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**HOUSE BILL NO. 617**

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.*

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Patron—Phillips

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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 severely distressed 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 severely distressed city or county during that year. A taxpayer who hires an additional full-time employee during that year to fill a position located in a severely distressed city or county shall be allowed a credit of \$2,800 for the additional employee. 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 employee is hired. The credit shall be taken in equal installments over the four years following the income year in which the additional employee was 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 employee that caused the taxpayer to qualify for the credit. If, in one of the four years in which the installment of a 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 position filled by the employee is moved to another city or county, the credit expires and the taxpayer may not take any remaining installment of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under subsection E of this section.

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 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 severely distressed city or county is a city or county designated as severely distressed by the Secretary of Finance. Each year, on or before December 31, the Secretary of Finance shall designate which cities and counties are severely distressed, and shall provide that information to the Commissioner of the Virginia Department of Taxation. The Secretary of Finance shall designate any city or county in the Commonwealth as severely distressed if it meets all of the following criteria:

1. A poverty rate of fifteen percent or greater, as measured by the most current U.S. Census.

2. A per capita income level below the Virginia median, as determined by the most recent Center for Public Service report.

3. Negative population growth, as determined by the most current U.S. census.

A designation as a severely distressed 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 severely distressed city or county, signs a letter of commitment with the Department of Taxation to create at least twenty new full-time jobs in that distressed 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 severely distressed 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

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60 are hired, he may take the credit under that subsection.

61 E. The sale, merger, acquisition, or bankruptcy of a business, or any other transaction by which an  
62 existing business reformulates itself as another business, does not create new eligibility in a succeeding  
63 business with respect to jobs for which the predecessor was not eligible under this section. A taxpayer  
64 may, however, take any installment of or carried-over portion of a credit that his predecessor could  
65 have taken had he had taxable income. Jobs transferred from one city or county in the Commonwealth  
66 to another city or county in the Commonwealth shall not be considered new jobs for purposes of this  
67 section. A credit taken under this section may not exceed fifty percent of the tax imposed by § 58.1-320  
68 or § 58.1-400 for the taxable year, reduced by the sum of all other credits allowed under Article 13  
69 (§ 58.1-430 et seq.) of Chapter 3 of this title, except tax payments made by or on behalf of the taxpayer.  
70 Any unused portion of the credit may be carried forward for the succeeding five years.

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

77 2. That the provisions of this act shall become effective for taxable years on and after January 1,  
78 1995.