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## SENATE BILL NO. 1098

Offered January 14, 2009

Prefiled January 13, 2009

A *BILL to amend the Code of Virginia by adding in Article 13 of Chapter 3 of Title 58.1 a section numbered 58.1-439.12:03, relating to a flextime income tax credit.*

Patrons—Herring and Deeds

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 58.1-439.12:03 as follows:**

*§ 58.1-439.12:03. Flextime tax credit.*

*A. For purposes of this section:*

*"Employer" means any employer subject to the income tax imposed by this chapter.*

*"Flextime" means a workweek different from a standard workweek, whereby an employer allows a qualified employee who has entered into a flextime agreement to choose to begin work anytime between 6 a.m. and 9 a.m. or allows a qualified employee to work four 10-hour days.*

*"Flextime agreement" means an agreement signed by the employer and the participating, qualified employee, on or after January 1, 2010, that defines the terms of the flextime schedule.*

*"Qualified employee" means an employee who is employed not less than 35 hours per week by the employer.*

*B. For taxable years beginning on or after January 1, 2010, an employer shall be allowed a one-time \$500 credit against the taxes imposed pursuant to Articles 2 (§ 58.1-320 et seq.) and 10 (§ 58.1-400 et seq.) of this chapter for each employee who enters into a flextime agreement and participates in a flextime program. In no event shall the aggregate amount of tax credits available to an employer in all taxable years after January 1, 2010, exceed \$25,000.*

*C. 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 allocated to the individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entities.*

*D. The amount of tax credits available to any employer under this section in any taxable year shall not exceed the employer's tax liability. No unused tax credit shall be carried forward or carried back against the employer's tax liability. An employer shall be ineligible for a tax credit pursuant to this section if such employer claims a credit under any other provisions of this chapter.*

*E. 1. An employer seeking to claim a credit provided herein shall submit a reservation application to the Tax Commissioner for tentative approval of the credit between September 1 and October 31 of the year preceding the taxable year for which the credit is to be earned. The Tax Commissioner shall establish policies and procedures for the reservation of tax credits by eligible employers. Such policies and procedures shall provide (i) requirements for applying for reservations of tax credits; (ii) a system for allocating the available amount of tax credits among eligible employers; and (iii) a procedure for the cancellation and reallocation of tax credit reservations allocated to eligible employers who, after reserving tax credits, have been determined to be ineligible for all or a portion of the tax credits reserved. The Tax Commissioner shall provide tentative approval of the applications no later than December 31 of the year in which the applications are received.*

*2. In no event shall the aggregate amount of tax credits approved by the Tax Commissioner exceed \$1 million annually. In the event the credit amounts on the applications filed with the Tax Commissioner exceed the maximum aggregate amount of tax credits, then the tax credits shall be allocated on a pro rata basis among the eligible employers who filed timely applications.*

*F. Actions of the Tax Commissioner relating to the approval or denial of applications for reservations of tax credits pursuant to this section shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).*

INTRODUCED

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