

HB 3048S

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2007



ENROLLED

**COMMITTEE SUBSTITUTE
FOR
House Bill No. 3048**

(By Mr. Speaker, Mr. Thompson, and Delegate Armstead)
[By Request of the Executive]



Passed March 9, 2007

In Effect January 1, 2008

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FOR

H. B. 3048

(BY MR. SPEAKER, MR. THOMPSON, AND DELEGATE ARMSTEAD)
[BY REQUEST OF THE EXECUTIVE]

[Passed March 9, 2007; in effect January 1, 2008.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-13Q-10a, relating to the economic opportunity tax credit; providing credit for specified high technology manufacturers; specifying definitions.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §11-13Q-10a, to read as follows:

ARTICLE 13Q. ECONOMIC OPPORTUNITY TAX CREDIT.

§11-13Q-10a. Credit allowed for specified high technology manufacturers.

- 1 (a) *High technology manufacturing business defined.* --
- 2 For purposes of this section, the term "high technology
- 3 manufacturing business" means and is limited to only those
- 4 businesses engaging in a manufacturing activity properly
- 5 classified as having one or more of the following six-digit
- 6 North American Industry Classification System code
- 7 numbers.

North American Industry Classification System Code	Manufacturing Activity
	Computer & Peripheral Equipment
334111	Electronic Computers
334112	Computer Storage Devices
	Electronic Components
334411	Electron Tubes
334414	Electronic Capacitors
	Semiconductors
334413	Semiconductor & Related Devices
333295	Semiconductor Machinery

1 (b) *Amount of credit allowed.*

2 (1) *Credit allowed.* -- An eligible high technology
3 manufacturing business taxpayer is allowed a credit against
4 the portion of taxes imposed by this state that are attributable
5 to and the direct consequence of the eligible high technology
6 manufacturing business taxpayer's qualified investment in a
7 new or expanded high technology manufacturing business in
8 this state which results in the creation of at least twenty new
9 jobs within twelve months after placing qualified investment
10 into service. The amount of this credit is determined as
11 provided in this section.

12 (2) *Amount of credit.* -- The annual amount of credit
13 allowable under this subsection is one hundred percent of the
14 tax attributable to qualified investment, for each consecutive
15 year of a twenty-year credit period.

16 (3) *Application of credit.* -- The annual credit allowance

17 must be taken beginning with the taxable year in which the
18 taxpayer places the qualified investment into service or use
19 in this state, unless the taxpayer elects to delay the beginning
20 of the twenty-year credit period until the next succeeding
21 taxable year. This election is made in the annual income tax
22 return filed under this chapter by the taxpayer for the taxable
23 year in which the qualified investment is first placed in
24 service or use. Once made, this election cannot be revoked.
25 The annual credit allowance shall be taken and applied
26 against the taxes enumerated in section seven of this article.
27 The credit shall offset 100 percent of tax attributable to
28 qualified investment and shall be applied for a period of
29 twenty consecutive years without carryover.

30 (c) *New jobs.* -- The term "new jobs" has the meaning
31 ascribed to it in section three of this article.

32 (1) The term "new employee" has the meaning ascribed
33 to it in section three of this article: *Provided*, That this term
34 does not include employees filling new jobs who:

35 (A) Are related individuals, as defined in subsection (i),
36 section 51 of the Internal Revenue Code of 1986, or a person
37 who owns ten percent or more of the business with such
38 ownership interest to be determined under rules set forth in
39 subsection (b), section 267 of the Internal Revenue Code of
40 1986; or

41 (B) Worked for the taxpayer during the six-month period
42 ending on the date the taxpayer's qualified investment is
43 placed in service or use and is rehired by the taxpayer during
44 the six-month period beginning on the date taxpayer's
45 qualified investment is placed in service or use.

46 (2) *When a job is attributable.* -- An employee's position
47 is directly attributable to the qualified investment if:

48 (A) The employee's service is performed or his or her
49 base of operations is at the new or expanded business facility;

50 (B) The position did not exist prior to the construction,
51 renovation, expansion or acquisition of the business facility
52 and the making of the qualified investment;

53 (C) But for the qualified investment, the position would
54 not have existed; and

55

56 (D) The median compensation of the new jobs
57 attributable to the qualified investment is greater than forty-
58 five thousand dollars per year: *Provided*, That this median
59 compensation amount shall be adjusted for inflation each
60 year in accordance with the provisions of this section.

61 (3) *Median compensation adjusted for inflation.* -- The
62 median compensation requirements applicable to high
63 technology manufacturing business taxpayers for purposes of
64 this section, shall be adjusted for inflation by application of
65 a cost-of-living adjustment. The adjusted median
66 compensation amount shall be applicable, as adjusted, each
67 year throughout the twenty-year credit period. Failure of a
68 taxpayer entitled to credit under this section to meet the
69 median compensation requirement for any year will result in
70 forfeiture of the credit for that year. However, if in any
71 succeeding year within the original twenty year credit period,
72 the taxpayer pays a median compensation to its employees
73 which exceeds the inflation adjusted median compensation
74 amount for that year, the taxpayer shall regain entitlement to
75 take the credit for that year only. No credit forfeited in a
76 prior year shall be taken, and the tax year or years to which
77 the forfeited credit would have been applied shall be forfeited
78 and deducted from the remainder of the years over which the
79 credit can be taken.

80 (A) *Cost-of-living adjustment.* -- For purposes of this
81 section, the cost-of-living adjustment for any calendar year is
82 the percentage, if any, by which the consumer price index for
83 the preceding calendar year exceeds the consumer price index
84 for the calendar year two thousand seven.

85 (B) *Consumer price index for any calendar year.* -- For
86 purposes of this section, the consumer price index for any
87 calendar year is the average of the federal consumer price

88 index as of the close of the twelve-month period ending on
89 the thirty-first day of August of such calendar year.

90 (C) Consumer price index. -- For purposes of this section,
91 the term "Federal Consumer Price Index" means the last
92 consumer price index for all urban consumers published by
93 the United States Department of Labor.

94 (D) *Rounding*. -- If any increase in the median
95 compensation amount under this section is not a multiple of
96 fifty dollars, such increase shall be rounded to the next lowest
97 multiple of fifty dollars.

98 (d) *Credit exclusion*. --

99 (1) Any taxpayer that has taken the credit against tax
100 authorized under this section shall not be eligible for
101 application of the credit allowed under any other section of
102 this article during the twenty year credit period authorized by
103 this section for the same qualified investment on which credit
104 allowed by this article was taken.

105 (2) Any taxpayer that has taken the credit against tax
106 authorized under this section may not take the credit
107 authorized under any other provision of this code for the
108 same qualified investment on which credit allowed by this
109 article was taken.

110 (e) *Rules*. -- The commissioner may prescribe such rules
111 as he or she determines necessary in order to determine the
112 amount of credit allowed under this section to a taxpayer; to
113 verify a taxpayer's continued entitlement to claim the credit;
114 and to verify proper application of the credit allowed.

115 (f) *Notices and reports*. -- The commissioner may require
116 a taxpayer intending to claim credit under this section to file
117 with the commissioner a notice of intent to claim this credit
118 before the taxpayer begins reducing his or her monthly or
119 quarterly installment payments of estimated tax for the credit
120 provided in this section.

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121 (g) *Report to the Legislature.* -- The Tax Commissioner
122 shall report to the Legislature by January 1, 2014, regarding
123 the use of this tax credit. The Tax Commissioner shall
124 forward this report to the Joint Committee on Government
125 and Finance and the House and Senate Finance Committees.

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



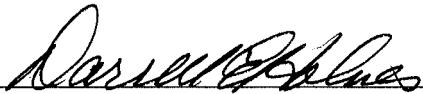
Chairman Senate Committee



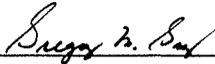
Chairman House Committee

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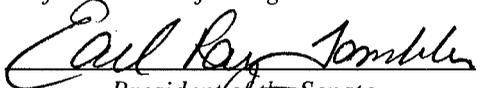
In effect on January 1, 2008



Clerk of the Senate



Clerk of the House of Delegates

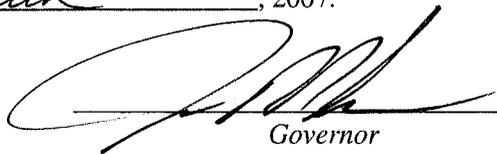


President of the Senate



Speaker of the House of Delegates

The within is approved this the 23rd
day of March, 2007.



Governor

PRESENTED TO THE
GOVERNOR

MAR 18 2007

Time *2:02pm*