201 allowable regardless of whether the taxpayer itemizes deductions for the taxable year for federal income
202 tax purposes.

203 3. A deduction equal to the amount of employment-related expenses upon which the federal credit is
204 based under § 21 of the Internal Revenue Code for expenses for household and dependent care services
205 necessary for gainful employment.

206 4. An additional \$1,000 deduction for each child residing for the entire taxable year in a home under
207 permanent foster care placement as defined in Chapter 10 (§ 63.1-195 et seq.) of Title 63.1, provided the
208 taxpayer can also claim the child as a personal exemption under § 151 of the Internal Revenue Code.

209 5. Effective for all taxable years beginning on and after January 1, 1990, a deduction in the amount
210 of \$12,000 for taxpayers age sixty-five or older, or \$6,000 for taxpayers age sixty-two through
211 sixty-four, less any amount received pursuant to the (i) Social Security Act or (ii) Railroad Retirement
212 Act and treated for federal income tax purposes as equivalent to social security. Beginning in taxable
213 year 1992 through taxable year 1993, the \$12,000 and \$6,000 deduction amounts shall be indexed
214 annually in each such taxable year by an amount equivalent to the most recent percentage increase in
215 the social security wage base.

216 Effective for the taxable year beginning January 1, 1994, a deduction in the amount of \$12,944 for
217 taxpayers age sixty-five or older, or \$6,472 for taxpayers age sixty-two through sixty-four. Effective for
218 the taxable year beginning January 1, 1995, a deduction in the amount of \$10,000 for taxpayers age
219 sixty-five or older, or \$5,000 for taxpayers age sixty-two through sixty-four. Effective for all taxable
220 years beginning on or after January 1, 1996, a deduction in the amount of \$12,000 for taxpayers age
221 sixty-five or older, or \$6,000 for taxpayers age sixty-two through sixty-four.

222 Beginning in taxable year 1995, the deductions under this subdivision shall not be reduced by any
223 amount received pursuant to the (i) Social Security Act or (ii) Railroad Retirement Act and treated for
224 federal income tax purposes as equivalent to social security.

225 6. For taxable years beginning on and after January 1, 1997, the amount an individual pays as a fee
226 for an initial screening to become a possible bone marrow donor, if (i) the individual is not reimbursed
227 for such fee or (ii) the individual has not claimed a deduction for the payment of such fee on his federal
228 income tax return.

229 7. a. (Effective for taxable years beginning on and after January 1, 1996.) A deduction shall be
230 allowed to the purchaser or contributor for the amount paid or contributed during the taxable year for a
231 prepaid tuition contract or savings trust account entered into with the Virginia College Savings Plan,
232 pursuant to Chapter 4.9 (§ 23-38.75 et seq.) of Title 23. Except as provided in subdivision 7 c, the
233 amount deducted on any individual income tax return in any taxable year shall be limited to \$2,000 per
234 prepaid tuition contract or savings trust account. No deduction shall be allowed pursuant to this section
235 if such payments or contributions are deducted on the purchaser's or contributor's federal income tax
236 return. If the purchase price or annual contribution to a savings trust account exceeds \$2,000, the
237 remainder may be carried forward and subtracted in future taxable years until the purchase price or
238 savings trust contribution has been fully deducted; however, except as provided in subdivision 7 c, in no
239 event shall the amount deducted in any taxable year exceed \$2,000 per contract or savings trust account.
240 Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any deduction taken
241 hereunder shall be subject to recapture in the taxable year or years in which distributions or refunds are
242 made for any reason other than (i) to pay qualified higher education expenses, as defined in § 529 of the
243 Internal Revenue Code or (ii) the beneficiary's death, disability, or receipt of a scholarship. For the

purposes of this subdivision, the term "purchaser" or "contributor" means the person shown as such on the records of the Virginia College Savings Plan as of December 31 of the taxable year. In the case of a transfer of ownership of a prepaid tuition contract or savings trust account, the transferee shall succeed to the transferor's tax attributes associated with a prepaid tuition contract or savings trust account, including, but not limited to, carryover and recapture of deductions.

b. (Effective for taxable years beginning on and after January 1, 1996.) The amount paid for a prepaid tuition contract during taxable years beginning on or after January 1, 1996, but before January 1, 1998, shall be deducted in taxable years beginning on or after January 1, 1998, and shall be subject to the limitations set out in subdivision 7 a.

c. (Effective for taxable years beginning on and after January 1, 1998.) A purchaser of a prepaid tuition contract or contributor to a savings trust account who has attained age seventy shall not be subject to the limitation that the amount of the deduction not exceed \$2,000 per prepaid tuition contract or savings trust account in any taxable year. Such taxpayer shall be allowed a deduction for the full amount paid for the contract or contributed to a savings trust account, less any amounts previously deducted. If a prepaid tuition contract was purchased by such taxpayer during taxable years beginning on or after January 1, 1996, but before January 1, 1998, such taxpayer may take the deduction for the full amount paid during such years, less any amounts previously deducted with respect to such payments, in taxable year 1999 or by filing an amended return for taxable year 1998.

8. For taxable years beginning on and after January 1, 2000, the total amount an individual actually contributed in funds to the Virginia Public School Construction Grants Program and Fund, established in Chapter 11.1 (§ 22.1-175.1 et seq.) of Title 22.1, provided the individual has not claimed a deduction for such amount on his federal income tax return.

9. For taxable years beginning on and after January 1, 1999, an amount equal to twenty percent of the tuition costs incurred by an individual employed as a primary or secondary school teacher licensed pursuant to Chapter 15 (§ 22.1-289.1 et seq.) of Title 22.1 to attend continuing teacher education courses that are required as a condition of employment; however, the deduction provided by this subsection shall be available only if (i) the individual is not reimbursed for such tuition costs and (ii) the individual has not claimed a deduction for the payment of such tuition costs on his federal income tax return.

10. For taxable years beginning on and after January 1, 2000, the amount an individual pays annually in premiums for long term health care insurance, provided the individual has not claimed a deduction for federal income tax purposes.

11. *For taxable years beginning on and after January 1, 2002, the total amount an individual actually contributed in funds to (i) a utility company emergency energy program if the utility company is an agent for a charitable organization that assists individuals with emergency energy needs and contributions to such charitable organization can be identified as a "charitable contribution" under § 170(c) of the Internal Revenue Code or (ii) the Home Energy Assistance Fund established in Chapter 22 (§ 63.1-336 et seq.) of Title 63.1. A deduction shall not be allowed under this subdivision if the individual has claimed a deduction for such amount on his federal income tax return.*

E. There shall be added to or subtracted from federal adjusted gross income, as the case may be, the individual's share, as beneficiary of an estate or trust, of the Virginia fiduciary adjustment determined under § 58.1-361.

F. There shall be added or subtracted, as the case may be, the amounts provided in § 58.1-315 as transitional modifications.

§ 58.1-346.16. Voluntary contribution to Home Energy Assistance Fund.

A. For all taxable years beginning on or after January 1, 2002, any individual eligible to receive a tax refund pursuant to § 58.1-309 may designate at the time of filing his return a specified dollar amount of such refund, not less than one dollar, to the Home Energy Assistance Fund established pursuant to § 63.1-338, such funds to be used to assist low-income Virginians in meeting seasonal residential energy needs.

B. All moneys collected pursuant to subsection A, and through voluntary payments by taxpayers designated on state income tax returns for deposit to the Home Energy Assistance Fund over refundable amounts, shall be deposited into the state treasury.

C. The Tax Commissioner shall determine annually the total amount collected pursuant to subsection A, and through voluntary payments by taxpayers designated on state income tax returns for deposit to the Home Energy Assistance Fund over refundable amounts, and shall report the same to the State Treasurer, who shall credit that amount to the Home Energy Assistance Fund.

§ 63.1-321. Definitions.

As used in this chapter:

"Business firm" means any corporation, partnership, electing small business (Subchapter S) corporation, limited liability company, or sole proprietorship authorized to do business in this Commonwealth subject to tax imposed by Articles 2 (§ 58.1-320 et seq.) and 10 (§ 58.1-400 et seq.) of

Chapter 3, Chapter 12 (§ 58.1-1200 et seq.), Article 1 (§ 58.1-2500 et seq.) of Chapter 25, or Article 2 (§ 58.1-2620 et seq.) of Chapter 26 of Title 58.1.

"Community services" means any type of counseling and advice, emergency assistance, medical care, provision of basic necessities, or services designed to minimize the effects of poverty, furnished primarily to impoverished people.

"Contracting services" means the provision, by a business firm licensed by the Commonwealth as a contractor under Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1, of labor or technical advice to aid in the development, construction, renovation, or repair of (i) homes of impoverished people or (ii) buildings used by neighborhood organizations.

"Education" means any type of scholastic instruction or scholarship assistance to an individual who is impoverished.

"Energy assistance" means a contribution of money to the Home Energy Assistance Fund established pursuant to Chapter 22 (§ 63.1-336 et seq.) of this title to provide assistance to impoverished people in meeting their seasonal residential energy needs.

"Housing assistance" means furnishing financial assistance, labor, material, or technical advice to aid the physical improvement of the homes of impoverished people.

"Impoverished people" means people in Virginia approved as such by the State Board of Social Services. Such approval shall be made on the basis of generally recognized low income criteria used by federal and state agencies.

"Job training" means any type of instruction to an individual who is impoverished that enables him to acquire vocational skills so that he can become employable or able to seek a higher grade of employment.

"Neighborhood assistance" means providing community services, education, *energy assistance*, housing assistance, or job training.

"Neighborhood organization" means any local, regional or statewide organization whose primary function is providing neighborhood assistance for impoverished people, and holding a ruling from the Internal Revenue Service of the United States Department of the Treasury that the organization is exempt from income taxation under the provisions of §§ 501 (c) (3) and 501 (c) (4) of the Internal Revenue Code of 1986, as amended from time to time, or any organization defined as a community action agency in the Economic Opportunity Act of 1964 (42 U.S.C. § 2701 et seq.), or any housing authority as defined in § 36-3. *With respect to contributions for energy assistance, such term means the Department of Social Services as administrator of the Home Energy Assistance Program established pursuant to Chapter 22 (§ 63.1-336 et seq.) of this title.*

"Professional services" means any type of personal service to the public which requires as a condition precedent to the rendering of such service the obtaining of a license or other legal authorization and shall include, but shall not be limited to, the personal services rendered by medical doctors, dentists, architects, professional engineers, certified public accountants and attorneys-at-law.

§ 63.1-323. Proposals; regulations; tax credits authorized; amount for programs.

A. Any neighborhood organization may submit a proposal to the Commissioner of Social Services or his designee requesting an allocation of tax credits for use by business firms making donations to the neighborhood organization. The proposal shall set forth the program to be conducted by the neighborhood organization, the impoverished people to be assisted, the estimated amount to be donated to the program and the plans for implementing the program.

B. The State Board of Social Services is hereby authorized to promulgate regulations for the approval or disapproval of such proposals by neighborhood organizations and for determining the value of the donations. Such regulations shall contain a requirement that an annual audit be provided by the neighborhood organization as a prerequisite for approval. Such regulations shall provide for the equitable allocation of the available amount of tax credits among the approved proposals submitted by neighborhood organizations. The regulations shall also provide that at least ten percent of the available amount of tax credits each year shall be allocated to qualified programs proposed by neighborhood organizations not receiving allocations in the preceding year; however, if the amount of tax credits for qualified programs requested by such neighborhood organizations is less than ten percent of the available amount of tax credits, the unallocated portion of such ten percent of the available amount of tax credits shall be allocated to qualified programs proposed by other neighborhood organizations.

C. If the Commissioner of Social Services or his designee approves a proposal submitted by a neighborhood organization, the organization shall make the allocated tax credit amounts available to business firms making donations to the approved program. A neighborhood organization shall not assign or transfer an allocation of tax credits to another neighborhood organization without the approval of the Commissioner of Social Services or his designee.

D. The total amount of tax credits granted for programs approved under this chapter for each fiscal year shall not exceed ~~eight~~ nine million dollars; however, (i) \$2,750,000 shall be allocated to education programs conducted by neighborhood organizations and (ii) one million dollars shall be allocated for

contributions by business firms for energy assistance. Such allocation of tax credits to education programs shall constitute the minimum amount of tax credits to be allocated to education programs. However, if the amount of tax credits requested by neighborhood organizations for qualified education programs is less than \$2,750,000, the balance of such amount shall be allocated to other types of qualified programs. Tax credits shall not be authorized after fiscal year ~~2002~~ 2007.

E. The requirements of subsections A, B, and C shall not apply to the allocation of tax credits for energy assistance. For purposes of administering the tax credits allocated for energy assistance pursuant to subsection D, the Home Energy Assistance Program administered by the Department of Social Services shall be deemed to be the neighborhood organization receiving the allocated tax credit amount. The Department shall make the allocated tax credit amounts available to business firms making donations for energy assistance. The provisions of §§ 63.1-325, 63.1-325.1, and 63.1-325.2 shall not apply to contributions for energy assistance.

CHAPTER 22.

HOME ENERGY ASSISTANCE PROGRAM.

§ 63.1-336. Definitions.

As used in this chapter, unless the context requires otherwise:

"Department" means the Department of Social Services.

"Energy assistance" includes fuel assistance and weatherization assistance.

"Fuel assistance" means benefits in the form of any material or substance used for home heating, including but not limited to electricity, oil, kerosene, natural gas, liquefied petroleum gas, wood or coal and provided under the Virginia Fuel Assistance Program established in accordance with the Low-income Energy Assistance Act of 1981 (Title XXVI of Public Law 97-35).

"Fund" means the Home Energy Assistance Fund established pursuant to this chapter.

"Program" means the Home Energy Assistance Program established pursuant to this chapter.

§ 63.1-337. Policy of Commonwealth; Department of Social Services designated agency to coordinate state efforts.

The General Assembly declares that it is the policy of this Commonwealth to support the efforts of public agencies, private utility service providers, and charitable and community groups seeking to assist low-income Virginians in meeting their seasonal residential energy needs. To this end the Department of Social Services is designated as the state agency responsible for coordinating state efforts in this regard.

§ 63.1-338. Home Energy Assistance Fund.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Home Energy Assistance Fund. Moneys in the Fund shall be used:

1. To supplement the assistance provided through the Department's administration of the federal Low Income Home Energy Assistance Program Block Grant; and

2. To assist the Commonwealth in maximizing the amount of federal funds available under the Low Income Home Energy Assistance Program and the Weatherization Assistance Program by providing funds to comply with fund matching requirements.

B. The Fund shall be established on the books of the Comptroller. The Fund shall consist of:

1. Contributions to the Fund by business firms pursuant to the Neighborhood Assistance Act (§ 63.1-320 et seq.);

2. Donations and contributions to the Fund, including contributions designated on individual income tax refunds pursuant to § 58.1-346.16; and

3. Such moneys as shall be appropriated by the General Assembly.

C. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes set forth in this chapter. The State Treasurer shall make expenditures and disbursements from the Fund on warrants issued by the Comptroller upon written request signed by the Commissioner of Social Services. No part of the Fund may be used to pay the Department's administrative expenses.

§ 63.1-339. Home Energy Assistance Program established.

A. The Department shall establish and operate the Home Energy Assistance Program. In administering the Program, it shall be the responsibility of the Department:

1. To administer the federal Low Income Home Energy Assistance Program within the Commonwealth in accordance with applicable law and regulations;

2. To coordinate the activities of the Department, the Department of Housing and Community Development, the Department of Mines, Minerals and Energy, and other agencies of the Commonwealth, as well as any nonstate programs that elect to participate, that are directed at alleviating the seasonal residential energy needs of low-income Virginians, including needs for weatherization assistance services;

3. To provide a clearinghouse for information exchange regarding such residential energy needs for

low-income Virginians, which clearinghouse shall provide information regarding the extent to which the Commonwealth's efforts in assisting low-income Virginians are adequate, are cost-effective, and are not duplicative of similar services provided by utility service providers, charitable organizations, and local governments;

4. To collect and analyze data regarding the amounts of energy assistance provided, categorized by fuel type, and the extent to which there is unmet need for energy assistance in the Commonwealth;

5. To track recipients of low-income energy assistance throughout the Commonwealth, based on data provided by program administrators;

6. To administer distributions from the Fund;

7. To develop and maintain a statewide list of available private and governmental resources for low-income Virginians in need of energy assistance;

8. To provide technical assistance upon request to local and private administrators of low-income energy assistance programs; and

9. To report annually to the Governor and General Assembly on the effectiveness of low-income energy assistance programs in meeting the needs of low-income Virginians, which report shall also address the effect of the restructuring of the electric and gas industries on low-income energy assistance needs and programs.

B. The Department is authorized to assume responsibility for administering all or any portion of any private, voluntary low-energy fuel assistance program upon the application of the administrator thereof, on such terms as the Department and such administrator shall agree and in accordance with applicable law and regulations. If the Department assumes administrative responsibility for administering such a voluntary program, it is authorized to receive funds collected through such voluntary program and distribute them through the Fund.

§ 63.1-340. Responsibilities of local departments.

Local departments of welfare or social services may, to the extent that funds are available, promote interagency cooperation at the local level by providing technical assistance, data collection and service delivery.

§ 63.1-341. Authority to receive and grant funds.

Subject to rules and regulations of the Board of Social Services and to the availability of state or federal funds for services to low-income households in need of seasonal fuel assistance, the Department of Social Services is authorized:

1. To receive state and federal funds for such services;

2. To disperse funds to vendors of energy services or through grants to local, public or private nonprofit agencies to provide energy assistance service programs for low-income households; and

3. To develop and implement grant mechanisms for funding such local services.

§ 63.1-342. Application of Administrative Process Act.

Actions of the Department relating to the review, allocation and awarding of benefits and grants shall be exempt from the provisions of the Administrative Process Act (§ 9-6.14:1 et seq.) pursuant to subdivision B. 4. of § 9-6.14:4.1. Decisions of the Department shall be final and not subject to review or appeal.

§ 63.1-343. Confidentiality of information.

Except in accordance with proper judicial order or as otherwise provided by law, any employee or former employee of the Department shall not divulge any information acquired by him in the performance of his duties with respect to the income or assistance eligibility of any individual or household obtained in the course of administering the Program. The provisions of this section shall not be applicable to (i) acts performed or words spoken or published in the line of duty under law; (ii) inquiries and investigations to obtain information as to the implementation of this chapter by a duly constituted committee of the General Assembly, or when such inquiry or investigation is relevant to its study, provided that any such information shall be privileged; or (iii) the publication of statistics so classified as to prevent the identification of any individual or household.