

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 4201

By Delegate Toney, Hansen and Young

[Introduced January 10, 2024; Referred
to the Committee on Economic Development and
Tourism then Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §11-13NN-1, §11-13NN-2, §11-13NN-3, and §11-13NN-4, all relating to the
 3 creation of the "EV Manufacturers Investment Credit"; providing for definitions;
 4 establishing tier 1 eligibility, credits, and exemptions; establishing tier 2 eligibility, credits,
 5 and exemptions; providing for the forfeiture of unused tax credits; and providing for the
 6 redetermination of credit allowed.

Be it enacted by the Legislature of West Virginia:

ARTICLE 13NN. EV MANUFACTURERS INVESTMENT CREDIT.

§11-13NN-1. Definitions.

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

3 (b) For purpose of this article, the term:

4 (1) "Energy transition area" means a county or a municipality that contains one or more
 5 coal mine that was closed or had operations significantly reduced within 12 years before the time
 6 of the application or is anticipated to be closed or have operations significantly reduced within 4
 7 years following the time of the application.

8 (2) "EV" means electric vehicle or electric vehicles. The term "vehicle" includes wagons,
 9 bicycles, motor vehicles (motorcycles, cars, trucks, buses), railed vehicles (trains, trams),
 10 watercraft (ships, boats, underwater vehicles), amphibious vehicles (screw-propelled
 11 vehicles, hovercraft), aircraft (airplanes, helicopters, aerostats) and spacecraft.

12 (3) "EV component part manufacturer" means any manufacturer that manufactures
 13 component parts designed and used specifically for electric vehicles;

14 (4) "EV manufacturer" means any manufacturer that manufactures electric vehicles;

15 (5) "EV power supply equipment manufacturer" means any manufacturer that
 16 manufactures power supply equipment designed and used specifically for electric vehicles;

17 (6) "Manufacturer" means any entity engaged in the business of manufacturing;

18 (7) "Manufacturing" means any business activity classified as having a sector identifier,
19 consisting of the first two digits of the six-digit North American Industry Classification System code
20 number of 31, 32, or 33; and

21 (8) "Priority areas" means underserved areas and energy transition areas in the state.

§11-13NN-2. Tier 1 eligibility, credits, and exemptions.

1 (a) Any electric vehicle ("EV") manufacturers, EV component part manufacturers, or EV
2 power supply equipment manufacturers that invest more than \$20 million in capital investments or
3 creates more than 100 new jobs within four years shall be eligible to receive a tax credit equal of 75
4 percent of the income tax withholdings of new jobs created in the state. This percentage increases
5 to 100 percent for projects that locate in priority areas. Recipients may elect to claim the credit
6 against their obligation to remit employee withholding taxes to the West Virginia Tax Department.

7 (b) If investment or new-job thresholds as defined in this section are met, an eligible
8 recipient shall receive a tax credit equal to 25 percent of income tax withholding for retained jobs.
9 This percentage increases to 50 percent for projects that locate in priority areas. Recipients may
10 elect to claim the credit against their obligation to remit employee withholding taxes to the West
11 Virginia Tax Department.

12 (c) If investment or new-job thresholds as defined in this section are met, an eligible
13 recipient shall receive a non-refundable tax credit equal to 10 percent of eligible training costs for
14 full-time new and retained employee positions directly related to the business activity for which a
15 tax credit is available under this section.

16 (1) Qualifying credits are costs incurred to upgrade the technological skills of full-time
17 employees in West Virginia and include:

18 (A) Curriculum development;

19 (B) Training materials;

20 (C) Trainee domestic travel expenses;

21 (D) Costs associated with hiring and retaining an instructor;

22 (E) Rent;

23 (F) Purchase or lease of training equipment; and

24 (G) Other usual and customary training costs.

25 (2) The credit available for training costs increases to 25 percent of eligible training costs

26 for:

27 (A) Training of new employees that have graduated from an institution of higher education
28 in the state within the past two years;

29 (B) Training performed by an institution of higher education located within the state; or

30 (C) Training costs related to a USDOL-certified apprenticeship.

31 (3) Training costs do not include costs associated with travel outside the United States
32 unless the taxpayer receives prior written approval for the travel by the director based on a
33 showing of substantial need or other proof the training is not reasonably available within the United
34 States, wages and fringe benefits of employees during periods of training, or administrative cost
35 related to full-time employees of the taxpayer.

36 (d) A non-refundable income tax credit equal to 50 percent of the amount of incremental
37 income tax attributable to the construction wages paid in connection with construction of the
38 project facilities. This percentage increases to 75 percent for projects that locate in priority areas,
39 as described below.

40 (e) No manufacturer may benefit from any of the tax credits in this section for more than 10
41 years.

§11-13NN-3. Tier 2 eligibility, credits, and exemptions.

1 (a) Any electric vehicle ("EV") manufacturers that invest at least \$1 billion in capital
2 investments or creates more than 500 jobs within five years; any EV component part
3 manufacturers that invests at least \$200 million in capital investment or creates more than 100
4 jobs within five years; or any manufacturers that are converting existing facilities to allow for

5 production of EVs and EV component parts, or EV power supplies, and that will invest \$100 million
 6 in capital investment or create more than 100 new jobs, or new jobs equivalent to 10 percent of
 7 their statewide baseline, whichever is less, within five years is eligible for the credits and
 8 exemptions as specified in this section.

9 (b) Any company which meets any of the criteria as set for in subsection (a) of this section
 10 is eligible to receive:

- 11 (1) All credits available in §11-13NN-2 of this code for up to 15 years;
- 12 (2) An exemption on taxes paid on building materials for up to five years; and
- 13 (3) A non-refundable income tax credit equal to two percent on investment in qualified
 14 property

§11-13NN-4. Forfeiture of unused tax credits; redetermination of credit allowed.

1 If during any taxable year the manufacturer ceases operation as an eligible manufacturer
 2 in this state for which credit was allowed under this article, then the unused portion of the allowed
 3 credit is forfeited for the taxable year and for all ensuing years, except when the cessation is due to
 4 fire, flood, storm, or other casualty.

NOTE: The purpose of this bill is to provide for the creation of an "EV Manufacturers Investment Credit." The bill provides for definitions. The bill establishes tier 1 eligibility, credits, and exemptions. The bill establishes tier 2 eligibility, credits, and exemptions. The bill provides for the forfeiture of unused tax credits. Finally, the bill provides for the redetermination of credit allowed.

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