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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2014

HB 4449

ENROLLED

COMMITTEE SUBSTITUTE
FOR

House Bill No. 4449

(By Delegates Phillips, R., Lynch, Tomblin,
Eldridge, Barker, Marcum, White, Caputo,
Skaff, Craig and Sumner)

Passed March 6, 2014

In effect ninety days from passage.

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H. B. 4449

(BY DELEGATES PHILLIPS, R., LYNCH, TOMBLIN, ELDRIDGE,
BARKER, MARCUM, WHITE, CAPUTO, SKAFF, CRAIG AND SUMNER)

[Passed March 6, 2014; in effect ninety days from passage.]

AN ACT to amend and reenact §11-13BB-3 and §11-13BB-14 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Innovative Mine Safety Technology Tax Credit Act; including proximity detection systems and cameras used on continuous mining machines and underground haulage equipment for tax credit purposes; and extending termination date for credit.

Be it enacted by the Legislature of West Virginia:

That §11-13BB-3 and §11-13BB-14 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 13BB. WEST VIRGINIA INNOVATIVE MINE SAFETY
TECHNOLOGY TAX CREDIT ACT.

§11-13BB-3. Definitions.

1 (a) Any term used in this article has the meaning ascribed by
2 this section unless a different meaning is clearly required by the
3 context of its use or by definition in this article.

4 (b) For purposes of this article, the term:

5 (1) "Certified eligible safety property" means eligible safety
6 property in which an eligible taxpayer has made qualified
7 investment for which credit has been certified under this article.

8 (2) "Coal mining company" means:

9 (A) A person subject to tax imposed on the severance of coal
10 by section three, article thirteen-a of this chapter; or

11 (B) A person working as a contract miner of coal, mining
12 coal in this state, under contract with a person subject to tax
13 imposed on the severance of coal by section three, article
14 thirteen-a of this chapter.

15 (3) "Director" means the Director of the Office of Miners'
16 Health, Safety and Training or West Virginia Office of Miners'
17 Health, Safety and Training established under article one,
18 chapter twenty two-a of this code.

19 (4) "Eligible safety property" means safety technology
20 equipment that, at the time of acquisition, is on the list of
21 approved innovative mine safety technology: *Provided*, That
22 eligible safety property includes proximity detection systems and
23 cameras used on continuous mining machines and underground
24 haulage equipment and machine mounted methane monitors
25 required by section forty-three, article two, chapter twenty-two-a
26 of this code.

27 (5) "Eligible taxpayer" means a coal mining company that
28 purchases eligible safety property.

29 (6) "List of approved innovative mine safety technology"
30 means the list required to be compiled and maintained by the
31 Mine Safety Technology Task Force and approved and published
32 by the director under this article.

33 (7) "Office of Miners' Health, Safety and Training" or
34 "West Virginia Office of Miners' Health, Safety and Training"
35 means the Office of Miners' Health, Safety and Training
36 established under article one, chapter twenty two-a of this code.

37 (8) "Person" includes any corporation, limited liability
38 company or partnership.

39 (9) "Qualified investment" means the eligible taxpayer's
40 investment in eligible safety property pursuant to a qualified
41 purchase as qualified and limited by section six of this article.

42 (10) "Qualified purchase" means and includes only
43 acquisitions of eligible safety property for use in this state.

44 (A) A lease of eligible safety property may constitute a
45 qualified purchase if the lease was entered into and became
46 effective at a time when the equipment is on the list of approved
47 innovative mine safety technology and if the primary term of the
48 lease for the eligible safety property is five years or more. Leases
49 having a primary term of less than five years do not qualify.

50 (B) "Qualified purchase" does not include:

51 (i) Purchases or leases of realty or any cost for, or related to,
52 the construction of a building, facility or structure attached to
53 realty;

54 (ii) Purchases or leases of property not exclusively used in
55 West Virginia;

56 (iii) Repair costs including materials used in the repair
57 unless, for federal income tax purposes, the cost of the repair
58 must be capitalized and not expensed;

59 (iv) Motor vehicles licensed by the Division of Motor
60 Vehicles;

61 (v) Clothing;

62 (vi) Airplanes;

63 (vii) Off-premises transportation equipment;

64 (viii) Leases of tangible personal property having a primary
65 term of less than five years;

66 (ix) Property that is used outside this state; and

67 (x) Property that is acquired incident to the purchase of the
68 stock or assets of an industrial taxpayer that was or had been
69 used by the seller in his or her industrial business in this state or
70 in which investment was previously the basis of a credit against
71 tax taken under any other article of this chapter.

72 (C) Acquisitions, including leases, of eligible safety property
73 may constitute qualified purchases for purposes of this article
74 only if:

75 (i) The property is not acquired from a person whose
76 relationship to the person acquiring it would result in the
77 disallowance of deductions under Section 267 or 707(b) of the
78 United States Internal Revenue Code of 1986, as amended;

79 (ii) The property is not acquired from a related person or by
80 one component member of a controlled group from another
81 component member of the same controlled group but the Tax
82 Commissioner may waive this requirement if the property was
83 acquired from a related party for its then fair market value; and

84 (iii) The basis of the property for federal income tax
85 purposes, in the hands of the person acquiring it, is not
86 determined, in whole or in part, by reference to the federal
87 adjusted basis of the property in the hands of the person from
88 whom it was acquired or under Section 1014(e) of the United
89 States Internal Revenue Code of 1986, as amended.

90 (11) "Safety technology" means depreciable tangible
91 personal property and equipment, other than clothing, principally
92 designed to directly minimize workplace injuries and fatalities
93 in coal mines.

94 (12) "Taxpayer" means a person subject to any of the taxes
95 imposed by article thirteen-a, twenty-three or twenty-four of this
96 chapter.

§11-13BB-14. Termination.

1 The tax credit authorized in this article shall terminate
2 December 31, 2018.

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

Danny Wells
Chairman, House Committee

[Signature]
Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

Bregan M. Graf
Clerk of the House of Delegates

[Signature]
Clerk of the Senate

[Signature]
Speaker of the House of Delegates

[Signature]
President of the Senate

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The within *is approved* this the *21st*
day of *March*, 2014.

Earl Ray Tomblin
Governor

PRESENTED TO THE GOVERNOR

MAR 17 2014

Time 3:35 pm