

# WEST VIRGINIA LEGISLATURE

## 2024 REGULAR SESSION

Introduced

### House Bill 5208

FISCAL  
NOTE

By Delegate Holstein and Young

[Introduced January 26, 2024; Referred to the  
Committee on Prevention and Treatment of  
Substance Abuse 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, relating to establishing a tax credit for employers who hire  
 3 qualified employees in a program of recovery from substance abuse; authorizing tax credit;  
 4 defining terms; specifying the application process for tax credit; determining the amount of  
 5 the credit; restricting disclosure of diagnosis and treatment information; establishing  
 6 maximum allowable credits; and providing that unused credits do not carry over to  
 7 subsequent years.

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

**ARTICLE 13NN. TAX CREDIT FOR EMPLOYING PERSONS IN SUBSTANCE ABUSE**

**RECOVERY PROGRAMS.**

**§11-13NN-1. Credit to eligible taxpayers for hiring of qualified employees in a program of recovery from substance abuse.**

1 (a) A credit shall be allowed against taxes imposed on personal and corporate income in  
 2 this state to eligible taxpayers who hire qualified individuals participating in a program of  
 3 substance abuse recovery.

4 (b) For the purpose of this section, the term "eligible taxpayer" means a taxpayer who:

5 (1) Is subject to tax liability under the provisions of this article; and

6 (2) Hires one or more qualified individuals as defined herein.

7 (c) For the purpose of this section, the term "qualified individual" means an individual with a  
 8 diagnosed substance use disorder who:

9 (1) At the time of his or her hiring, was a participant in good standing in a drug court  
 10 program established pursuant to §62-15-1 et seq. of this code;

11 (2) Is employed for at least 120 hours per month at a wage equal to, or greater than, the  
 12 prevailing federal minimum wage;

13 (3) Has not, by his or her hiring, displaced an employed individual, other than an individual

14 who is discharged for cause; and

15 (4) Has not previously been employed by the same employer in a seasonal position to  
16 which the individual is returning for further seasonal employment.

17 (d) A substance abuse relapse shall not make an individual ineligible, as long as the  
18 individual shows a continued commitment to recovery that aligns with an individual's recovery plan  
19 and continues with the program established for the individual by the drug court.

20 (e) In addition to the initial year of employment, an eligible taxpayer/employer may claim  
21 the credit established herein for as long as the individual remains in good standing in his or her  
22 participation in the drug court program and up to two additional years after completion of the drug  
23 court program if the employee continues with a substance abuse monitoring program offered or  
24 administered by the employer.

25 (f) To participate in the program, an employer shall, in a form prescribed by the State Tax  
26 Commissioner, apply annually to the division by January 15 to claim the credit based on qualified  
27 individuals hired or employed during the preceding calendar year. As part of the application, an  
28 employer shall:

29 (1) Allow the State Tax Department and its agents access to limited and specific  
30 information necessary to monitor compliance with program eligibility requirements. Information  
31 accessed pursuant to this subdivision shall be confidential by law and shall only be used for the  
32 stated purpose of this section; and

33 (2) Demonstrate that the employer has satisfied program eligibility requirements and  
34 provided all the information necessary, including the number of hours worked by any qualified  
35 individual, for the director to compute an actual amount of credit allowed.

36 (g) Nothing in this section may be construed to compel the eligible individual, or health care  
37 providers, to disclose information related to the individual's diagnosis and treatment except for the  
38 status of the individual's participation in the drug court program and the results of any controlled  
39 substance testing administered by or at the direction of the employer.

40 (h) A certified employer may claim a credit, subject to the limitations of subsections (i) and  
 41 (j) of this section, for each eligible employee during the period starting on the day the employee is  
 42 hired and ending on December 31 of the immediately preceding calendar year or the last day of  
 43 the employee's employment by the certified employer, whichever comes first.

44 (i) A certified employer may claim a credit each year for the following number of eligible  
 45 employees according to the employer's total number of full-time employees:

<u>TOTAL EMPLOYEES</u>	<u>ELIGIBLE EMPLOYEES CREDITED</u>
<u>10 or fewer</u>	<u>1</u>
<u>11 to 33</u>	<u>2</u>
<u>34 to 66</u>	<u>3</u>
<u>67 to 84</u>	<u>4</u>
<u>85 to 100</u>	<u>5</u>
<u>101 to 200</u>	<u>6</u>
<u>201 or greater</u>	<u>7</u>

54 (j) The maximum credit allowed to any eligible taxpayer in any taxable year shall be \$2,000  
 55 per eligible individual hired and retained in employment: *Provided*, That the amount of the credit  
 56 allowed by this section in any one taxable year shall be prorated in proportion to the number of  
 57 months of employment of the eligible individual during the tax year: *Provided, however*, That the  
 58 maximum total credit allowed to any eligible taxpayer shall be \$14,000 per year for all eligible  
 59 individuals so employed. Unused credits do not carry over to any future tax year.

60 (k) For any corporate taxpayer eligible to receive a credit under this section, the credit shall  
 61 be allowed against the corporate net income tax due from the employer taxpayer for the tax year  
 62 as calculated under this section. For any eligible individual taxpayer or member of a partnership  
 63 filing as an individual, the credit shall be against the taxpayer's personal income tax for the  
 64 relevant tax year.

NOTE: The purpose of this bill is to create an incentive for employers to hire people who are pursuing a formal program of recovery from substance abuse issues by allowing the employer to claim a tax credit for employing eligible individuals, with limits based upon the employer's total number of employees overall.

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