GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 168

Short Title: Change Welfare to Charity. (Public)

Sponsors: Representatives Aldridge; Capps, Davis, Hardy, Morris, Shubert, Starnes, and Watson.

Referred to: Welfare Reform, if favorable, Finance.

February 13, 1997

A BILL TO BE ENTITLED

AN ACT TO SHIFT RESPONSIBILITY FOR ASSISTANCE TO THE ECONOMICALLY DISADVANTAGED FROM GOVERNMENT TO PRIVATE CHARITY BY ALLOWING A TAX CREDIT FOR CERTAIN CHARITABLE CONTRIBUTIONS TO ORGANIZATIONS DEDICATED TO HELPING THE POOR.

Whereas, in order to reduce the cost of welfare, all proposals addressing welfare reform should be examined; and

Whereas, there is growing support for a proposal known as "Taxpayer Choice", designed to shift responsibility for assistance to the economically disadvantaged from government to private charity; and

Whereas, under this Taxpayer Choice proposal, taxpayers could be given a tax credit for charitable contributions to organizations dedicated to helping the poor, as proposed in S. 846, introduced in Congress in 1995 by Senator John Ashcroft of Missouri; and

Whereas, this Taxpayer Choice proposal should eventually be revenue neutral, reducing government welfare appropriations to offset the cost of incentives that give taxpayers the choice to allocate their tax dollars to private charitable organizations which distribute the funds to those in need; and

Whereas, proponents of this idea believe that since private charities have been working efficiently and successfully, a greater portion of tax dollars would reach those in need, rather than support the bureaucratic process of the current welfare programs; and

Whereas, proponents also believe that since the private charities are part of the communities that they serve and know the members of their communities, they would be better suited to distribute donations to those in need; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Division II of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-151.27. Credit for certain charitable contributions to help the poor.**

(a) Credit. – There is allowed as a credit against the tax imposed by this Division an amount equal to the qualified charitable contributions paid by the taxpayer to one qualified charity during the taxable year, up to a maximum credit as provided in the following table for the taxable year:

Taxable Years Beginning	Maximum Credit
In 1998	$300
In 1999	400
Thereafter	500

A nonresident or part-year resident who claims the credit allowed by this section shall reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate. The credit allowed under this section may not exceed the amount of tax imposed by this Division for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer.

(b) Substantiation. – In order to claim a credit under this section, a taxpayer must include with the tax return a copy of the qualified charity's certification pursuant to subsection (d) of this section and provide any other information required by the Secretary of Revenue to establish the taxpayer's eligibility for the credit and the amount of the tax credit.

(c) Definitions. – The following definitions apply in this section:

(1) Qualified Charitable Contribution. – A charitable contribution, as defined in section 170(c) of the Code, made in cash to a qualified charity.

(3) Qualified Charity. – A nonprofit organization that meets the following conditions:

a. Contributions to the organization are deductible as charitable contributions for federal income tax purposes.

b. The organization is certified by the Secretary of Human Resources as primarily assisting the poor, as provided in subsection (d) of this section.

(d) Certification by Secretary of Human Resources. – In order to be a qualified charity for the purpose of this section, a nonprofit organization must receive the certification of the Secretary of Human Resources that its predominant activity is the provision of services to individuals whose annual incomes do not exceed one hundred fifty percent (150%) of the official poverty line as defined by the United States Office of Management and Budget. Providing these services is the organization's predominant activity if the Secretary of Human Resources reasonably expects that the organization's annual expenditures for providing these services will be at least seventy percent (70%) of the organization's annual aggregate expenditures. In calculating whether the seventy percent (70%) threshold has been met, the Secretary of Human Resources may include in that percentage salaries for staff members who provide the services but may not include administrative expenses, expenses for the purpose of influencing legislation, as defined in section 4911(d) of the Code, expenses primarily for the purpose of fund raising, or expenses for legal services.

An organization shall apply to the Secretary of Human Resources for certification as a qualified charity. The application must be on a form provided by the Secretary of Human Resources and must contain any information necessary for the Secretary of Human Resources to determine whether the organization meets the eligibility requirements of this subsection. When filing an application for certification under this subsection, the organization must pay the Department of Human Resources a fee of seventy-five dollars ($75.00) to cover the Department's costs of processing the application. The Secretary of Human Resources shall retain the proceeds of the fee as a departmental receipt for the costs of administering this subsection.

If the Secretary determines that the organization meets the eligibility requirements, the Secretary shall issue a certificate identifying the organization and stating that it meets the eligibility requirements for a qualified charity. If the Secretary of Human Resources determines that the organization does not meet the eligibility requirements of this subsection, the Secretary must advise the organization in writing of the eligibility requirements the organization fails to meet.

The Secretary's certification of an organization is valid for the calendar year during which the certification is issued. An organization must apply for certification annually. When applying for certification for a second or subsequent year, the organization shall include with its application a detailed report of its activities for the prior 12-month period, including statistics on the number of individuals served, the location and type of services provided, and any other information required by the Secretary of Human Resources. The Secretary of Human Resources shall compile this information and report annually to the Legislative Research Commission on the level, location, and type of services provided by qualified charities. The Secretary of Human Resources may adopt rules in accordance with Chapter 150B of the General Statutes that are needed to carry out the Secretary of Human Resources' responsibilities under this subsection.

(e) Taxpayer May Not Have Financial Interest in Charity. – No credit is allowed under this section for a contribution made to an organization if either of the following conditions is met:

(1) The taxpayer or a member of the taxpayer's family is an officer or employee of the organization.

(2) The taxpayer, a member of the taxpayer's family, or a thirty-five percent (35%) controlled entity of the taxpayer or a member of the taxpayer's

family engages in significant activities with respect to the organization which are of a type described in section 4941(d) of the Code, relating to self-dealing.

For the purpose of this subsection, a thirty-five percent (35%) controlled entity is a corporation in which the taxpayer or a member of the taxpayer's family owns more than thirty-five percent (35%) of the combined voting power, a partnership in which the taxpayer or a member of the taxpayer's family owns more than thirty-five percent (35%) of the profits interest, or a trust or estate in which the taxpayer or a member of the taxpayer's family owns more than thirty-five percent (35%) of the beneficial interest. Constructive ownership rules similar to the rules of section 4946(a)(3) and (4) of the Code apply for purposes of this subsection. For the purposes of this subsection, the members of an individual's family shall be determined under section 4946(d) of the Code.

(f) No Double Benefit. – No credit is allowed under this section for contributions for which a credit was claimed under G.S. 105-151.26. If the contribution for which a credit is claimed was deducted from gross income in calculating taxable income under the Code, the taxpayer must add the amount of the credit to taxable income as provided in G.S. 105-134.6(c)."

Section 2. G.S. 105-134.6(c)(5) reads as rewritten:

"(5) The following amounts for which the taxpayer claims a credit for the taxable year:

a. The fair market value, up to a maximum of one hundred thousand dollars ($100,000), of the donated property interest for which the taxpayer claims a credit ~~for the taxable year under G.S. 105-151.12 and the~~ under G.S. 105-151.12.

b. The market price of the gleaned crop for which the taxpayer claims a credit ~~for the taxable year~~ under G.S. 105-151.14.

c. The amount of the qualified charitable contribution for which the taxpayer claims a credit under G.S. 105-151.27."

Section 3. The Legislative Research Commission shall monitor the effect of this act on charitable contributions to nonprofit organizations primarily assisting the poor as well as the impact on the General Fund of the credit allowed by this act. The Department of Human Resources and the Department of Revenue shall assist the Legislative Research Commission in this study. The Legislative Research Commission shall report to the 1999 General Assembly and to the 2000 Regular Session of the 1999 General Assembly its recommendations for reductions in State expenditures for programs of public assistance and other related legislative changes to reflect the impact of this act on issues related to public assistance. This report shall be made on the first day of each regular session and shall include a fiscal analysis of each recommended legislative change.

Section 4. This act is effective for taxable years beginning on or after January 1, 1998.