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SENATE BILL NO. 1055

Offered January 10, 2007

Prefiled January 9, 2007

A *BILL to amend and reenact § 63.2-2002 of the Code of Virginia, to amend the Code of Virginia by adding in Chapter 3 of Title 58.1 an article numbered 13.2, consisting of sections numbered 58.1-439.18 through 58.1-439.24, and to repeal §§ 63.2-2000, 63.2-2001, and 63.2-2003 through 63.2-2006, relating to the Neighborhood Assistance Act tax credit.*

Patrons—Edwards; Delegates: Hurt and Landes

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That § 63.2-2002 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 3 of Title 58.1 an article numbered 13.2, consisting of sections numbered 58.1-439.18 through 58.1-439.24, as follows:

*Article 13.2.**Neighborhood Assistance Act Tax Credit.**§ 58.1-439.18. Definitions.**As used in this article:*

"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 this title.

"Commissioner of the State Department of Social Services" means the Commissioner of the State Department of Social Services or his designee.

"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.

"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, 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.

"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.

§ 58.1-439.19. Public policy; business firms; donations.

It is hereby declared to be public policy of the Commonwealth to encourage business firms to make

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59 donations to neighborhood organizations for the benefit of impoverished people.

60 § 58.1-439.20. *Proposals; regulations; tax credits authorized; amount for programs.*

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

66 B. The State Board of Social Services is hereby authorized to adopt regulations for the approval or
67 disapproval of such proposals by neighborhood organizations and for determining the value of the
68 donations. Such regulations shall contain a requirement that an annual audit be provided by the
69 neighborhood organization as a prerequisite for approval. Such regulations shall provide for the
70 equitable allocation of the available amount of tax credits among the approved proposals submitted by
71 neighborhood organizations. The regulations shall also provide that at least 10 percent of the available
72 amount of tax credits each year shall be allocated to qualified programs proposed by neighborhood
73 organizations not receiving allocations in the preceding year; however, if the amount of tax credits for
74 qualified programs requested by such neighborhood organizations is less than 10 percent of the
75 available amount of tax credits, the unallocated portion of such 10 percent of the available amount of
76 tax credits shall be allocated to qualified programs proposed by other neighborhood organizations.

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

82 D. The total amount of tax credits granted for programs approved under this article for each fiscal
83 year shall not exceed \$8 million; however, \$2,750,000 shall be allocated to education programs
84 conducted by neighborhood organizations. Such allocation of tax credits to education programs shall
85 constitute the minimum amount of tax credits to be allocated to education programs. However, if the
86 amount of tax credits requested by neighborhood organizations for qualified education programs is less
87 than \$2,750,000, the balance of such amount shall be allocated to other types of qualified programs.
88 Tax credits shall not be authorized after fiscal year 2009.

89 § 58.1-439.21. *Tax credit; amount; limitation; carry over.*

90 A. The Commissioner of the State Department of Social Services shall certify to the Department of
91 Taxation, or in the case of business firms subject to a tax under Article 1 (§ 58.1-2500 et seq.) of
92 Chapter 25 or Article 2 (§ 58.1-2620 et seq.) of Chapter 26 of this title, to the State Corporation
93 Commission, the applicability of the tax credit provided herein for a business firm.

94 B. A business firm shall be eligible for a credit against the taxes imposed by Articles 2 (§ 58.1-320
95 et seq.) and 10 (§ 58.1-400 et seq.) of Chapter 3, Chapter 12 (§ 58.1-1200 et seq.), Article 1
96 (§ 58.1-2500 et seq.) of Chapter 25, or Article 2 (§ 58.1-2620 et seq.) of Chapter 26 of this title, in an
97 amount equal to 45 percent of the value of the money, property, professional services, and contracting
98 services donated by the business firm during its taxable year to neighborhood organizations for
99 programs approved pursuant to § 58.1-439.20. No tax credit of less than \$400 shall be granted for any
100 donation, and a business firm shall not be allowed a tax credit in excess of \$175,000 per taxable year.
101 No tax credit shall be granted to any business firm for donations to a neighborhood organization
102 providing job training or education for individuals employed by the business firm. Any tax credit not
103 usable for the taxable year the donation was made may be carried over to the extent usable for the next
104 five succeeding taxable years or until the full credit has been utilized, whichever is sooner. Credits
105 granted to a partnership, electing small business (Subchapter S) corporation, or limited liability
106 company shall be allocated to their individual partners, shareholders, or members, respectively, in
107 proportion to their ownership or interest in such business entities.

108 C. A tax credit shall be issued by the Commissioner of the State Department of Social Services to a
109 business firm upon receipt of a certification made by a neighborhood organization to whom tax credits
110 were allocated for an approved program pursuant to § 58.1-439.20. The certification shall identify the
111 type and value of the donation received and the business firm making the donation. A business firm
112 shall be eligible for a tax credit under this section only to the extent that sufficient tax credits allocated
113 to the neighborhood organization for an approved project are available.

114 § 58.1-439.22. *Donations of professional services.*

115 A. A sole proprietor, partnership or limited liability company engaged in the business of providing
116 professional services shall be eligible for a tax credit under this article based on the time spent by the
117 proprietor or a partner or member, respectively, who renders professional services to a program which
118 has received an allocation of tax credits from the Commissioner of the State Department of Social
119 Services. The value of the professional services, for purposes of determining the amount of the tax credit
120 allowable, rendered by the proprietor or a partner or member to an approved program shall not exceed

the lesser of (i) the reasonable cost for similar services from other providers or (ii) \$125 per hour.

B. A business firm shall be eligible for a tax credit under this article for the time spent by a salaried employee who renders professional services to an approved program. The value of the professional services, for purposes of determining the amount of tax credit allowed to a business firm for time spent by its salaried employee in rendering professional services to an approved project, shall be equal to the salary that such employee was actually paid for the period of time that such employee rendered professional services to the approved program.

C. Notwithstanding any provision of this article limiting eligibility for tax credits to business firms, physicians, chiropractors, dentists, nurses, nurse practitioners, physician assistants, optometrists, dental hygienists, professional counselors, clinical social workers, clinical psychologists, marriage and family therapists, physical therapists, and pharmacists licensed pursuant to Title 54.1 who provide health care services within the scope of their licensure, without charge, to patients of a clinic operated by an organization that has received an allocation of tax credits from the Commissioner of the State Department of Social Services and such clinic is organized in whole or in part for the delivery of health care services without charge, or to a clinic operated not for profit providing health care services for charges not exceeding those set forth in a scale prescribed by the State Board of Health pursuant to § 32.1-11 for charges to be paid by persons based upon ability to pay, shall be eligible for a tax credit pursuant to § 58.1-439.21 based on the time spent in providing health care services to patients of such clinic, regardless of where the services are delivered. The value of such services, for purposes of determining the amount of the tax credit allowable, rendered by the physician, chiropractor, dentist, nurse, nurse practitioner, physician assistant, optometrist, dental hygienist, professional counselor, clinical social worker, clinical psychologist, marriage and family therapist, physical therapist, or pharmacist, shall not exceed the lesser of (i) the reasonable cost for similar services from other providers or (ii) \$125 per hour.

§ 58.1-439.23. Donations of contracting services.

A. A sole proprietor, partnership or limited liability company engaged in the business of providing contracting services shall be eligible for a tax credit under this article based on the time spent by the proprietor or a partner or member, respectively, who renders contracting services to a program which has received an allocation of tax credits from the Commissioner of the State Department of Social Services. The value of the contracting services, for purposes of determining the amount of the tax credit allowable, rendered by the proprietor or a partner or member to an approved program shall not exceed the lesser of (i) the reasonable cost for similar services from other providers or (ii) \$50 per hour.

B. A business firm shall be eligible for a tax credit under this article for the time spent by a salaried employee who renders contracting services to an approved program. The value of the contracting services, for purposes of determining the amount of tax credit allowed to a business firm for time spent by its salaried employee in rendering contracting services to an approved project, shall be equal to the salary that such employee was actually paid for the period of time that such employee rendered contracting services to the approved program.

§ 58.1-439.24. Donations by individuals.

For purposes of this section, the term "individual" means the same as that term is defined in § 58.1-302, but excluding any individual included in the definition of a "business firm" as such term is defined in § 58.1-439.18.

A. Notwithstanding any provision of this article limiting eligibility for tax credits, an individual making a monetary donation to a neighborhood organization approved under this article shall be eligible for a credit against taxes imposed by § 58.1-320 as provided in this section.

B. Notwithstanding any provision of this article specifying the amount of a tax credit, a tax credit issued to an individual making a monetary donation to an approved project shall be equal to 45 percent of such monetary donation; however, tax credits shall not be issued for any monetary donation less than \$500 in a taxable year and no more than \$50,000 in tax credit shall be issued to an individual or to married persons in a taxable year.

C. An individual shall be eligible for a tax credit under this section only to the extent that sufficient tax credits allocated to the neighborhood organization approved under this article are available.

D. The amount of credit allowed pursuant to this section, if such credit has been issued by the State Department of Social Services, shall not exceed the tax imposed pursuant to § 58.1-320 for such taxable year. Any credit not usable for the taxable year may be carried over for credit against the individual's income taxes until the earlier of (i) the full amount of the credit is used or (ii) the expiration of the fifth taxable year after the taxable year in which the tax credit has been issued to such individual. If an individual that is subject to the tax limitation imposed pursuant to this subsection is allowed another credit pursuant to any other section of the Code of Virginia, or has a credit carryover from a preceding taxable year, such individual shall be considered to have first utilized any credit allowed that does not have a carryover provision, and then any credit that is carried forward from a preceding taxable year,

182 prior to the utilization of any credit allowed pursuant to this section.

183 E. A tax credit shall be issued by the Commissioner of the State Department of Social Services to an
184 individual only upon receipt of a certification made by a neighborhood organization to whom tax credits
185 were allocated for an approved program pursuant to § 58.1-439.20. The certification shall identify the
186 amount of the monetary donation received and the individual making the donation.

187 F. The tax credit allowed pursuant to this section shall be taken by the individual only to the extent
188 he has not claimed a deduction for such amount on his federal income tax return.

189 § 63.2-2002. Neighborhood Assistance Act.

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

195 B. The Board is hereby authorized to adopt regulations for the approval or disapproval of such
196 proposals by neighborhood organizations and for determining the value of the donations consistent with
197 the provisions, terms, and conditions of the Neighborhood Assistance Act Tax Credit (§ 58.1-439.18 et
198 seq.). Such regulations shall contain a requirement that an annual audit be provided by the neighborhood
199 organization as a prerequisite for approval. Such regulations shall provide for the equitable allocation of
200 the available amount of tax credits among the approved proposals submitted by neighborhood
201 organizations. The regulations shall also provide that at least 10 percent of the available amount of tax
202 credits each year shall be allocated to qualified programs proposed by neighborhood organizations not
203 receiving allocations in the preceding year; however, if the amount of tax credits for qualified programs
204 requested by such neighborhood organizations is less than 10 percent of the available amount of tax
205 credits, the unallocated portion of such 10 percent of the available amount of tax credits shall be
206 allocated to qualified programs proposed by other neighborhood organizations. The Commissioner shall
207 administer the Neighborhood Assistance Act Tax Credit program.

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

212 D. TheAs provided in § 58.1-439.20, the total amount of tax credits granted for programs approved
213 under this chapter the Neighborhood Assistance Act Tax Credit for each fiscal year shall not exceed \$8
214 million; however, \$2,750,000 shall be allocated to "education" programs conducted by "neighborhood
215 organizations" as such terms are defined in § 58.1-439.18. Such allocation of tax credits to education
216 programs shall constitute the minimum amount of tax credits to be allocated to education programs.
217 However, if the amount of tax credits requested by neighborhood organizations for qualified education
218 programs is less than \$2,750,000, the balance of such amount shall be allocated to other types of
219 qualified programs. Tax credits shall not be authorized after fiscal year 2009.

220 2. That the provisions of this act shall become effective for taxable years beginning on or after
221 January 1, 2007.

222 3. That the provisions of this act shall in no way affect any tax credit issued under the
223 Neighborhood Assistance Act (§ 63.2-2000 et seq.) of the Code of Virginia by the Commissioner of
224 the State Department of Social Services in taxable years beginning prior to January 1, 2007.

225 4. That §§ 63.2-2000, 63.2-2001, and 63.2-2003 through 63.2-2006 of the Code of Virginia are
226 repealed for taxable years beginning on or after January 1, 2007.