WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1978

ENROLLED
Committee Substitute for
SENATE BILL NO. 147

(By Mr. Berhander, Mr. President)

PASSED ________ March 7 ________ 1978

In Effect ________ April 1, 1978
AN ACT to amend and reenact section three, article thirteen-c, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the business and occupation tax credit for industrial expansion; permitting the credit to be taken only against the tax imposed on the activities of manufacturing, manufacturing for another, and the production or generation of electricity; and providing for applicability of section as amended.

Be it enacted by the Legislature of West Virginia:

That section three, article thirteen-c, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 13C. BUSINESS AND OCCUPATION TAX CREDIT FOR INDUSTRIAL EXPANSION.

§11-13C-3. Amount of credit allowed industrial taxpayers.

1. There shall be allowed to industrial taxpayers as defined in section two of this article, a credit against business and occupation tax imposed by article thirteen of this chapter. The amount of credit shall be equal to ten percent of the cost of qualified investment made for industrial expansion as defined in section four of this article and shall be applied over a ten-year period to reduce the business and occupation tax imposed under sections two-b, two-h and two-m of article thirteen of this chapter at the rate of one tenth of the amount of such credit per taxable year, commencing with the tax-
The annual credit allowance shall not reduce the business and occupation tax imposed by sections two-b, two-h and two-m of article thirteen of this chapter below fifty percent of the amount which would be imposed for such taxable year in the absence of this credit against tax computed before application of the annual exemption allowed by section three of said article thirteen: Provided, That the tax imposed under section two-h of article thirteen shall not be reduced by more than fifty percent of the tax attributable to a privilege that is manufacturing for another and which privilege would be taxable under section two-b or two-m of article thirteen of this chapter if title to the raw materials involved in the manufacturing process were vested in the taxpayer exercising the privilege taxable under section two-h of article thirteen of this chapter.

No carry-over shall be allowed for the amount of any unused portion of any annual credit allowance, nor shall any credit be allowed against any tax liability for any year prior to the twenty-fifth day of July, one thousand nine hundred sixty-nine, by reason of an assessment issuing within any period after the effective date of this article, which assessment is, in whole or in part for any period prior to the twenty-fifth day of July, one thousand nine hundred sixty-nine.

(d) Effective date.—The provisions of this section, as amended, shall apply to all property purchased for industrial expansion on or after the first day of April, one thousand nine hundred seventy-eight. Property purchased for industrial expansion shall be deemed to have been purchased prior to the first day of April, one thousand nine hundred seventy-eight, only if:

(1) The physical construction, reconstruction or erection of the property was begun prior to said first day of April, or such property was constructed, reconstructed, erected, or acquired pursuant to a written contract existing on or before the thirty-first day of March, one thou-
sand nine hundred seventy-eight, and limited to the
provision of such contract as of such date, binding on
the taxpayer;
(2) The machinery or equipment was owned by the
taxpayer on or before the thirty-first day of March, one
thousand nine hundred seventy-eight, or was acquired
by the taxpayer pursuant to a binding purchase contract
which was in effect on such date;
(3) In the case of leased property, there was a binding
lease or contract to lease identifiable equipment in effect
on or before the thirty-first day of March, one thousand
nine hundred seventy-eight. As to property purchased
for industrial expansion prior to the first day of April,
one thousand nine hundred seventy-eight or qualified
investments for industrial expansion placed into service
or use before said first day of April, the provisions of
this section as then in effect shall be fully and com-
pletely preserved.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis
Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

To take effect April 1, 1978.

J. Delong
Clerk of the Senate

W. Blankenship
Clerk of the House of Delegates

B. Keith Ford
President of the Senate

Donald L. Hopp
Speaker House of Delegates

The within approved this the 30

day of March, 1978.

Governor