WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1996

ENROLLED

Com. Sub. For
HOUSE BILL No. 4530

(By Delegates Kiss, Burke, J. Martin,)
Mezzatesta, Michael, Ashley and Clements

Passed March 9, 1996

In Effect July 1, 1996
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; to amend article twenty-three of said chapter by adding thereto a new section, designated section twenty-four-a; and to amend article twenty-four of said chapter by adding thereto a new section, designated section twenty-two-a, all relating generally to agricultural products; relating to income tax credits for purchases of qualified agricultural equipment; defining terms; setting forth the amount of credit; providing for legislative rules; setting forth an effective date; providing credits against business franchise tax and corporate net income tax on value added products; and authorizing promulgation of rules.

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; that article twenty-three of said chapter be amended by adding thereto a new section, designated section twenty-four-a; and that article twenty-four of said chapter be amended by adding thereto
a new section, designated section twenty-two-a, all to read as follows:

CHAPTER 11. TAXATION.

ARTICLE 13J. TAX CREDIT FOR AGRICULTURAL EQUIPMENT.

§11-13J-1. Findings and purpose.

The Legislature finds that it is an important public policy to promote environmentally sound practices within the agricultural industry in this state. Therefore, a credit against the taxes imposed by articles twenty-one and twenty-four of this chapter shall be allowed in an amount equaling twenty-five percent of all expenditures for the purchase and installation of agricultural equipment and structures for agricultural operations within this state which serve to protect the environment.


As used in this section the following terms shall have the meanings ascribed in this section:

(a) "Advanced technology pesticide and fertilizer application equipment" means machinery certified by the West Virginia division of environmental protection as providing precise pesticide and fertilizer application. The agriculture commission and the West Virginia division of environmental protection shall provide technical assistance to the tax commissioner to determine appropriate specifications for machinery which would provide for more precise pesticide and fertilizer application to reduce the potential for adverse environmental impacts for purposes of application of the credit provided by this article. The machinery shall include, but not be limited to: (1) Sprayers for pesticides and liquid fertilizers; (2) pneumatic fertilizer applicators; (3) monitors, computer regulators, and heights adjustable booms for sprayers and liquid fertilizer applicators; (4) manure applicators; and (5) tramline adapters.

(b) "Conservation tillage equipment" means a planter or drill commonly known as a "no-till" planter or drill,
designed to minimize disturbance of the soil in planting crops, including such planters or drills which may be attached to equipment already owned by the taxpayer.

(c) "Dead poultry composting facility" is a structure consisting of a roof, an impervious weight bearing foundation, such as concrete and rot resistant building materials such as pressure treated lumber or similar material, which structure is used to biologically treat poultry carcasses by composting.

d) "Mortality incinerator" means a structure certified by the air pollution control commission which is used for the purpose of burning animal carcasses.

(e) "Nutrient management system" means an established procedure for managing the amount, form, placement, and timing of applications of plant nutrients.

(f) "Qualified agricultural equipment" means advanced technology pesticide and fertilizer application equipment, conservation tillage equipment, dead poultry composting facilities, nutrient management systems, streambank and shoreline protection systems, stream channel stabilization systems, stream crossing or access plans, waste management systems, waste storage facilities, and waste treatment lagoons located on or at agricultural operations in this state and certified by the tax commissioner in accordance with section five of this article.

(g) "Streambank and shoreline protection system" means the consistent use of vegetation or structures to stabilize and protect banks of streams, lakes, estuaries, or excavated channels in order to stabilize or protect banks of streams, lakes, estuaries, or excavated channels for one or more of the following purposes: (1) To prevent the loss of land or damage to utilities, roads, buildings, or other facilities adjacent to the banks; (2) To maintain the capacity of the channel; (3) To control channel meander that would adversely affect downstream facilities; (4) To reduce sediment loads causing downstream damages and pollution; (5) To improve the stream for recreation or as a habitat for fish and wildlife.
(h) "Stream channel stabilization system" means an established structure for the stabilization of the channel of a stream.

(i) "Stream crossing or access plan" means the maintenance of a stabilized area to provide for crossing of a stream by livestock and farm machinery, or to provide access to the stream for livestock water.

(j) "Waste management system" means a planned system in which all necessary components are installed for managing liquid and solid waste, including runoff from concentrated waste areas at an agricultural operation, in a manner that does not degrade air, soil, or water resources.

(k) "Waste storage facility" means a waste impoundment made by constructing an embankment and/or excavating a pit or dugout, or by fabricating a facility for the storage of waste from livestock or poultry.

(l) "Waste treatment lagoon" means an impoundment made by excavation or earthfill for biological treatment of animal or other agricultural waste.

§11-13J-3. Amount of credit.

(a) There shall be allowed to eligible taxpayers who have made investments in qualified agricultural equipment in this state, a credit against taxes imposed by articles twenty-one and twenty-four of this chapter in the amount set forth in subsection (b) of this section.

(b) The amount of credit shall be equal to twenty-five percent of the purchase price of qualified agricultural equipment, but not to exceed two thousand five hundred dollars for purchases during a taxable year or the total amount of tax imposed by articles twenty-one or twenty-four of this chapter, whichever is less, in the year of purchase of qualified agricultural equipment. If the amount of the credit exceeds the taxpayer's tax liability for the taxable year, the amount which exceeds the tax liability may be carried over and applied as a credit against the tax liability of the taxpayer pursuant to article twenty-one or twenty-four of this chapter to each of the next five taxable years unless sooner used.
§11-13J-4. Proration of credit.
For purposes of this section, the amount of any credit attributable to the purchase of agricultural equipment by a partnership or electing small business corporation (S corporation) shall be allocated to the individual partners or shareholders in proportion to their ownership or interest in the partnership or S corporation.

§11-13J-5. Legislative rules.
On or before the thirty-first day of May, one thousand nine hundred ninety-six, the tax commissioner and the agricultural commissioner shall propose legislative rules for promulgation in accordance with article three, chapter twenty-nine-a of this code to determine the equipment which shall be certified as qualified agricultural equipment for purposes of application of the credit provided for in this article not inconsistent with the provisions of section two of this article. The tax commissioner shall also propose legislative rules for promulgation in accordance with article three, chapter twenty-nine-a of this code regarding the administration of the credit established pursuant to this article.

§11-13J-6. Effective date.
The credit shall be allowed for taxable years beginning on or after the first day of July, one thousand nine hundred ninety-seven.

ARTICLE 23. BUSINESS FRANCHISE TAX.

§11-23-24a. Tax credit for value-added products from raw agricultural products; regulations.
(a) Effective for taxable years beginning the first day of July, one thousand nine hundred ninety-seven, notwithstanding any provisions of this code to the contrary, any person, newly and solely engaged in the production of value-added products from raw agricultural products shall be allowed a credit, in the amount of one thousand dollars for each taxable year against the tax imposed by this article, for a period of five years from the date the person becomes subject to this article. The credit shall be allowed only against the tax imposed on that
capital which is attributable to the value-added production activity in this state.

(b) For purposes of this section, "value-added product" means the following products derived from processing a raw agricultural product, whether for human consumption or for other use. The following enterprises qualify as processing raw agricultural products into value-added products: (1) The conversion of lumber into furniture, toys, collectibles and home furnishings; (2) the conversion of fruit into wine; (3) the conversion of honey into wine; (4) the conversion of wool into fabric; (5) the conversion of raw hides into semifinished or finished leather products; (6) the conversion of milk into cheese; (7) the conversion of fruits or vegetables into a dried, canned or frozen product; (8) the conversion of feeder cattle into commonly acceptable marketable retail portions; (9) the conversion of aquatic animals into a dried, canned, cooked or frozen product; and (10) the conversion of poultry into a dried, canned, cooked or frozen product.

(c) The tax commissioner may propose rules for promulgation in accordance with article three, chapter twenty-nine-a as may be necessary to effectuate the purposes of this section.

ARTICLE 24. CORPORATION NET INCOME TAX.

§11-24-22a. Tax credit for value-added products from raw agricultural products; regulations.

(a) Effective for taxable years beginning the first day of July, one thousand nine hundred ninety-seven, notwithstanding any provisions of this code to the contrary, any new corporation engaged solely in the production of value-added products from raw agricultural products shall be allowed a credit, in the amount of one thousand dollars for each taxable year against the tax imposed by this article, for a period of five years from the date the person becomes subject to this article. The credit shall be allowed only against the tax on taxable income which is attributable to the production of value-added products.
(b) Effective for taxable years beginning the first day of July, one thousand nine hundred ninety-seven, any new corporation engaged solely in the production of value-added products in West Virginia shall be allowed a tax credit, according to the schedule herein, for every one hour spent by a new permanent, full-time employee training to learn a skill specific to the production of value-added products as defined in article twenty-one, chapter thirty-one of this code. The tax credit shall be allowed for a maximum of sixty hours, per company, per year.

(c) For purposes of this section, tax credits for hours spent by a new permanent, full-time employee in training shall be allowed as follows:

(1) Corporations which employ up to five new employees shall be allowed a tax credit of two dollars for every one hour spent by a new employee in training as specified herein;

(2) Corporations which employ between six and twenty-five new employees shall be allowed a tax credit of one dollar and fifty cents for every one hour spent by a new employee in training as specified herein;

(3) Corporations which employ between twenty-six and seventy-five new employees shall be allowed a tax credit of one dollar and twenty-five cents for every one hour spent by a new employee in training as specified herein;

(4) Corporations which employ between seventy-six and one hundred and twenty-five new employees shall be allowed a tax credit of one dollar for every one hour spent by a new employee in training as specified herein; and

(5) Corporations which employ more than one hundred twenty-five new employees shall be allowed a tax credit of seventy-five cents for every one hour spent by a new employee in training as specified herein.

(d) For purposes of this section, "value-added product" means the following products derived from processing a raw agricultural product, whether for human
consumption or for other use. The following enterprises qualify as processing raw agricultural products into value-added products: (1) The conversion of lumber into furniture, toys, collectibles and home furnishings; (2) the conversion of fruit into wine; (3) the conversion of honey into wine; (4) the conversion of wool into fabric; (5) the conversion of raw hides into semifinished or finished leather products; (6) the conversion of milk into cheese; (7) the conversion of fruits or vegetables into a dried, canned or frozen product; (8) the conversion of feeder cattle into commonly acceptable marketable retail portions; (9) the conversion of aquatic animals into a dried, canned, cooked or frozen product; and (10) the conversion of poultry into a dried, canned, cooked or frozen product.

(e) The tax commissioner may propose rules for promulgation in accordance with the provisions of article three, chapter twenty-nine-a of this code as may be necessary to effectuate the purposes of this article.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signatures]

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect July 1, 1996.

[Signatures]

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 18th day of [Signature]

Governor
PRESENTED TO THE
GOVERNOR
Date 4/19/16
Time 11:10 AM