

1 all to read as follows:

2 **ARTICLE 13J. NEIGHBORHOOD INVESTMENT PROGRAM.**

3 **§11-13J-4a. Neighborhood investment program advisory board.**

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

7 (b) *Chairperson.* --

8 (1) The Director of the West Virginia Development Office, or
9 the designee of the Director of the West Virginia Development
10 Office, shall be the ex officio chairperson of the neighborhood
11 investment program advisory board.

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

15 (c) *Board members.* --

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

20 (2) Four members shall be executive directors, officers or
21 members of the boards of directors of unrelated not-for-profit
22 organizations which are not affiliated with one another which
23 currently hold charitable organization status under Section

1 501(c)(3) of the Internal Revenue Code and which are currently
2 licensed to do business in West Virginia.

3 (3) Four members shall be economically disadvantaged citizens
4 of the state that, for the taxable year immediately preceding the
5 year of appointment to the board, had an annual gross personal
6 income that was not more than one hundred twenty-five percent of
7 the federal designated poverty level for personal incomes, and who
8 has been a domiciliary and resident of this state for at least one
9 year at the time of appointment.

10 A member appointed under this subdivision is not disqualified
11 from completion of his or her term if his or her income in the year
12 of appointment or in any year subsequent to the year of appointment
13 exceeds one hundred twenty-five percent of the federal designated
14 poverty level. A member shall not be eligible for reappointment
15 under this subdivision unless he or she meets the original
16 qualifications for appointment: *Provided*, That such member may be
17 reappointed pursuant to qualification under subdivision (1) or (2)
18 of this subsection if the member meets the requirements of
19 subdivision (1) or (2), respectively.

20 (d) *Limitations; terms of members; appointments.* --

21 (1) Not more than four members, exclusive of the chairperson,
22 shall be appointed from any one congressional district. Not more
23 than seven of the members, exclusive of the chairperson, may belong

1 to the same political party. Members shall be eligible for
2 reappointment. However, no member may serve for more than three
3 consecutive terms.

4 (2) *Appointment terms.* --

5 (A) Except for initial appointments described under
6 subdivision (3) of this subsection, and except for midterm special
7 appointments made to fill irregular vacancies on the board, members
8 shall be appointed for terms of three years each.

9 (B) Except for midterm special appointments made to fill
10 irregular vacancies on the board, appointment terms shall begin on
11 July 1, of the beginning year. All appointment terms, special and
12 regular, shall end on June 30 of the ending year.

13 (3) *Selection of members.* --

14 (A) For the initial appointment of members under this
15 subdivision, members shall be selected by the Director of the West
16 Virginia Development Office.

17 (B) At the end of a member's term, the chairperson shall
18 solicit new member nominations from the board and appoint the most
19 appropriate person to serve, in compliance with the requirements
20 set forth in this section.

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

1 (e) *Quorum; meetings; funding.* --

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

6 (2) The board shall meet not less than four times during the
7 fiscal year, and additional meetings may be held upon a call of the
8 chairperson or of a majority of the members: *Provided*, That no
9 meeting of the board shall be required if the total amount of tax
10 credits available for the fiscal year have been allotted.

11 (3) Board members shall be reimbursed by the West Virginia
12 Development Office for sums necessary to carry out responsibilities
13 of the board and for reasonable travel expenses to attend board
14 meetings.

15 (f) *Annual report.* -- The board shall make a report to the
16 Governor and the Legislature within thirty days of the close of
17 each fiscal year. The report shall include summaries of all
18 meetings of the board, an analysis of the overall progress of the
19 program, fiscal concerns, the relative impact the program is having
20 on the state and any suggestions and policy recommendations that
21 the board may have. The report shall be public information made
22 available to the general public for examination and copying. The
23 board is authorized to publish the annual report, should the board

1 elect to do so.

2 (g) *Duties of the board.* --

3 (1) *Administrative duties.* -- The board shall be responsible
4 for advising the West Virginia Development Office concerning the
5 administrative obligations of the program.

6 (2) *Project evaluation and approval; prohibition on project*
7 *promotion.* --

8 (A) The board shall select and approve projects, which may
9 then be certified by the director of the West Virginia Development
10 Office pursuant to section four of this article.

11 (B) Only projects sponsored by qualified charitable
12 organizations, as defined in section three of this article, may be
13 approved by the board or certified by the Director of the West
14 Virginia Development Office. An applicant that does not hold
15 current status as a charitable organization under Section 501(c)(3)
16 of the Internal Revenue Code may not receive project approval from
17 the board, or project certification from the Director of the West
18 Virginia Development Office, for any proposed project. Failure of
19 any applicant to provide convincing documentation proving such
20 status as a charitable organization under Section 501(c)(3) of the
21 Internal Revenue Code shall result in automatic denial of project
22 approval and denial of project certification under this article.

23 (3) *Criteria for evaluation.* -- In evaluating projects for

1 approval, the board shall give priority to projects based upon the
2 following criteria. A proposed project shall be favored if:

3 (A) The project is community based. A project is community
4 based if:

5 (i) The project is to be managed locally, without national,
6 state, multistate or international affiliations;

7 (ii) The project will benefit local citizens in the immediate
8 geographic area where the project is to operate; and

9 (iii) The sponsor of the project is a local entity, rather
10 than a statewide, national or international organization or an
11 affiliate of a statewide, national or international organization.

12 (B) The proposed project will primarily serve low income
13 persons.

14 (C) The proposed project will serve highly distressed
15 neighborhoods or communities.

16 (D) The project plan incorporates collaborative partnerships
17 among nonprofit groups, businesses, government organizations and
18 other community organizations.

19 (E) The applicant or sponsor of the project has demonstrated
20 a proven capacity to deliver the proposed services.

21 (F) The applicant or sponsor of the project historically
22 maintains low administrative costs.

23 (G) The applicant produces a strong showing of need for the

1 services which the proposed project would provide, and produces
2 convincing documentation of that need.

3 (H) The proposed project is innovative, novel, creative or
4 unique in program approach.

5 (4) ~~In the event that~~ If an applicant is directly or
6 indirectly affiliated with one or more board members, those members
7 and may not discuss the proposals with the board, but may not have
8 a vote when that project is considered for final approval or
9 disapproval.

10 (5) *Project approval by the board.* -- Proposed projects shall
11 be approved or denied approval by a majority vote of the board
12 after competitive comparison with proposed projects of other
13 applicants.

14 (h) *Project certification by the Director of the West Virginia*
15 *Development Office.* --

16 (1) Upon issuance of approval for a project by the board, the
17 approved project shall be certified by the Director of the West
18 Virginia Development Office: *Provided,* That no certification may
19 issue for any project, even though the project may have been
20 approved by the board, if the issuance of certification for such
21 project will cause the aggregate amount of tax credits certified to
22 exceed the limitation set forth in this article. No certification
23 may be issued by the Director of the West Virginia Development

1 Office for any project which has not been approved by the board.

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

6 (3) The West Virginia Development Office may provide
7 incidental technical support and guidance to projects certified
8 under this article and may monitor the progress of the projects.
9 The West Virginia Development Office shall make a quarterly report
10 to the board on the progress of certified projects and the program
11 generally.

12 **§11-13J-6. Application of annual credit allowance.**

13 (a) *In general.* -- The aggregate annual credit allowance for
14 a current tax year is an amount equal to the sum of the following:

15 (1) The portion allowed under section five of this article for
16 an eligible contribution placed into service or use during a prior
17 tax year; plus

18 (2) The portion allowed under section five of this article for
19 an eligible contribution placed into service or use during the
20 current tax year.

21 (b) *Application of credit allowance.* -- The amount determined
22 under subsection (a) of this section shall be allowed as a credit
23 for tax years ending on and after July 1, 1996, as follows:

1 (1) *Business franchise taxes.* --

2 The amount determined under subsection (a) of this section
3 shall be applied to reduce up to fifty percent of the taxes imposed
4 by article twenty-three of this chapter for the tax year ~~as~~
5 determined after application of the credits against tax provided in
6 section seventeen of said article, but before application of any
7 other allowable credits against tax.

8 (2) *Corporation net income taxes.* -- After application of
9 subdivision (1) of this subsection, any unused credit shall next be
10 applied to reduce up to fifty percent of the taxes imposed by
11 article twenty-four of this chapter, for the tax year determined
12 before application of allowable credits against tax.

13 (3) *Personal income taxes.* --

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

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

5 (C) Any taxpayer subject to the personal income tax under
6 article twenty-one of this chapter, who makes an eligible
7 contribution to a qualified charitable organization, and receives
8 back from that organization a properly completed neighborhood
9 investment program tax credit voucher, is eligible to claim the
10 credit. The credit shall be allowed without regard to the source
11 of that income, whether it is from wages, passive investment or
12 retirement income, income from a trade or business or any other
13 source.

14 (c) *Unused credit forfeited.* -- If any credit to an eligible
15 taxpayer remains after application of subsections (a) and (b) of
16 this section, the amount thereof may be carried forward no more
17 than four years from the tax year in which the contribution was
18 made. Unused credits of an eligible taxpayer may not be carried
19 forward beyond the time limits imposed under section five of this
20 article and the total maximum aggregate tax credits certified in
21 any state fiscal year may not exceed ~~\$2,000,000~~ \$3,000,000.

22 (d) *Addition of deductions, decreasing adjustments or*
23 *decreasing modifications taken in determining taxable income for*

1 *which credit is taken.* -- Any deduction, decreasing adjustment or
2 decreasing modification taken by any taxpayer in determining
3 federal taxable income which affects West Virginia taxable income
4 or in determining West Virginia taxable income under article
5 twenty-one or twenty-four of this chapter for the taxable year for
6 any charitable contribution, or payment or portion thereof, which
7 qualifies as an eligible contribution under this article and for
8 which credit is claimed, shall be added to West Virginia taxable
9 income in determining the tax liability of the taxpayer under
10 article twenty-one or twenty-four of this chapter, as appropriate,
11 before application of the credit allowed under this article for the
12 taxable year.

13 (e) *Annual limit.* -- The aggregate annual credit allowance to
14 any taxpayer may not exceed \$100,000 in any tax year.

15 **§11-13J-8. Total maximum aggregate tax credit amount.**

16 (a) The amount of tax credits allowed under this article may
17 not exceed ~~two million five hundred thousand dollars~~ \$3,000,000 in
18 any state fiscal year.

19 (b) Applications for project certification shall be filed with
20 the West Virginia Development Office. The West Virginia
21 Development Office shall record the date each application is filed.
22 All complete and valid applications shall be considered for
23 approval or disapproval in a timely manner by the neighborhood

1 assistance advisory board. The board may, in its discretion,
2 consider applications for approval or disapproval at special or
3 interim meetings for expedited processing.

4 (c) When the total amount of tax credits certified under this
5 article equals the maximum amount of tax credits allowed, as
6 specified in subsection (a) of this section, in any state fiscal
7 year, no further certifications shall be issued in that same fiscal
8 year. Upon approval of a project by the board, the Director of the
9 West Virginia Development Office shall certify the approved project
10 unless certification is prohibited by the limitations and
11 requirements set forth in this article.

12 (d) All applications filed in any state fiscal year and not
13 certified during the state fiscal year in which they are filed
14 shall be null and void by operation of law on the last day of the
15 state fiscal year in which they are filed, and all applicants which
16 elect to seek certification of a project plan shall file anew on
17 and after the first day of the succeeding state fiscal year.

18 **§11-13J-12. Program evaluation; expiration of credit;**
19 **preservation of entitlement.**

20 Beginning on December 15, 2005, and every second year
21 thereafter, the director shall secure an independent review of the
22 neighborhood investment program created by this article and present
23 the findings to the Joint Committee on Government and Finance.

1 Unless sooner terminated by law, the Neighborhood Investment
2 Program Act terminates on ~~July 1, 2011~~ July 1, 2016. There is no
3 entitlement to the tax credit under this article for a contribution
4 made to a certified project after ~~July 1, 2011~~ July 1, 2016, and no
5 credit is available to any taxpayer for any contribution made after
6 that date. Taxpayers which have gained entitlement to the credit
7 pursuant to eligible contributions made to certified projects prior
8 to ~~July 1, 2011~~ July 1, 2016, shall retain that entitlement and
9 apply the credit in due course pursuant to the requirements and
10 limitations of this article.

NOTE: The purpose of this bill is to change the termination date for the Neighborhood Investment Program from July 1, 2011 to July 1, 2016, to prevent board members affiliated with applicants from discussing or voting on proposals put forth by those applicants, to increase the amount of total aggregate tax credit certified each year from \$2 million to \$3 million and to increase the amount of total aggregate tax credit allowed each year from \$2.5 million to \$3 million.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.