

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

House Bill 4033

**FISCAL
NOTE**

BY DELEGATES HOWELL, BIBBY, J. JEFFRIES, WAXMAN, J.

KELLY, CADLE AND FAST

[Introduced January 08, 2020; Referred to the Committee
on Fire Departments and Emergency Medical Services
then Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto three new
 2 sections, designated §11-21-25, §11-21-26, and §11-21-27 all relating to creating three
 3 refundable tax credits for volunteer fire fighters, emergency medical responders,
 4 emergency medical services practitioners, and ambulance drivers for qualifying service,
 5 training expenses and mileage expenses.

Be it enacted by the Legislature of West Virginia:

ARTICLE 21. PERSONAL INCOME TAX.

§11-21-25. Emergency Responder Service Tax Credit.

1 (a) This section may be known and cited as the West Virginia Emergency Responder
 2 Service Tax Credit Act.

3 (b) When used in this section, or in the administration of this section:

4 “Commissioner” or “Tax Commissioner” means the Tax Commissioner of the State of
 5 West Virginia or the Tax Commissioner's delegate.

6 “Eligible taxpayer” means an emergency responder who qualifies for a credit under this
 7 section.

8 “Emergency responder” means an individual who serves in this state as a volunteer
 9 emergency medical responder, a volunteer emergency medical responder; a volunteer fire fighter;
 10 a volunteer emergency medical services practitioner; or a volunteer ambulance driver.

11 “Qualifying service” means service provided by the eligible taxpayer as an emergency
 12 responder at a station of the department for which he or she serves or at the scene of a call or
 13 incident to which the department has responded.

14 “Taxpayer” means any person subject to the tax imposed under this article.

15 (c) Except as provided in subsection (d) of this section, there is allowed to every eligible
 16 taxpayer a credit against the taxes under this article in the amount of either \$300, if the taxpayer
 17 has served as an emergency responder for at least one year, but not more than five years, or

18 \$600, if the taxpayer has served as an emergency responder for more than five years.

19 (d) (1) A taxpayer may not claim the credit under this section unless the taxpayer is in
20 good standing with the department for which he or she serves and either has completed 40 hours
21 of qualifying service for the department in the year to which the claim relates or has participated
22 in at least 50 percent of the calls or incidents to which his or her station within the department has
23 responded in the year to which the claim relates, not including calls or incidents outside of the
24 department's jurisdiction. A taxpayer who holds more than one emergency responder position in
25 the same department may include the time spent providing qualifying service in each position
26 when determining whether the 40-hour threshold is met. A taxpayer shall provide certification from
27 the department for which he or she serves to the Tax Commissioner, on a form prescribed by the
28 commissioner, that the taxpayer has complied with the requirements of this subdivision and shall
29 submit the certification with the taxpayer's return.

30 (2) No credit may be claimed under this section by a part-year resident or a nonresident
31 of this state.

32 (3) No credit is allowed under this section for a taxable year covering a period of less than
33 12 months, except for a taxable year closed by reason of the death of the taxpayer.

34 (e) For any taxable year the taxpayer is eligible to claim the credits under this section and
35 §11-21-26 and §11-21-27 of this code, or both, the taxpayer may claim one credit under each
36 section for that taxable year and may claim only one credit under each section regardless of the
37 number of positions the taxpayer holds that makes the taxpayer eligible to claim the credits.

38 (f) If the amount of the credit calculated under subsection (c) of this section exceeds the
39 tax otherwise due under this article, the amount of the credit calculated not used to offset the tax
40 due shall be refunded to the taxpayer.

41 (g) If it appears upon audit or otherwise that any person has taken the credit against tax
42 allowed under this section and was not entitled to take the credit, then the credit improperly taken
43 under this article shall be recaptured. Amended returns shall be filed for any tax year for which

44 the credit was improperly taken. Any additional taxes due under this chapter shall be remitted with
45 the amended return or returns filed with the Tax Commissioner, along with interest, and other
46 penalties and additions to tax as may be applicable pursuant to the provisions of §11-10-1 et seq.
47 of this code.

48 (h) Notwithstanding the provisions of article §11-10-1 et seq. of this code, penalties and
49 additions to tax imposed under that article may be waived at the discretion of the Tax
50 Commissioner, unless the interest is not subject to waiver.

51 (i) The Tax Commissioner may adopt or propose, as appropriate, interpretive, procedural
52 and legislative rules, in accordance with the provisions of §29A-3-1 et seq. of this code, the
53 commissioner considers necessary to carry out the purposes of this section.

54 (j) This section is effective for tax years beginning on or after January 1, 2021.

§11-21-26. Emergency Responder Education and Training Tax Credit.

1 (a) This section may be known and cited as the “Emergency Responder Education and
2 Training Tax Credit Act.”

3 (b) When used in this section, or in the administration of this section:

4 “Commissioner” or “Tax Commissioner” means the Tax Commissioner of the State of
5 West Virginia or the Tax Commissioner's delegate.

6 “Course-work time” means the number of hours spent in a class or in training exercises,
7 either in person or online, by an emergency responder if the course maintains or improves skills
8 required by the individual to continue serving as an emergency responder or is necessary for the
9 individual to obtain or maintain certification to continue serving as an emergency responder.

10 “Eligible taxpayer” means an emergency responder who is eligible to claim the credit under
11 §11-21-25 of this code, regardless of whether a claim is filed under that section, and who files a
12 claim under this section.

13 “Emergency responder” has the meaning given in §11-21-25 of this code.

14 “Taxpayer” means any person subject to the tax imposed under this article.

15 (c) Except as provided in subsection (d) of this section, there is allowed to every taxpayer
16 a credit against the taxes under this article an amount equal to \$20 for each hour of course-work
17 time, up to 25 hours, that the taxpayer spends participating in those activities in the taxable year
18 to which the claim relates.

19 (d)(1) The maximum credit that a taxpayer may claim each year under this section is \$500.
20 A taxpayer shall provide certification from the department for which he or she serves to the Tax
21 Commissioner, on a form prescribed by the commissioner, of the hours of course-work time and
22 that the taxpayer has complied with the requirements of §11-21-25(d)(1) and submits the
23 certification with the taxpayer's return.

24 (2) No credit may be claimed under this section by a part-year resident or a nonresident
25 of this state.

26 (3) A credit is not allowed under this section for a taxable year covering a period of less
27 than 12 months, except for a taxable year closed by reason of the death of the taxpayer.

28 (e) For any taxable year the taxpayer is eligible to claim the credits under this section and
29 §11-21-25 or §11-21-27 of this code, or both, the taxpayer may claim one credit under each
30 section for that taxable year and may claim only one credit under each section regardless of the
31 number of positions the taxpayer holds that makes the taxpayer eligible to claim the credits.

32 (f) If the amount of the credit calculated under subsection (c) of this section exceeds the
33 tax otherwise due under this article, the amount of the credit calculated not used to offset the tax
34 due shall be refunded to the taxpayer.

35 (g) If it appears upon audit or otherwise that any person has taken the credit against tax
36 allowed under this section and was not entitled to take the credit, then the credit improperly taken
37 under this article shall be recaptured. Amended returns shall be filed for any tax year for which
38 the credit was improperly taken. Any additional taxes due under this chapter shall be remitted with
39 the amended return or returns filed with the Tax Commissioner, along with interest, and other
40 penalties and additions to tax as may be applicable pursuant to the provisions of §11-10-1 et seq.

41 of this code.

42 (h) Notwithstanding the provisions of article §11-10-1 et seq. of this code, penalties and
43 additions to tax imposed under that article may be waived at the discretion of the Tax
44 Commissioner, unless the interest is not subject to waiver.

45 (i) The Tax Commissioner may adopt or propose, as appropriate, interpretive, procedural
46 and legislative rules, in accordance with the provisions of §29A-3-1 et seq. of this code, the
47 commissioner considers necessary to carry out the purposes of this section.

48 (j) This section is effective for tax years beginning on or after January 1, 2021.

§11-21-27. Emergency Responder Mileage and Equipment Tax Credit.

1 (a) This section may be known and cited as the “Emergency Responder Mileage and
2 Equipment Tax Credit Act”.

3 (b) As used in this section:

4 “Commissioner” or “Tax Commissioner” means the Tax Commissioner of the State of
5 West Virginia or the Tax Commissioner’s delegate.

6 “Eligible taxpayer” means an emergency responder who is eligible to claim the credit under
7 §11-21-25 of this code, regardless of whether a claim is filed under that section, and who files a
8 claim under this section.

9 “Emergency responder” has the meaning given in §11-21-25 of this code.

10 “Expenses” means unreimbursed expenses, not to exceed \$200, incurred by the taxpayer
11 for gear and equipment, in the year to which the claim relates, that are primarily for his or her use
12 while serving as an emergency responder.

13 “Mileage” means the number of unreimbursed miles traveled by a taxpayer in his or her
14 personal vehicle to attend training related to service as an emergency responder, multiplied by
15 the mileage rate.

16 “Mileage rate” means the standard mileage reimbursement rate for business, set by the
17 Internal Revenue Service, that applies under federal law for the taxable year to which the claim

18 relates.

19 “Taxpayer” means any person subject to the tax imposed under this article.

20 (c) Except as provided in subsection (d) of this section, there is allowed to every eligible
21 taxpayer a credit against the taxes under this article in the amount equal to the sum of the
22 taxpayer’s mileage for the taxable year for which the claim is made and expenses incurred in that
23 year.

24 (d)(1) The maximum credit that a taxpayer may claim each year under this section is \$400.

25 (2) No taxpayer may claim the credit under this section unless the taxpayer is in good
26 standing with the department for which he or she serves.

27 (3) No taxpayer may claim the credit under this section unless the individual in charge of
28 the department for which the taxpayer serves approves the expenses and mileage for which the
29 claim is made.

30 (4) No taxpayer may claim the credit under this section unless the taxpayer provides, on
31 a form prescribed by the Tax Commissioner, certification from the department for which he or she
32 serves of the taxpayer’s compliance with subdivision (2) of this subsection and of the approval
33 under subdivision (3) of this subsection. The taxpayer shall submit the certification with the
34 taxpayer's return.

35 (5) A credit may not be claimed under this section by a part-year resident or a nonresident
36 of this state.

37 (6) A credit is not allowed under this section for a taxable year covering a period of less
38 than 12 months, except for a taxable year closed by reason of the death of the taxpayer.

39 (e) For any taxable year the taxpayer is eligible to claim the credits under this §11-21-26
40 or §11-21-27 of this code, or both, the taxpayer may claim one credit under each section for that
41 taxable year and may claim only one credit under each section regardless of the number of
42 positions the taxpayer holds that makes the taxpayer eligible to claim the credits.

43 (f) If the amount of the credit calculated under section (c) of this section exceeds the tax

44 otherwise due under this article, the amount of the credit calculated not used to offset the tax due
45 shall be refunded to the taxpayer.

46 (g) If it appears upon audit or otherwise that any person has taken the credit against tax
47 allowed under this section and was not entitled to take the credit, then the credit improperly taken
48 under this article shall be recaptured. Amended returns shall be filed for any tax year for which
49 the credit was improperly taken. Any additional taxes due under this chapter shall be remitted with
50 the amended return or returns filed with the Tax Commissioner, along with interest, and other
51 penalties and additions to tax as may be applicable pursuant to the provisions of §11-10-1 et seq.
52 of this code.

53 (h) Notwithstanding the provisions of article §11-10-1 et seq. of this code, penalties and
54 additions to tax imposed under that article may be waived at the discretion of the Tax
55 Commissioner, unless the interest is not subject to waiver.

56 (i) The Tax Commissioner may adopt or propose, as appropriate, interpretive, procedural,
57 and legislative rules, in accordance with the provisions of §29A-3-1 et seq. of this code, the
58 commissioner considers necessary to carry out the purposes of this section.

59 (j) This section is effective for tax years beginning on or after January 1, 2021.

NOTE: The purpose of this bill is to create three refundable tax credits for volunteer fire fighters, emergency medical responders, emergency medical services practitioners, and ambulance drivers for qualifying service, training expenses, and mileage expenses.

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