

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

Senate Bill 462

BY SENATORS RUCKER AND STOLLINGS

[Introduced February 26, 2021; referred
to the Committee on Finance]

1 A BILL to amend and reenact §11-13J-6 and §11-13J-12 of the Code of West Virginia, 1931, as
 2 amended, all relating to extending the Neighborhood Investment Program Act until July 1,
 3 2026.

Be it enacted by the Legislature of West Virginia:

ARTICLE 13J. NEIGHBORHOOD INVESTMENT PROGRAM.

§ 11-13J-6. Application of annual credit allowance.

1 (a) *In general.* -- The aggregate annual credit allowance for a current tax year is an amount
 2 equal to the sum of the following:

- 3 (1) The portion allowed under ~~section five of this article~~ §11-13J-5 of this code for an
 4 eligible contribution placed into service or use during a prior tax year; plus
- 5 (2) The portion allowed under ~~section five of this article~~ §11-13J-5 of this code for an
 6 eligible contribution placed into service or use during the current tax year.

7 (b) *Application of credit allowance.* -- The amount determined under subsection (a) of this
 8 section shall be allowed as a credit for tax years ending on and after July 1, 1996, as follows:

9 (1) *Business franchise taxes.* --

10 The amount determined under subsection (a) of this section shall be applied to reduce up
 11 to 50 percent of the taxes imposed by ~~article twenty-three of this chapter~~ §11-23-1 et seq. of this
 12 code for the tax year determined after application of the credits against tax provided in section
 13 seventeen of said article, but before application of any other allowable credits against tax.

14 (2) *Corporation net income taxes.* -- After application of subdivision (1) of this subsection,
 15 any unused credit shall next be applied to reduce up to fifty percent of the taxes imposed by ~~article~~
 16 ~~twenty-four of this chapter~~ §11-24-1 et seq. of this code for the tax year determined before
 17 application of allowable credits against tax.

18 (3) *Personal income taxes.* --

19 (A) If the eligible taxpayer is an electing small business corporation as defined in Section
 20 1361 of the United States Internal Revenue Code, a limited liability company treated as a

21 partnership for purposes of the federal income tax, a partnership or a sole proprietorship, then
22 any unused credit, after application of subdivisions (1) and (2) of this subsection, shall be allowed
23 as a credit against up to 50 percent of the taxes imposed by article twenty-one of this chapter on
24 income of proprietors, partners or shareholders, subject to the limitations set forth in paragraphs
25 (B) and (C) of this subdivision.

26 (B) Electing small business corporations, partnerships and other unincorporated
27 organizations shall allocate the credit allowed by this article among the members thereof in the
28 same manner as profits and losses are allocated for the tax year.

29 (C) Any taxpayer subject to the personal income tax under article twenty-one of this
30 chapter, who makes an eligible contribution to a qualified charitable organization, and receives
31 back from that organization a properly completed neighborhood investment program tax credit
32 voucher, is eligible to claim the credit. The credit shall be allowed without regard to the source of
33 that income, whether it is from wages, passive investment or retirement income, income from a
34 trade or business or any other source.

35 (c) *Unused credit forfeited.* -- If any credit to an eligible taxpayer remains after application
36 of subsections (a) and (b) of this section, the amount thereof may be carried forward no more
37 than four years from the tax year in which the contribution was made. Unused credits of an eligible
38 taxpayer may not be carried forward beyond the time limits imposed under section five of this
39 article and the total maximum aggregate tax credits certified in any state fiscal year may not
40 exceed \$3,000,000.

41 (d) Addition of deductions, decreasing adjustments or decreasing modifications taken in
42 determining taxable income for which credit is taken. -- Any deduction, decreasing adjustment or
43 decreasing modification taken by any taxpayer in determining federal taxable income which
44 affects West Virginia taxable income or in determining West Virginia taxable income under ~~article~~
45 ~~twenty-one or twenty-four of this chapter~~ §11-21-1 et seq. or §11-24-1 et seq. of this code, for the
46 taxable year for any charitable contribution, or payment or portion thereof, which qualifies as an

47 eligible contribution under this article and for which credit is claimed, shall be added to West
 48 Virginia taxable income in determining the tax liability of the taxpayer under ~~article twenty-one or~~
 49 ~~twenty-four of this chapter~~ §11-21-1 et seq. or §11-24-1 et seq. of this code, as appropriate, before
 50 application of the credit allowed under this article for the taxable year.

51 (e) *Annual limit.* -- The aggregate annual credit allowance to any taxpayer may not exceed
 52 \$100,000 in any tax year.

§ 11-13J-12. Program evaluation; expiration of credit; preservation of entitlement.

1 Beginning on December 15, 2005, and every third year thereafter, the director shall secure
 2 an independent review of the Neighborhood Investment Program created by this article and
 3 present the findings to the Joint Committee on Government and Finance. Unless sooner
 4 terminated by law, the Neighborhood Investment Program Act terminates on July 1, ~~2024~~ 2026.
 5 There is no entitlement to the tax credit under this article for a contribution made to a certified
 6 project after July 1, ~~2024~~ 2026, and no credit is available to any taxpayer for any contribution
 7 made after that date. Taxpayers which have gained entitlement to the credit pursuant to eligible
 8 contributions made to certified projects prior to July 1, ~~2024~~ 2026, shall retain that entitlement and
 9 apply the credit in due course pursuant to the requirements and limitations of this article.

NOTE: The purpose of this bill is to extend the Neighborhood Investment Program Act to July 1, 2026.

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