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LEGISLATIVE SERVICES DIVISION  
STATE HOUSE

# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2000



# ENROLLED

COMMITTEE SUBSTITUTE  
FOR  
**House Bill No. 4380**

(By Delegates Michael, Williams, Stemple,  
Kelley, Mezzatesta, Martin and Proudfoot)



Passed March 10, 2000

In Effect Ninety Days from Passage

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FOR

## H. B. 4380

(BY DELEGATES MICHAEL, WILLIAMS, STEMPLE,  
KELLEY, MEZZATESTA, MARTIN AND PROUDFOOT)

[Passed March 10, 2000; in effect ninety days from passage.]

AN ACT to amend and reenact sections two and three, article thirteen-k, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section seven, article eleven, chapter twenty of said code, all relating to promoting the alternative use of poultry waste; including nutrient management plans and best management practices, when used as certain established procedures for managing applications of certain poultry litter as fertilizer applications, within the definition of qualified agricultural equipment for which an investment tax credit is allowed; establishment of amount of credit upon certification of commissioner of agriculture; and establishing the use of certain composted or deep stacked poultry litter products produced and packaged in this State as having priority over the use of other compost by agencies and instrumentalities of the state in land maintenance and

landscaping activities unless determined to be economically unfeasible by the agency or instrumentality.

*Be it enacted by the Legislature of West Virginia:*

That sections two and three, article thirteen-k, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that section seven, article eleven, chapter twenty of said code be amended and reenacted, all to read as follows:

## **CHAPTER 11. TAXATION.**

### **ARTICLE 13K. TAX CREDIT FOR AGRICULTURAL EQUIPMENT.**

#### **§11-13K-2. Definitions.**

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

3 (a) “Advanced technology pesticide and fertilizer applica-  
4 tion equipment” means machinery certified by the West  
5 Virginia division of environmental protection as providing  
6 precise pesticide and fertilizer application. The agriculture  
7 commission and the West Virginia division of environmental  
8 protection shall provide technical assistance to the tax commis-  
9 sioner to determine appropriate specifications for machinery  
10 which would provide for more precise pesticide and fertilizer  
11 application to reduce the potential for adverse environmental  
12 impacts for purposes of application of the credit provided by  
13 this article. The machinery shall include, but not be limited to:

14 (1) Sprayers for pesticides and liquid fertilizers;

15 (2) Pneumatic fertilizer applicators;

16 (3) Monitors, computer regulators and heights adjustable  
17 booms for sprayers and liquid fertilizer applicators;

18 (4) Manure applicators; and

19 (5) Tramline adapters.

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

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

30 (d) “Mortality incinerator” means a structure certified by  
31 the director of the division of environmental protection which  
32 is used for the purpose of burning animal carcasses.

33 (e) “Nutrient management plan” or “best management  
34 practice” means an established procedure for managing the  
35 amount, form, placement and timing of applications of poultry  
36 litter, certified by the commissioner of agriculture as being free  
37 from organisms that are not found in poultry litter produced in  
38 this state, as fertilizer application.

39 (f) “Nutrient management system” means an established  
40 procedure for managing the amount, form, placement and  
41 timing of applications of plant nutrients.

42 (g) “Qualified agricultural equipment” means advanced  
43 technology pesticide and fertilizer application equipment,  
44 conservation tillage equipment, dead poultry composting  
45 facilities, nutrient management plans, best management  
46 practices, nutrient management systems, streambank and  
47 shoreline protection systems, stream channel stabilization

48 systems, stream crossing or access plans, waste management  
49 systems, waste storage facilities, and waste treatment lagoons  
50 located on or at agricultural operations in this state and certified  
51 by the tax commissioner in accordance with section five of this  
52 article.

53 (h) “Streambank and shoreline protection system” means  
54 the consistent use of vegetation or structures to stabilize and  
55 protect banks of streams, lakes, estuaries, or excavated channels  
56 in order to stabilize or protect banks of streams, lakes, estuaries  
57 or excavated channels for one or more of the following pur-  
58 poses:

59 (1) To prevent the loss of land or damage to utilities, roads,  
60 buildings, or other facilities adjacent to the banks;

61 (2) To maintain the capacity of the channel;

62 (3) To control channel meander that would adversely affect  
63 downstream facilities;

64 (4) To reduce sediment loads causing downstream damages  
65 and pollution; or

66 (5) To improve the stream for recreation or as a habitat for  
67 fish and wildlife.

68 (i) “Stream channel stabilization system” means an estab-  
69 lished structure for the stabilization of the channel of a stream.

70 (j) “Stream crossing or access plan” means the maintenance  
71 of a stabilized area to provide for crossing of a stream by  
72 livestock and farm machinery, or to provide access to the  
73 stream for livestock water.

74 (k) “Waste management system” means a planned system  
75 in which all necessary components are installed for managing

76 liquid and solid waste, including runoff from concentrated  
77 waste areas at an agricultural operation, in a manner that does  
78 not degrade air, soil or water resources.

79 (l) "Waste storage facility" means a waste impoundment  
80 made by constructing an embankment or excavating a pit or  
81 dugout, or both, or by fabricating a facility for the storage of  
82 waste from livestock or poultry.

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

**§11-13K-3. Amount of credit.**

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

6 (b) The amount of credit is equal to twenty-five percent of  
7 the purchase price of qualified agricultural equipment, but not  
8 to exceed two thousand five hundred dollars for purchases  
9 during a taxable year or the total amount of tax imposed by  
10 articles twenty-one or twenty-four of this chapter, whichever is  
11 less, in the year of purchase of qualified agricultural equipment.  
12 If the amount of the credit exceeds the taxpayer's tax liability  
13 for the taxable year, the amount which exceeds the tax liability  
14 may be carried over and applied as a credit against the tax  
15 liability of the taxpayer pursuant to article twenty-one or  
16 twenty-four of this chapter to each of the next five taxable years  
17 unless sooner used.

18 (c) The amount of credit for the investment in the plan or  
19 practice described in subsection (e), section two of this article  
20 is equal to twenty-five percent of the purchase price of the

21 poultry litter certified in writing to the tax commissioner by the  
22 commissioner of agriculture as having been applied in the  
23 established procedure described in legislative rules promulgated  
24 by the commissioner of agriculture in accordance with the  
25 provisions of article three, chapter twenty-nine-a of this code.

## CHAPTER 20. NATURAL RESOURCES.

### ARTICLE 11. WEST VIRGINIA RECYCLING PROGRAM.

#### §20-11-7. Procurement of recycled products.

1 (a) It is the policy of the state of West Virginia that, to the  
2 maximum extent possible, all agencies and instrumentalities of  
3 the state purchase recycled products. The goal of the state is to  
4 achieve a recycled product mix on future purchases of:

5 (b) In furtherance of the aforesaid goal, the secretary of the  
6 department of administration in consultation with the director  
7 of the division of natural resources shall develop a comprehen-  
8 sive procurement program for recycled products. The program  
9 shall include, but not be limited to:

10 (1) A review, and subsequent revision, of existing procure-  
11 ment procedures and bid specifications to remove language that  
12 discriminates against recycled products;

13 (2) A review, and subsequent revision, of existing procure-  
14 ment procedures and bid specifications to ensure that, to the  
15 maximum extent possible, all agencies and instrumentalities of  
16 the state purchase recycled products: *Provided*, That recycled  
17 paper products shall be given a price preference of ten percent:  
18 *Provided, however*, That priority shall be given to paper  
19 products with the highest postconsumer content;

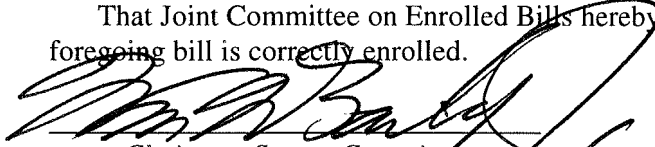
20 (3) A plan to eliminate, to the maximum extent possible,  
21 the use of disposable and single-use products; and


22 (4) A requirement that all agencies and instrumentalities of  
23 the state use compost in all land maintenance and landscaping  
24 activities: *Provided*, That the use of composted or deep stacked  
25 poultry litter products, certified by the commissioner of  
26 agriculture as being free from organisms that are not found in  
27 poultry litter produced in this state, have priority unless  
28 determined to be economically unfeasible by the agency or  
29 instrumentality.

30 (c) The secretary shall prepare and submit an annual report  
31 on the thirty-first day of January of each year summarizing the  
32 program's accomplishments, prospects for the future, and any  
33 recommendations. The report shall be submitted to the gover-  
34 nor, speaker of the House of Delegates and president of the  
35 Senate.



That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

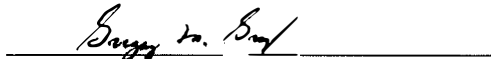
  
Chairman Senate Committee

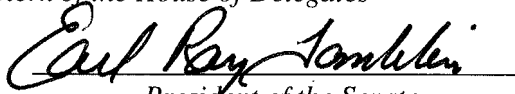
  
Chairman House Committee

Originating in the House.

In effect ninety days from passage.

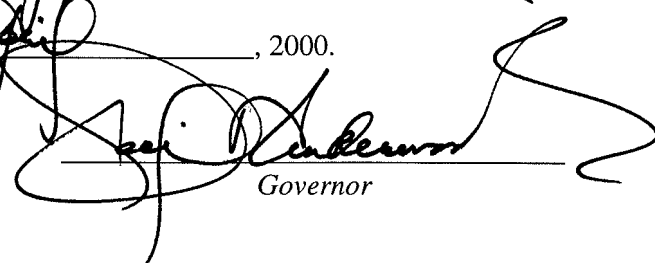
  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker of the House of Delegates

The within approved this the 4th  
day of April, 2000.

  
Governor

PRESENTED TO THE

GOVERNOR,

Date 3/29/00

Time 3:08 pm