

# WEST VIRGINIA LEGISLATURE

## 2016 REGULAR SESSION

Introduced

### Senate Bill 399

FISCAL  
NOTE

BY SENATORS KARNES, MILLER, PLYMALE, STOLLINGS,  
BOSO, PREZIOSO, WILLIAMS, LEONHARDT AND UNGER

[Introduced January 27, 2016;

Referred to the Committee on Agriculture; and then to  
the Committee on Finance.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
 2 designated §11-13DD-1, §11-13DD-2, §11-13DD-3 and §11-13DD-4, all relating to  
 3 creation of farm-to-food bank tax credit; defining terms; providing method for calculation  
 4 and application of tax credit; establishing procedures to value and claim the tax credit; and  
 5 establishing the effective date of the tax credit.

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

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new  
 2 article designated §11-13DD-1, §11-13DD-2, §11-13DD-3 and §11-13DD-4, all to read as follows:

**ARTICLE 13DD. WEST VIRGINIA FARM TO FOOD BANK TAX CREDIT.**

**§11-13DD-1. Findings and purpose.**

1 The Legislature finds that it is an important public policy to promote fresh, healthy and  
 2 local agricultural products for food banks, and to provide an incentive for farmers to donate to  
 3 food banks in this state by providing a small credit for their donations.

**§11-13DD-2. Definitions.**

1 As used in this article:

2 (1) “Donor” means a qualified taxpayer who provides free of fee or charge edible  
 3 agricultural products to a nonprofit food program operating in West Virginia;

4 (2) “Edible agricultural products” means fruits, vegetables, beef, poultry, pork, fish, or any  
 5 other edible product raised or grown in West Virginia that is intended for and fit for human  
 6 consumption;

7 (3) “Farming taxpayer” means a West Virginia taxpayer responsible for and deriving  
 8 income of at least \$1,000 from growing fruits, vegetables, or other edible agricultural products; or  
 9 from raising beef, poultry, pork, fish, or other edible agricultural products; and

10 (4) “Nonprofit food program” means a surplus food collection and distribution program  
 11 operated and established to collect donated food for redistribution to persons in need and is  
 12 recognized as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue

13 Code.

**§11-13DD-3. Amount of credit.**

1 (a) There is allowed to farming taxpayers who have made donations of edible agricultural  
2 products to one or more nonprofit food programs in this state, a credit against taxes imposed by  
3 articles twenty-one (personal income tax) and twenty-four (corporate income tax) of this chapter  
4 in the amount set forth in subsection (b) of this section.

5 (b) The amount of the credit is equal to ten percent of the value of the donated edible  
6 agricultural products, but not to exceed \$2,500 during a taxable year or the total amount of tax  
7 imposed by articles twenty-one or twenty-four of this chapter, whichever is less, in the year of  
8 donations. If the amount of the credit exceeds the taxpayer's tax liability for the taxable year, the  
9 amount which exceeds the tax liability may be carried over and applied as a credit against the tax  
10 liability of the taxpayer pursuant to article twenty-one or twenty-four of this chapter to each of the  
11 next four taxable years unless sooner used.

12 (c) The donor shall determine the value of the donated edible agricultural products as  
13 follows:

14 (1) If there was a previous sale of the edible agricultural products to a buyer, the donor  
15 should retain a copy of an invoice or other statement identifying the price received by the donor  
16 for the edible agricultural products of comparable grade or quality; or

17 (2) If there is no previous sale to a buyer, the donor shall on the date of the donation,  
18 determine the value of the donated edible agricultural products based on the fair market value as  
19 determined by average weekly regional produce auction prices or United States Department of  
20 Agriculture prices for meat, fish, and dairy products.

21 (d) At the time of the donation, the donor shall provide to the nonprofit food program the  
22 estimated value of the donated edible agricultural products as determined herein. The nonprofit  
23 food program shall provide to the donor a signed and dated form prescribed by the department  
24 containing at a minimum:

- 25           (1) The type and quantity of product donated;
- 26           (2) The name, address, and taxpayer identification number of the donor or donors;
- 27           (3) The name and address of the donee nonprofit food program; and
- 28           (4) The estimated value of the donated edible agricultural products, as provided by the
- 29 donor.

30           (e) To claim the tax credit, a qualified farming taxpayer shall attach a copy of the donation  
31 form received by the nonprofit food program to the tax return claiming the credit.

**§11-13DD-4. Effective date.**

1           The credit shall be allowed for taxable years beginning on or after July 1, 2017.

NOTE: The purpose of this bill is to establish a credit against personal and corporate income taxes for farmers who donate edible agricultural products to food banks and other nonprofit food programs serving needy persons.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.