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Committee Substitute For
SENATE BILL NO. 153

(By Senator Tomblin, Mr. President et al.)

PASSED March 9, 1996
In Effect NINETY DAYS FROM Passage
ENROLLED

COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 153

(SENATORS TOMBLIN, MR. PRESIDENT, AND MANCHIN,
original sponsors)

[Passed March 9, 1996; in effect ninety days from passage.]

AN ACT to amend chapter eleven of the code of West Virginia, one thousand nine-hundred thirty-one, as amended, by adding thereto a new article, designated article thirteen-j, relating to the establishment of a neighborhood investment program; specifying a short title; setting forth a legislative finding and purpose; defining terms; setting forth requirements for eligibility for tax credits; requiring certification of project plans by the West Virginia development office; requiring payment of a project certification fee to the West Virginia development office; specifying sanctions, procedures, penalties, interest and notice requirements relating to failure to timely pay the project certification fee; creating revolving fund; specifying accumulation and administration of

fund; appropriating funds out of general revenue; specifying deemed disapproval for applications not certified by the West Virginia development office within a given time; specifying prompt notification to applicants of certification or denial of certification of project plans; specifying that qualified charitable organizations which receive certification of a project may receive eligible contributions; specifying that taxpayers who make eligible contributions may gain entitlement to the tax credit; specifying that all applications for certification of a project plan filed under the article shall be public information; creating the neighborhood investment program advisory board; specifying powers and duties of the neighborhood investment program advisory board; specifying that the director of the West Virginia development office or the designee thereof shall be the ex officio chairperson of the neighborhood investment program advisory board; specifying qualifications for membership on the neighborhood investment program advisory board; specifying appointment terms for members of the neighborhood investment program advisory board; specifying limitations on selections of appointees to the neighborhood investment program advisory board; specifying terms of members of the neighborhood investment program advisory board; specifying the method of selection and appointment for members of the neighborhood investment program advisory board; specifying quorum requirements, meeting requirements and funding requirements for the neighborhood investment program advisory board; requiring that the neighborhood investment program advisory board make an annual report; specifying duties of the neighborhood investment program advisory board; prohibiting assistance by the neighborhood investment program advisory board of project sponsors to solicit support or donations; prohibiting voting by members of the neighborhood investment program advisory board who are affiliated with an applicant for project certification; setting forth criteria for project evaluation of proposed neighborhood investment pro-
gram project applications by the neighborhood investment program advisory board; specifying requirements for approval or disapproval of a proposed neighborhood investment program project by the neighborhood investment program advisory board; specifying requirements for certification of approved projects by the director of the West Virginia development office; specifying the amount of credit allowed to eligible taxpayers; specifying application of the credit over a period of five years beginning with the tax year of the taxpayer when the contribution is made; specifying annual application of the credit; prohibiting application of the credit against employer withholding taxes; specifying that unused credit shall be forfeited; specifying the manner in which modifications to federal taxable income shall affect application of credit; specifying the method for asserting the credit against tax; setting forth annual filing requirements; specifying that a tax credit reporting schedule be filed; authorizing disallowance of the credit; specifying the total maximum aggregate tax credit; specifying the beginning date for filing and the manner of filing of applications for certification of project plans with the West Virginia development office requiring that such applications be considered for approval or disapproval by the neighborhood investment program advisory board in a timely manner; requiring that when the total amount of credits certified by the West Virginia development office under the article equals the maximum amount of tax credit allowed in any state fiscal year, no further certifications shall be issued for that fiscal year; specifying that applications for certification of project plans shall be void on the last day of the fiscal year; specifying recapture of the tax credit; specifying the statute of limitations for the issuance of assessments; specifying that the tax commissioner shall annually publish the name and address of every taxpayer asserting the credit on a tax return and the amount of any credit asserted under the article; specifying that statutory information confidentiality provisions do not apply to information which is required

to be published; authorizing the performance of audits and examinations by the tax commissioner and performance of joint audits and examinations by the tax commissioner and the West Virginia development office; authorizing the sharing of information between the tax commissioner and the West Virginia development office; requiring program evaluation on or before the thirtieth day of September, one thousand nine hundred ninety-eight, to be presented to the Legislature; specifying review and issuance of a recommendation by the joint committee on governmental operations not later than the first day of March, one thousand nine hundred ninety-nine, as to whether the program should continue; specifying procedures for the continuation of the program; and specifying procedures for taxpayers to obtain entitlement to credit in the event program is discontinued.

Be it enacted by the Legislature of West Virginia:

That chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article thirteen-j, to read as follows:

ARTICLE 13J. NEIGHBORHOOD INVESTMENT PROGRAM.

§11-13J-1. Short title.

This article shall be known as the Neighborhood Investment Program Act.

§11-13J-2. Legislative finding and purpose.

It is the finding of the Legislature that community-based organizations can be a powerful force in community development. However, in West Virginia their effectiveness has historically been weakened by meager resources. Private corporations and individuals in West Virginia possess the resources to aid community-based organizations in their efforts to assist neighborhoods and communities. Due to the lack of clear incentives, the private and not-for-profit sectors have often not taken advantage of opportunities to collaborate with
community-based organizations to the full extent possible by investment and participation in local pro-
grams.

Therefore, the neighborhood investment program act is hereby enacted with the intent that it provide incen-
tives for contributions to qualifying charitable projects. It is the intent of the Legislature that this act encourage private sector businesses and individuals to contribute capital to community-based organizations which establish projects to assist neighborhoods and local communi-
ties through such services as health care, counseling, emergency assistance, crime prevention, education, housing, job training and physical and environmental improvements.


(a) General. — When used in this article, or in the administration of this article, terms defined in subsection (b) of this section shall have the meanings ascribed to them by this section, unless a different meaning is clearly required by either the context in which the term is used, or by specific definition in this article.

(b) Terms defined.

(1) Affiliate. — The terms “affiliate” or “affiliates” include all concerns which are affiliates of each other when either directly or indirectly:

(A) One concern controls or has the power to control the other; or

(B) A third party or third parties control or have the power to control both. In determining whether concerns are independently owned and operated and whether or not affiliation exists, consideration shall be given to all appropriate factors, including common ownership, common management and contractual relationships.

(2) Capacity building. — The term “capacity building” means to generally enhance the capacity of the commu-

22 community services described in items (i) through (v), inclusive of the definition of that term, as set forth in this subdivision. Capacity building includes, but is not limited to, improvement of the means, or capacity, to:

26 (i) Access, obtain and use private, charitable and governmental assistance programs, administrative assistance, and private, charitable and governmental resources or funds;

(iii) Attract and direct political and community attention to needs of the community for the purpose of increasing access to and use of assistance, resources or funds for a given purpose, goal or need.

37 (3) Commissioner or tax commissioner. — The terms “commissioner” and “tax commissioner” are used interchangeably herein and mean the tax commissioner of the state of West Virginia, or his or her delegate.

41 (4) Community services. — “Community services” means services, provided at no charge whatsoever, of:

(i) Providing any type of health, personal finance, psychological or behavioral, religious, legal, marital, educational or housing counseling and advice to economically disadvantaged citizens or a specifically designated group of economically disadvantaged citizens, or in an economically disadvantaged area; or

(ii) Providing emergency assistance or medical care to economically disadvantaged citizens or to a specifically designated group of economically disadvantaged citizens, or in an economically disadvantaged area; or

(iii) Establishing, maintaining or operating recreational facilities, or housing facilities for economically disadvantaged citizens or a specifically designated group of economically disadvantaged citizens, or in an economically disadvantaged area; or
(iv) Providing economic development assistance to economically disadvantaged citizens or a specifically designated group of economically disadvantaged citizens without regard to whether they are located in an economically disadvantaged area, or to individuals, groups or neighborhood or community organizations, in an economically disadvantaged area; or

(v) Providing community technical assistance and capacity building to economically disadvantaged citizens or a specifically designated group of economically disadvantaged citizens or to individuals, groups or neighborhood or community organizations in an economically disadvantaged area.

(5) Compensation. — The term “compensation” means wages, salaries, commissions and any other form of remuneration paid to employees for personal services.

(6) Corporation. — The term “corporation” means any corporation, joint-stock company or association, and any business conducted by a trustee or trustees wherein interest or ownership is evidenced by a certificate of interest or ownership or similar written instrument.


(8) Delegate. — The term “delegate” in the phrase “or his or her delegate,” when used in reference to the tax commissioner, means any officer or employee of the tax division of the department of tax and revenue duly authorized by the tax commissioner directly, or indirectly by one or more redelegations of authority, to perform the functions mentioned or described in this article.

(9) Director or director of the West Virginia development office. — The term “director” or “director of the West Virginia development office” means the director of the West Virginia office.

(10) Economically disadvantaged area. — The term
“economically disadvantaged area” means:

(A) In a municipality - any area not exceeding fifteen square miles in West Virginia which contains any portion of an incorporated municipality and:

(i) In which area the average annual gross personal income of residents living therein is not more than one hundred twenty-five percent of the federal designated poverty level for personal incomes; and

(ii) That is certified as an economically disadvantaged area by the West Virginia development office.

(B) In a rural area - any area not exceeding twenty-five square miles in West Virginia:

(i) Which area is located in a rural area and which contains no incorporated municipalities or portions thereof;

(ii) In which area the average annual gross personal income of residents living therein is not more than one hundred twenty-five percent of the federal designated poverty level for personal incomes; and

(iii) That is certified as an economically disadvantaged area by the West Virginia development office.

(C) An economically disadvantaged area shall qualify as such only pursuant to a certification issued by the West Virginia development office. Such certifications issued by the West Virginia development office shall expire after the passage of five calendar years, unless specifically limited to a shorter time by specific order of the West Virginia development office, and no area shall hold the status of a certified economically disadvantaged area for a period of time greater than ten years, either consecutively or in the aggregate.

(D) The certification of an economically disadvantaged area shall be made on the basis of current indices of social and economic conditions, which shall include, but not be limited to, the median per capita income of the
area in relation to the median per capita income of the state or standard metropolitan statistical area in which the area is located.

(E) No economically disadvantaged area may be certified within twenty-five miles of any other certified economically disadvantaged area. Not more than six economically disadvantaged areas may hold the status of certified economically disadvantaged areas at any one time in this state.

(F) At least a majority of all economically disadvantaged areas holding designations as economically disadvantaged areas at any one time shall be located in rural areas.

(G) Such certification shall be filed with the secretary of state and shall specifically set forth the boundaries of the economically disadvantaged area by both description and map, the date of certification of the area as an economically disadvantaged area, the date on which such certification will terminate and a statement of the director's findings as to the average annual gross personal income of residents living in the certified economically disadvantaged area.

(12) Economically disadvantaged citizen. — The term "economically disadvantaged citizen" means a natural person, who during the current taxable year has, or during the immediately preceding taxable year had, an annual gross personal income not exceeding one hundred twenty-five percent of the federal designated poverty level for personal incomes, and who is a domiciliary and resident of this state.

(13) Education. — "Education" means any type of scholastic instruction to, or scholarship by, an individual that enables such individual to prepare for better life opportunities. Education does not include courses in physical training, physical conditioning, physical education, sports training, sports camps and similar training or conditioning courses (except for physical therapy
prescribed by a physician or other person licensed to prescribe courses of medical treatment under West Virginia law).

(14) Eligible contribution. —

(A) An eligible contribution consists of cash, tangible personal property valued at its fair market value, real property valued at its fair market value or a contribution of in kind professional services valued at seventy-five percent of fair market value.

(B) For purposes of this definition, the value of in kind professional services will not qualify as an eligible contribution unless the services are:

(i) Reasonably priced and valued, and reasonably necessary services customarily and normally provided by the contributor in the normal course of business to customers, clients or patients other than those encompassed by the project plan;

(ii) Not reimbursable, in whole or in part, from sources other than the tax credit provided under this article; and

(iii) Are services which are not available elsewhere in the community.

(C) The term "professional services" means only those services provided directly by a physician licensed to practice in this state, those services provided directly by a dentist licensed to practice in this state, those services provided directly by a lawyer licensed to practice in this state, those services provided directly by a registered nurse, licensed practical nurse, dental hygienist, or other health care professional licensed to practice in this state and those services provided directly by a certified public accountant or public accountant licensed to practice in this state.

(D) Minimum contribution. — No contribution of cash, property or professional services or any combination thereof contributed in any tax year by any taxpayer having a fair market value of less than five hundred
dollars qualifies as an eligible contribution.

(E) Maximum contribution. — No contribution of cash, property or professional services or any combination thereof contributed in any tax year by any taxpayer having a fair market value in excess of two hundred thousand dollars qualifies as an eligible contribution.

(F) Limitations. — Not more than fifty percent of total eligible contributions to a certified project may be in kind contributions. Not more than twenty-five percent of total eligible contributions made by any taxpayer to any certified project may be in kind contributions.

(15) Eligible taxpayer. —

(A) The term "eligible taxpayer" means any person subject to the taxes imposed by articles twenty-one, twenty-three or twenty-four of this chapter which makes an eligible contribution to a qualified charitable organization pursuant to the terms of a certified project plan for the purpose of providing neighborhood assistance, community services, or crime prevention, or for the purpose of providing job training or education for individuals not employed by the contributing taxpayer or an affiliate of the contributing taxpayer or a person related to the contributing taxpayer.

(B) "Eligible taxpayer" also includes an affiliated group of taxpayers if such group elects to file a consolidated corporation net income tax return under article twenty-four of this chapter and if one or more affiliates included in such affiliated group would qualify as an eligible taxpayer under part (A) of this paragraph.

(16) Includes and including. — The terms "includes" and "including", when used in a definition contained in this article, shall not be deemed to exclude other things otherwise within the meaning of the term defined.

(17) Job training. — "Job training" means instruction to an individual that enables the individual to acquire vocational skills so as to become employable or to be
able to seek a higher grade of employment.

(18) Natural person or individual. — The term "natural person" and the term "individual" mean a human being. The terms "natural person" and "individual" do not mean, and specifically exclude any corporation, limited liability company, partnership, joint venture, trust, organization, association, agency, governmental subdivision, syndicate, affiliate or affiliation, group, unit or any entity other than a human being.

(19) Neighborhood assistance. — "Neighborhood assistance" means either:

(A) Furnishing financial assistance, labor, material and technical advice to aid in the physical or economic improvement of any part or all of an economically disadvantaged area; or

(B) Furnishing technical advice to promote higher employment in an economically disadvantaged area.

(20) Neighborhood organization. — "Neighborhood organization" means any organization:

(A) Which is performing community services, as defined in this section; and

(B) Which is exempt from income taxation under Section 501(c)(3) or (4) of the Internal Revenue Code.

(21) West Virginia development office. — The term "West Virginia development office" means the West Virginia development office.

(22) Partnership and partner. — The term "partnership" includes a syndicate, group, pool, joint venture or other unincorporated organization through or by means of which any business, financial operation or venture is carried on, and which is not a trust or estate, a corporation or a sole proprietorship. The term "partner" includes a member in such a syndicate, group, pool, joint venture or organization.
(23) **Person.** — The term "person" includes any natural person, corporation, limited liability company or partnership.

(24) **Project transferee.** — The term "project transferee" means any neighborhood organization, qualified charitable organization, charitable organization or other organization, entity or person that receives an eligible contribution or part of an eligible contribution from an eligible taxpayer for the purpose of directly or indirectly providing neighborhood assistance, community services, or crime prevention, or for the purpose of providing job training or education or other services or assistance pursuant to a project plan. The project transferee is typically the first entity or person receiving eligible contributions from eligible taxpayers under a project plan. However, in the case of eligible contributions of in-kind services or other eligible contributions or portions thereof made pursuant to a certified project plan directly to indigent, disadvantaged or needy persons, economically disadvantaged citizens, or other persons or organizations under the sponsorship or auspices of any neighborhood organization, qualified charitable organization, charitable organization or other organization, entity or person as a certified project participant, such eligible contributions shall be deemed to have been made to the entity, organization or person under whose sponsorship or auspices such eligible contributions are made, and that entity, organization or person is deemed to be the project transferee with relation to those eligible contributions. The project transferee is the entity, organization or person that is liable under this article for payment of the project certification fee to the West Virginia development office. The term project transferee shall mean and include any deemed project transferee, deemed as such under the provisions of this article.

(25) **Qualified charitable organization.** — The term "qualified charitable organization" means a neighborhood organization, as defined in this section, which is the sponsor of a project which has received certification by
the director of the West Virginia development office pursuant to the requirements of this article: Provided, that no organization may qualify as a qualified organization for purposes of this article if such organization is not registered with this state as required under the solicitation of charitable funds act.

(26) Related person. — The term "related person" or "person related to" a stated taxpayer means:

(A) An individual, corporation, partnership, affiliate, association or trust or any combination or group thereof controlled by the taxpayer; or

(B) An individual, corporation, partnership, affiliate, association or trust or any combination or group thereof that is in control of the taxpayer; or

(C) An individual, corporation, partnership, affiliate, association or trust or any combination or group thereof controlled by an individual, corporation, partnership, affiliate, association or trust or any combination or group thereof that is in control of the taxpayer; or

(D) A member of the same controlled group as the taxpayer.

For purposes of this article, "control", with respect to a corporation means ownership, directly or indirectly, of stock possessing fifty percent or more of the total combined voting power of all classes of the stock of such corporation which entitles its owner to vote. "Control", with respect to a trust, means ownership, directly or indirectly, of fifty percent or more of the beneficial interest in the principal or income of such trust. The ownership of stock in a corporation, of a capital or profits interest in a partnership or association or of a beneficial interest in a trust shall be determined in accordance with the rules for constructive ownership of stock provided in Section 267(c), other than paragraph (3) of such section, of the United States Internal Revenue Code, as amended.
(27) **State fiscal year.** — “State fiscal year” means a twelve-month period beginning on the first day of July and ending on the thirtieth day of June.

(28) **Taxpayer.** — The term “taxpayer” means any person subject to the tax imposed by articles twenty-one, twenty-three or twenty-four of this chapter (or any one or combination of such articles of this chapter).

(29) **Technical assistance.** —

(A) The term “technical assistance” means assistance in understanding, using and fulfilling the legal, bureaucratic and administrative requirements and qualifications which must be negotiated for the purpose of effectively accessing, obtaining and using private, charitable, not-for-profit or governmental assistance, resources or funds, and maximizing the value thereof.

(B) “Technical assistance” also means assistance provided by any person holding a license under West Virginia law to practice any licensed profession or occupation, whereby such person, in the practice of such profession or occupation, assists economically disadvantaged citizens or the persons in an economically disadvantaged area by:

(i) Providing any type of health, personal finance, psychological or behavioral, religious, legal, marital, educational or housing counseling and advice to economically disadvantaged citizens or a specifically designated group of economically disadvantaged citizens, or in an economically disadvantaged area; or

(ii) Providing emergency assistance or medical care to economically disadvantaged citizens or to a specifically designated group of economically disadvantaged citizens, or in an economically disadvantaged area; or

(iii) Establishing, maintaining or operating recreational facilities, or housing facilities for economically disadvantaged citizens or a specifically designated group of economically disadvantaged citizens, or in an econom-
(iv) Providing economic development assistance to economically disadvantaged citizens or a specifically designated group of economically disadvantaged citizens without regard to whether they are located in an economically disadvantaged area, or to individuals, groups or neighborhood or community organizations, in an economically disadvantaged area; or

(v) Providing community technical assistance and capacity building to economically disadvantaged citizens or a specifically designated group of economically disadvantaged citizens or to individuals, groups or neighborhood or community organizations in an economically disadvantaged area.

(30) This code. — The term “this code” means the code of West Virginia, one thousand nine hundred thirty-one, as amended.

(31) This state. — The term “this state” means the state of West Virginia.

§11-13J-4. Eligibility for tax credits; creation of neighborhood investment fund; certification of project plans by the West Virginia development office.

(a) A neighborhood organization which seeks to sponsor a project and have that project certified pursuant to this article shall submit to the director of the West Virginia development office an application for certification of a project plan, in such form as the director shall prescribe, setting forth the project to be implemented, the identity of all project participant organizations, the economically disadvantaged citizens or a specifically designated group of economically disadvantaged citizens, to be assisted by the project or the economically disadvantaged area or areas selected for assistance by the project, the amount of total tax credits to be created by the proposed project pursuant to the receipt of eligible contributions from eligible taxpayers under this
article, the amount of the total estimated eligible contributions to be received pursuant to the project, and the schedule for implementing the project.

(b) Project certification fee; payment of costs; revolving fund. —

(1) (A) Project certification fee. — Any project transferee that receives eligible contributions under or pursuant to a certified project plan shall pay to the West Virginia development office a project certification fee in the amount of three percent of the amount of the total eligible contributions received by such project transferee pursuant to the certified project plan. The project certification fee shall be paid to the West Virginia development office within thirty days of the receipt of any eligible contribution, or portion thereof.

(B) Eligible contributions made through direct service to end users or recipients, or contributions to end users or recipients. — In the case of eligible contributions of in-kind services or other eligible contributions or portions thereof made pursuant to a certified project plan and contributed or provided directly to indigent, disadvantaged or needy persons, economically disadvantaged citizens or other persons or organizations made under the sponsorship or auspices of any neighborhood organization, qualified charitable organization, charitable organization or other organization, entity or person as a certified project participant, such eligible contributions shall be deemed to have been made to the entity, organization or person under whose sponsorship or auspices such eligible contributions are made, and that entity, organization or person is deemed to be the project transferee with relation to those eligible contributions. Such deemed project transferee shall be liable for the project certification fee due for such eligible contributions.

(C) Computation of fee based on fair market value. — In the case of eligible contributions consisting of in-kind services, tangible personal property or realty, the project
transferee shall pay to the West Virginia development
office a project certification fee in the amount of three
percent of the fair market value of eligible contributions
received pursuant to the certified project plan.

(2) Sanctions for failure to timely pay the project
certification fee. — Failure to timely pay the project
certification fee imposed by this section shall be grounds
for imposition of any of the following sanctions, to be
imposed by the director of the West Virginia develop-
ment office at the discretion of the director:

(A) Prospective revocation of the project certification.

No tax credit shall be allowed for any project for
which certification has been revoked for periods subse-
quent to the effective date of revocation. Credit taken by
any taxpayer in accordance with this article pursuant to
the making of an eligible contribution to a project
transferee pursuant to a certified project plan prior to
the effective date of revocation of project certification
shall not be subject to recapture by reason of revocation
of the certification. However, such credit shall otherwise
be subject to audit and adjustment or recapture in
accordance with the requirements of this article.

(B) Retroactive withdrawal of the project certification.

No tax credit shall be allowed for any project for
which certification has been withdrawn. Credit taken by
any taxpayer in accordance with this article pursuant to
the making of an eligible contribution to a project
transferee pursuant to a certified project plan for which
certification is later withdrawn pursuant to the provi-
sions of this section shall be subject to recapture upon
withdrawal of the certification.

(C) Suspension of the project certification for a stated
period of time.

No tax credit shall be allowed for contributions made
during the suspension period for a project. Credit taken
by any taxpayer in accordance with this article pursuant
to the making of an eligible contribution to a project transferee pursuant to a certified project plan prior to or subsequent to the suspension period shall not be subject to recapture by reason of the suspension. However, such credit shall otherwise be subject to audit and adjustment or recapture in accordance with the requirements of this article.

(D) Temporary or permanent disqualification of one or more project transferees, neighborhood organizations, qualified charitable organizations, charitable organizations or other organizations, entities or persons from participation in a particular specified certified project.

No tax credit shall be allowed under this article for any contribution made during the disqualification period to any project transferee, neighborhood organization, qualified charitable organization, charitable organization or other organization, entity or person disqualified under this section from participation in a certified project. Tax credit taken by any taxpayer in accordance with this article pursuant to the making of an eligible contribution to any project transferee, neighborhood organization, qualified charitable organization, charitable organization or other organization, entity or person pursuant to a certified project plan prior to or subsequent to the disqualification period shall not be subject to recapture by reason of the disqualification of the recipient thereof. However, such credit shall otherwise be subject to audit and adjustment or recapture in accordance with the requirements of this article.

(E) Temporary or permanent disqualification of any project transferee, neighborhood organization, qualified charitable organization, charitable organization or other organization, entity or person or group thereof, from participation in any and all certified projects currently in existence or to be formed, proposed or certified under this article.

(i) No tax credit shall be allowed under this article for any contribution made during the disqualification period
to any project transferee, neighborhood organization, qualified charitable organization, charitable organization or other organization, entity or person disqualified under this section from participation in any and all certified projects under this article. Tax credit taken by any eligible taxpayer in accordance with this article pursuant to the making of an eligible contribution to the project transferee, neighborhood organization, qualified charitable organization, charitable organization or other organization, entity or person disqualified from participation in any and all certified projects under this article, pursuant to a certified project plan prior to or subsequent to the disqualification period shall not be subject to recapture by reason of the disqualification. However, such credit shall otherwise be subject to audit and adjustment or recapture in accordance with the requirements of this article; and

(ii) No certification shall be issued during the disqualification period for any proposed project in which a project transferee, neighborhood organization, qualified charitable organization, charitable organization or other organization, entity or person disqualified under this section from participation in any and all certified projects is listed as a proposed project participant.

(F) Any combination of the aforementioned sanctions.

(3) Audits and investigations. — The West Virginia development office or the department of tax and revenue, or both, may initiate and carry out investigations or audits of any recipient of any eligible contribution under this article, any eligible taxpayer or any project transferee to determine whether the project certification fee imposed by this section has been paid in accordance with the requirements of this article.

(4) Procedures, failure to timely pay the project certification fee upon written demand. —

(A) Written demand. — The director of the West Virginia development office shall, upon a reasonable
belief that a project transferee has failed to timely pay
the fee imposed by this section, issue a written demand
for payment thereof, plus interest determined at the
interest rate prescribed under section seventeen, article
ten of this chapter, in such form as the director of the
West Virginia development office may specify. The
director of the West Virginia development office may
also impose a penalty for failure to timely pay the project
certification fee in the amount of twenty percent of the
amount of the project certification fee due and interest
due. Such demand shall notify the project transferee of
the opportunity to show that the project certification fee
is not due and owing.

(B) Failure to pay pursuant to written demand. —

Failure of the project transferee to pay any project
certification fee due, with interest and penalties, as
stated in the written demand for payment of the project
certification fee, within thirty days of service of such
demand, and failure of the project transferee to prove to
the satisfaction of the director of the West Virginia
development office that the fee imposed by this section
is not due and owing, shall result in a determination by
the director of the West Virginia development office that
sanctions shall apply.

(C) Notice of pending sanctions. — Upon the making of
a determination by the director of the West Virginia
development office that sanctions for failure to pay the
project certification fee apply, the director of the West
Virginia development office shall serve upon the project
transferee from which the project certification fee, or
some portion thereof, is due and owing, a notice of
pending sanctions. If the project transferee from which
the certified project fee, or some portion thereof, is due
and owing is not the applicant for project certification,
then an informational copy of the notice of pending
sanctions shall also be served upon the applicant for
project certification.

(D) Service of notice, content of notice. — The notice of
pending sanctions shall be served upon the delinquent project transferee in the same manner as an assessment of tax in accordance with article ten of this chapter. Such notice of pending sanctions shall state the sanctions to be applied in accordance with this section, the effective date or dates of such sanctions, with specific statements of whether any sanction is to be applied retroactively or in part retroactively, and the commencement and termination dates for any suspensions of certification or temporary disqualifications of any program transferee, neighborhood organization, qualified charitable organization, charitable organization or other organization, entity or person to be disqualified under this section from participation in certified projects. The notice of pending sanctions shall state that sanctions shall be imposed sixty days after service of the notice of pending sanctions upon the delinquent project transferee, unless the delinquent project transferee pays the amount of the project certification fee due and owing, plus interest and penalties.

(E) Appeals. — The project transferee may file an appeal of pending sanctions as if the notice of pending sanctions were an assessment of tax under article ten of this chapter, and the matter on appeal shall be subject to the procedures set forth in article ten of this chapter. On appeal, the burden of proof shall be on the project transferee to prove that the project certification fee and associated interest and penalties are not due and owing. The review on appeal shall be limited to:

(i) The issue of whether a failure to timely pay the project certification fee or any portion thereof has occurred, the time period or periods over which such failure occurred, and whether such failure continues to occur;

(ii) The amount of the project certification fee and interest due; and

(iii) The mathematical and methodological accuracy of the computation of the project certification fee, interest
and penalties.

(F) **Statutory confidentiality.** — No information, document or proceeding brought pursuant to this section, relating to the liability of any project transferee for the project certification fee, interest or penalties imposed under this section is subject to the confidentiality provisions of article ten of this chapter or any other confidentiality provision of this code. However, any proceeding relating to any amount of tax due or the recapture of tax credit taken under this article or any adjustment of the amount of tax credit taken under this article is subject to the provisions of article ten of this chapter, including all statutory confidentiality provisions, and shall be subject to all other applicable statutory confidentiality provisions of this code.

(G) **Effect of a final determination, waiver of penalties or sanctions.** — The notice of pending sanctions shall become final sixty days after service, unless an appeal is filed under this section, and shall not be subject to further appeal by the recipient thereof. When a determination has become final that a project transferee has failed to timely pay the project certification fee, or any part thereof, the sanctions described in the notice of pending sanctions shall apply, effective as of the date set forth in that notice, unless the project certification fee, interest and penalties due are paid to the West Virginia development office within thirty days of the date on which the determination has become final. The twenty percent penalty authorized under this section may be imposed, adjusted, withdrawn or waived, in whole or in part, at the discretion of the director of the West Virginia development office. However, payment of the project certification fee and interest due shall not be subject to waiver. The sanctions for failure to pay the project certification fee authorized under this section may be imposed, adjusted, withdrawn or waived, in whole or in part, at the discretion of the director of the West Virginia development office.
(c) Within sixty days after the close of the regular meeting of the neighborhood investment advisory board next succeeding the date of receipt of a complete application for approval of a proposed project, the director of the West Virginia development office shall certify, or deny certification of, the proposed project for which such application has been filed. Those applications not approved by the director within sixty days as aforesaid shall be deemed disapproved by operation of law.

(d) The West Virginia development office shall promptly notify an applicant as to whether an application for certification of a project plan has been approved or disapproved.

(e) Those prospective qualified charitable organizations which receive certification of a project plan, and which otherwise comply with the requirements of this article so as to become qualified charitable organizations, as defined in section three of this article, may receive eligible contributions, as defined in said section. Eligible taxpayers which make eligible contributions shall receive a tax credit as provided in section five of this article. No tax credit may be granted under this article for any contribution except eligible contributions made to a project which has been certified in accordance with the requirements of this article prior to the making of the contribution. No tax credit may be granted under this article for any contribution which, if allowed, would cause the amount of tax credit generated by the project to exceed the maximum amount of tax credit for which the project was certified as stated in the application for project certification filed with the West Virginia development office.

(f) All applications for certification of a project filed with the West Virginia development office, whether such project is certified or denied certification, are public information which may be viewed and copied by the public and, at the discretion of the West Virginia development office, published by the West Virginia develop-
(g) Revolving fund. —

(1) For the purpose of permitting payments to be made and costs to be met for operation of the program established by this article, there is hereby created a revolving fund for the West Virginia development office, which shall be known as the neighborhood investment fund. All money received by the West Virginia development office under this article shall be paid into the state treasury, and shall be deposited to the credit of the neighborhood investment fund, and shall be expended only for the purposes of defraying the costs of the neighborhood investment program advisory board and the West Virginia development office in administering the program established pursuant to this article, unless otherwise directed by the Legislature.

(2) The neighborhood investment fund shall be accumulated and administered as follows:

(A) There shall be appropriated from the general revenue fund the sum of sixty thousand dollars to be transferred to the neighborhood investment fund to create a revolving fund which, together with other payments into this fund as provided in this article, shall be utilized to defray the costs of the neighborhood investment program advisory board and the West Virginia development office in administering the program established pursuant to this article, unless otherwise directed by the Legislature.

(B) Payments received under this article shall be deposited into the neighborhood investment fund.

(C) Any appropriations made to the neighborhood investment fund shall not be deemed to have expired at the end of any fiscal period.

§11-13J-4a. Neighborhood investment program advisory board.

(a) There is hereby created a neighborhood investment
advisory board, which shall consist of twelve voting members and the chairperson.

(b) Chairperson.

(1) The director of the West Virginia development office, or the designee of the director of the West Virginia development office, shall be the ex officio chairperson of the neighborhood investment program advisory board.

(2) The chairperson shall vote on actions of the board only in the event of a tie vote, in which case the chairperson's vote shall be the deciding vote.

(c) Board members.

(1) Four of the members shall each be officers or members of the boards of directors of unrelated corporations which are not affiliated with one another and which are currently licensed to do business in West Virginia.

(2) Four of the members shall each be executive directors, officers or members of the boards of directors, of unrelated not-for-profit organizations which are not affiliated with one another, which currently hold charitable organization status under Section 501(c)(3) of the Internal Revenue Code and which are currently licensed to do business in West Virginia.

(3) Four of the members shall be economically disadvantaged citizens of the state:

(i) An appointee will qualify as an economically disadvantaged citizen of this state if the appointee is an economically disadvantaged person who, for the taxable year immediately preceding the year of the member's appointment to the board, had an annual gross personal income that was not more than one hundred twenty-five percent of the federal designated poverty level for personal incomes, and who has been a domiciliary and resident of this state for at least one year at the time of the appointment;
Continued qualification and reappointment. — An appointee or member appointed under this subdivision is not disqualified from appointment to the board or from completion of the member’s ongoing term of service on the board if the appointee’s or member’s income in the year of appointment or in any year subsequent to the year of appointment exceeds one hundred twenty-five percent of the federal designated poverty level. However, a serving member shall not qualify under this subdivision for reappointment to the board unless such member has had, for the taxable year immediately preceding the year of the member’s reappointment to the board, an annual gross personal income that was not more than one hundred twenty-five percent of the federal designated poverty level for personal incomes, and has been a domiciliary and resident of this state for at least one year at the time of the member’s reappointment to the board: Provided, That such member may be reappointed pursuant to qualification under subdivision (1) or subdivision (2) of this subsection, notwithstanding disqualification under this subdivision, if such member meets the requirements of subdivision (1) or subdivision (2), respectively, of this subsection at the time of reappointment.

Limitations; terms of members; appointments. —

(1) Not more than four members (exclusive of the chairperson) shall be appointed from any one congressional district. Not more than seven of the members (exclusive of the chairperson) may belong to the same political party. Members shall be eligible for reappointment. However, no member may serve for more than three consecutive terms.

(2) Appointment terms. —

(A) Except for initial appointments described under subdivision (3) of this subsection, and except for midterm special appointments made to fill irregular vacancies on the board, members shall be appointed for terms of three years each.
(B) Except for midterm special appointments made to fill irregular vacancies on the board, appointment terms shall begin on the first day of July of the beginning year. All appointment terms, special and regular, shall end on the thirtieth day of June of the ending year.

(3) Initial appointments. — The members first appointed shall be appointed for a term commencing on the first day of July, one thousand nine hundred ninety-six. In order that the terms may be staggered so that four members are appointed each year:

(A) Four of the members first appointed shall, for the first term, be appointed for terms of one year. Those four members shall be appointed so that at least one appointee is appointed from each of the three member appointee groups specified in subdivisions (1), (2) and (3), subsection (c) of this section.

(B) Four of the members first appointed shall, for the first term, be appointed for terms of two years. Those four members shall be appointed so that at least one appointee is appointed from each of the three member appointee groups specified in subdivisions (1), (2) and (3), subsection (c) of this section.

(C) Four of the members first appointed shall, for the first term, be appointed for terms of three years. Those four members shall be appointed so that at least one appointee is appointed from each of the three member appointee groups specified in subdivisions (1), (2) and (3), subsection (c) of this section.

(D) Subsequent appointments of members, except for midterm special appointments made to fill irregular vacancies on the board, shall be for terms of three years in accordance with subdivision (2) of this subsection.

(4) Selection of members. —

(A) For the initial appointment of members under subdivision (3) of this subsection, members shall be selected by the director of the West Virginia develop-
(B) At the end of a member's term, the chairperson shall solicit new member nominations from the board and appoint the most appropriate person to serve, in compliance with the requirements set forth in this section.

(C) Vacancies on the board shall be filled in the same manner as the original appointments for the duration of the unexpired term.

(e) Quorum; meetings; funding. —

(1) The presence of a majority of the members of the board constitutes a quorum for the transaction of business. The board shall elect from among its members a vice chairperson and such other officers as are necessary.

(2) The board shall meet not less than six times during the fiscal year, and additional meetings may be held upon a call of the chairperson or of a majority of the members.

(3) Board members shall be reimbursed by the West Virginia development office for sums necessary to carry out responsibilities of the board and for reasonable travel expenses to attend board meetings.

(f) Annual report. — The board shall make a report to the governor and the Legislature within thirty days of the close of each fiscal year. The report shall include summaries of all meetings of the board, an analysis of the overall progress of the program, fiscal concerns, the relative impact the program is having on the state and any suggestions and policy recommendations that the board may have. The report shall be public information made available to the general public for examination and copying. The board is authorized to publish the annual report, should the board elect to do so.

(g) Duties of the board. —
147 (1) Administrative duties. —
148 (A) The board shall be responsible for advising the
149 West Virginia development office concerning the admin-
150 istrative obligations of the program.
151 (B) The board shall approve application forms, track-
152 ing systems and program record-keeping systems and
153 methods.
154 (2) Project evaluation and approval; prohibition on
155 project promotion. —
156 (A) The board shall select and approve projects, which
157 may then be certified by the director of the West Virginia
158 development office pursuant to section four of this
159 article.
160 (B) Only projects sponsored by qualified charitable
161 organizations, as defined in section three of this article,
162 may be approved by the board or certified by the direc-
163 tor of the West Virginia development office. An appli-
164 cant that does not hold current status as a charitable
165 organization under Section 501(c)(3) of the Internal
166 Revenue Code may not receive project approval from the
167 board, or project certification from the director of the
168 West Virginia development office, for any proposed
169 project. Failure of any applicant to provide convincing
170 documentation proving such status as a charitable
171 organization under Section 501(c)(3) of the Internal
172 Revenue Code shall result in automatic denial of project
173 approval and denial of project certification under this
174 article.
175 (C) The board may not assist project sponsors or others
176 in their efforts to solicit support or donations from any
177 governmental, corporate or individual source for projects
178 certified under this article.
179 (3) Criteria for evaluation. — In evaluating projects for
180 approval, the board shall give priority to projects based
181 upon the following criteria. A proposed project shall be
182 favored if:
183 (A) The project is community-based. A project is community-based if:
184 (i) The project is to be managed locally, without national, state, multi-state or international affiliations;
185 (ii) The project will benefit local citizens in the immediate geographic area where the project is to operate;
186 and
187 (iii) The sponsor of the project is a local entity, rather than a statewide, national or international organization or an affiliate of a statewide, national or international organization.
188 (B) The proposed project will primarily serve low income persons.
189 (C) The proposed project will serve highly distressed neighborhoods or communities.
190 (D) The project plan incorporates collaborative partnerships among nonprofit groups, businesses, government organizations and other community organizations.
191 (E) The applicant or sponsor of the project has demonstrated a proven capacity to deliver the proposed services.
192 (F) The applicant or sponsor of the project historically maintains low administrative costs.
193 (G) The applicant produces a strong showing of need for the services which the proposed project would provide, and produces convincing documentation of that need.
194 (H) The proposed project is innovative, novel, creative or unique in program approach.
195 (4) In the event that an applicant is directly or indirectly affiliated with one or more board members, those members may discuss the proposals with the board, but may not have a vote when that project is considered for final approval or disapproval.
(5) Project approval by the board. — Proposed projects shall be approved or denied approval by a majority vote of the board after competitive comparison with proposed projects of other applicants.

(h) Project certification by the director of the West Virginia development office. —

(1) Upon issuance of approval for a project by the board, the approved project shall be certified by the director of the West Virginia development office: Provided, That no certification may issue for any project, even though the project may have been approved by the board, if the issuance of certification for such project will cause the aggregate amount of tax credits certified to exceed the limitation set forth in section eight of this article or elsewhere in this article. No certification may be issued by the director of the West Virginia development office for any project which has not been approved by the board.

(2) The West Virginia development office shall promptly notify applicants of the issuance of certification for their projects, and shall issue tax credit vouchers to certified project applicants in the amount of the tax credit represented by the project.

(3) The West Virginia development office may provide incidental technical support and guidance to projects certified under this article and may monitor the progress of the projects. The West Virginia development office shall make a quarterly report to the board on the progress of certified projects and the program generally.

§11-13J-5. Amount of credit allowed.

(a) Credit allowed. — Eligible taxpayers shall be allowed a credit against taxes imposed by this state, the application of which and the amount of which shall be determined as provided in this article.

(b) Amount of credit. — The amount of credit allowable is fifty percent of the amount of the taxpayer's " eligible
section five of this article for an eligible contribution placed into service or use during a prior tax year; plus

(2) The one-fifth part allowed under section five of this article for an eligible contribution placed into service or use during the current tax year.

(b) Application of current year annual credit allowance. — The amount determined under subsection (a) of this section shall be allowed as a credit for tax years ending on and after the first day of July, one thousand nine hundred ninety-six, as follows:

(1) Business franchise taxes. — The amount determined under subsection (a) of this section shall be applied to reduce up to fifty percent of the taxes imposed by article twenty-three of this chapter for the tax year (determined after application of the credits against tax provided in section seventeen of said
Corporation net income taxes. — After application of subdivision (1) of this subsection, any unused credit shall next be applied to reduce up to fifty percent of the taxes imposed by article twenty-four of this chapter, for the tax year (determined before application of allowable credits against tax).

Personal income taxes. —

(A) If the eligible taxpayer is an electing small business corporation (as defined in Section 1361 of the United States Internal Revenue Code), a limited liability company treated as a partnership for purposes of the federal income tax, a partnership or a sole proprietorship, then any unused credit (after application of subdivisions (1) and (2) of this subsection) shall be allowed as a credit against up to fifty percent of the taxes imposed by article twenty-one of this chapter on income of proprietors, partners or shareholders, subject to the limitations set forth in parts (B) and (C) of this subdivision.

(B) Electing small business corporations, partnerships and other unincorporated organizations shall allocate the credit allowed by this article among the members thereof in the same manner as profits and losses are allocated for the tax year.

(C) No credit may be allowed under this section against any tax due under article twenty-one of this chapter on any wage, salary or other compensation paid to any employee of any electing small business corporation, limited liability company, partnership, other unincorporated organization or sole proprietorship or against any amount of tax due on any wage, salary or other compensation reported on federal form W2.

(c) Unused credit forfeited. — If any annual credit remains after application of subsections (a) and (b) of this section, the amount thereof shall be forfeited. No carryover to a subsequent tax year or carryback to a
prior tax year shall be allowed for the amount of any unused portion of any annual credit allowance under this article.

(d) Addition of deductions, decreasing adjustments or decreasing modifications taken in determining taxable income for which credit is taken. — Any deduction, decreasing adjustment or decreasing modification taken by any taxpayer in determining federal taxable income which affects West Virginia taxable income or in determining West Virginia taxable income under article twenty-one or article twenty-four of this chapter for the taxable year for any charitable contribution, or payment or portion thereof, which qualifies as an eligible contribution under this article and for which credit is claimed, shall be added to West Virginia taxable income in determining the tax liability of the taxpayer under article twenty-one or article twenty-four of this chapter, as appropriate, before application of the credit allowed under this article for the taxable year.

§11-13J-7. Assertion of the tax credit against tax.

(a) Any eligible taxpayer which desires to claim a tax credit as provided in this article shall file with the West Virginia tax commissioner, in such form as the tax commissioner may prescribe, an annual tax credit reporting schedule stating the amount of the eligible contribution which the taxpayer has made. The eligible taxpayer shall file with the tax credit reporting schedule a certificate, issued by the director of the West Virginia development office, evidencing approval of the project plan by the director of the West Virginia development office, pursuant to which the contribution was made.

(b) In the tax credit reporting schedule required under this section, the taxpayer shall provide all information required by the tax commissioner's prescribed form.

(c) The tax credit reporting schedule shall be filed with the annual return for the taxes imposed by article twenty-four of this chapter for the tax year in which the

eligible contribution is first irrevocably transferred to a
transferee pursuant to a certified project plan: Provided,
That, if the eligible taxpayer is not required to file a tax
return under article twenty-four of this chapter, then
such tax credit reporting schedule shall be filed with the
annual return for the taxes imposed by article twenty-
three of this chapter for such year: Provided, however,
That, if the eligible taxpayer is not required to file a tax
return under article twenty-four or article twenty-three
of this chapter, then such tax credit reporting schedule
shall be filed with the annual return for the taxes
imposed by article twenty-one of this chapter for such
year.

(d) The tax credit reporting schedule shall be accompa-
nied by such proof of payment as the tax commissioner
may prescribe, showing that the amount to be contrib-
uted under the certified project plan has been paid to the
transferee designated in the certified plan solely for the
certified project.

(e) The tax commissioner may disallow any credit
claimed under this article for which a properly com-
pleted tax credit reporting schedule or a properly
completed and valid statement or proof of payment of
the eligible contribution, or other required documenta-
tion, statements or proofs are not timely filed.

§11-13J-8. Total maximum aggregate tax credit amount.

(a) The amount of tax credits allowed under this article
may not exceed two million dollars in any state fiscal
year.

(b) Applications for project certification shall be filed
with the West Virginia development office beginning on
and after the first day of July, one thousand nine hun-
dred ninety-six. The West Virginia development office
shall record the time of filing of each application for
certification of a project plan required under section
four of this article. All complete and valid applications
filed shall be considered for approval or disapproval in
a timely manner by the neighborhood assistance advisory
board at the regular meeting of the board next succeed-
ing the date when such applications are filed, and at
such continuing meetings as may be necessary to dispose
of business in a timely manner. The board may, in its
discretion, consider applications for approval or disap-
proval at special or interim meetings for expedited
processing.

(c) When the total amount of tax credits certified under
this article equals the maximum amount of tax credits
allowed, as specified in subsection (a) of this section, in
any state fiscal year, no further certifications shall be
issued in that same fiscal year. Upon approval of a
project by the board, the director of the West Virginia
development office shall certify the approved project
unless certification is prohibited by the limitations and
requirements set forth in this article.

(d) All applications filed in any state fiscal year and
not certified during the state fiscal year in which they
are filed shall be null and void by operation of law on the
last day of the state fiscal year in which they are filed,
and all applicants which elect to seek certification of a
project plan shall file anew on and after the first day of
the immediately succeeding state fiscal year without
regard to whether such applicants have previously filed
and failed to obtain certification for their application, or
have never before filed.

§11-13J-9. Credit recapture; interest; penalties; additions to
tax; statute of limitations.

1 If it appears upon audit or otherwise that an eligible
taxpayer has not made contribution as represented, or
should it appear that contributions made by an eligible
taxpayer were made to the direct or indirect benefit of
the eligible taxpayer making the contribution or to the
direct or indirect benefit of any person related to the
eligible taxpayer making the contribution, the credit
previously allowed under this article shall be recaptured,
and amended returns shall be filed for any tax year for
which the credit was taken. Any additional taxes due
under this chapter shall be remitted with the amended
return or returns filed with the tax commissioner, along
with interest, as provided in section seventeen, article
ten of this chapter, and a ten percent penalty, which may
be waived by the tax commissioner if the taxpayer shows
that the overclaimed amount was due to reasonable
cause and not due to willful neglect, and such other
penalties and additions to tax as may be applicable
pursuant to the provisions of article ten of this chapter.
Notwithstanding the provisions of article ten of this
chapter, the statute of limitations for the issuance of an
assessment of tax by the tax commissioner shall be five
years from the date of the filing of any tax return on
which this credit was taken or five years from the date of
payment of any tax liability calculated pursuant to the
assertion of this credit, whichever is later.
§11-13J-10. Public information relating to tax credit.

The tax commissioner shall annually publish in the
state register the name and address of every taxpayer
asserting this credit on a tax return, and the amount of
any credit asserted on a tax return under this article by
each such taxpayer, and the confidentiality provisions of
section four-a, article one, or section five-d, article ten
of this chapter, or of any other provision of this code, do
not apply to such information.

§11-13J-11. Audits and examinations; information sharing.

(a) In addition to, or instead of, discretionary audits of
eligible taxpayers which may be carried out by the tax
commissioner, the tax commissioner may, at the tax
commissioner’s discretion, perform joint audits or
examinations in concert with the West Virginia develop-
ment office, of, or independently audit or examine, the
books and records and other information, as appropriate,
of any taxpayer, or of any person, organization or entity
which has filed an application for certification of a
project plan under section four of this article with the
West Virginia development office, or of any taxpayer
which has asserted this credit on a tax return, or of any
person, organization or entity believed to have relevant
information.

(b) For purposes of joint audits, or any administrative
or judicial proceeding or procedure relating to any tax
credit taken, asserted or sought under this article, the
tax commissioner may share such tax information as the
tax commissioner may deem appropriate with the West
Virginia development office, notwithstanding the
provisions of section four-a, article one, or section five-d,
article ten of this chapter, or any other provision of this
code to the contrary.

§11-13J-12. Program evaluation; expiration of credit; preservation of entitlements.

On or before the thirtieth day of September, one
thousand nine hundred ninety-eight, the board shall
secure an independent review of the program created
under this article and shall present the findings of that
review to the Legislature. Pursuant to this report, and
any independent evaluation that the Legislature or the
joint committee on governmental operations may wish to
initiate, the joint committee on governmental operations
shall issue a recommendation to the Legislature, not
later than the first day of March, one thousand nine
hundred ninety-nine, as to whether the program should
continue. Should the joint committee on governmental
operations recommend that the program not be termi-
nated, appropriate legislation shall be prepared specify-
ing that the program shall continue in such manner as
the joint committee on governmental operations may
recommend, and the same shall be submitted to the
Legislature by the joint committee on governmental
operations in a timely manner for consideration by the
Legislature during the then ongoing legislative session.
Should the joint committee on governmental operations
fail to recommend the continuation of the program, as
aforesaid, then, notwithstanding any other provision of
this article to the contrary, no entitlement to the tax
credit under this article shall result from any contribution made to any certified project after the first day of July, one thousand nine hundred ninety-nine, and no credit shall be available to any taxpayer for any such contribution made after that date. However, taxpayers which have gained entitlement to the credit pursuant to the requirements of this article for eligible contributions made to certified projects prior to the first day of July, one thousand nine hundred ninety-nine, shall retain that entitlement and apply the credit in due course pursuant to the requirements and limitations of this article, and subject to all provisions thereof.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 15th day of April, 1996.

Governor