

1 **H. B. 4334**

2  
3 (By Delegates Faircloth, Kump, Folk, Armstead, Lane,  
4 Gearheart, Hamrick and Householder)

5 [Introduced January 24, 2014; referred to the  
6 Committee on Small Business, Entrepreneurship & Economic  
7 Development then Finance.]

**FISCAL  
NOTE**

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10 A BILL to amend the Code of West Virginia, 1931, as amended, by  
11 adding thereto a new article, designated §11-13DD-1, relating  
12 to creating tax credits for small business economic impact.

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

14 That the Code of West Virginia, 1931, as amended, be amended  
15 by adding thereto a new article, designated §11-13DD-1, to read as  
16 follows:

17 **ARTICLE 13DD. SMALL BUSINESS ECONOMIC IMPACT TAX CREDITS.**

18 **§11-13DD-1. Tax credits for small business economic impact.**

19 (a) Credit allowed. -- In order to assist and encourage the  
20 growth of small business owners in the State of West Virginia, as  
21 well as promoting job growth from within this state by hiring  
22 residents of the state, for those tax years beginning on or after  
23 January 1, 2014 through June 2016, there shall be allowed a credit,  
24 for any taxpayer based in and operating entirely within this state

1 employing less than fifty employees, against certain taxes imposed  
2 by this state as described in subsection (c) of this section for  
3 wages paid to newly hired employees who are employed on a full-time  
4 basis (thirty-two hours a week or more) for a period of not less  
5 than one year and who are full-time residents of West Virginia.  
6 Employees may not be terminated after one year of employment,  
7 without cause, in order to be replaced by then newly hired  
8 employees in order to gain additional tax credits under this  
9 section.

10 (b) Amount of credit. -- The tax credit shall be in an amount  
11 equal to \$2,500 per each new hired employee during each of the  
12 calendar years of 2014 through June 2016, except the amount of  
13 credit allowed for any tax year with respect to each new employee  
14 may not exceed fifty percent of the actual wages paid in the tax  
15 year for the new employee, whichever is less.

16 (c) Application of annual credit allowance. -- The amount of  
17 credit as determined under subsection (b) of this section is  
18 allowed as a credit against the taxpayer's state tax liability  
19 applied as provided in subdivisions (1) through (3), inclusive of  
20 this subsection, and in that order.

21 (1) Business franchise tax. -- The credit must first be  
22 applied to reduce the taxes imposed by article twenty-three of this  
23 chapter for the taxable year.

24 (2) Corporation net income taxes. -- After application of

1 subdivision (1) of this subsection, any unused credit is next  
2 applied to reduce the taxes imposed by article twenty-four of this  
3 chapter for the taxable year.

4 (3) Personal income taxes. --

5 (A) If the person making the qualified employment is an  
6 electing small business corporation (as defined in Section 1361 of  
7 the United States Internal Revenue Code of 1986, as amended), a  
8 partnership, a limited liability company that is treated as a  
9 partnership for federal income tax purposes, or a sole  
10 proprietorship, then any unused credit (after application of  
11 subdivisions (1) and (2) of this subsection) is allowed as a credit  
12 against the taxes imposed by article twenty-one of this chapter on  
13 the income from business or other activity subject to tax under  
14 article twenty-three of this chapter or on income of a sole  
15 proprietor attributable to the business.

16 (B) Electing small business corporations, limited liability  
17 companies, partnerships and other unincorporated organizations  
18 shall allocate the credit allowed by this article among its members  
19 in the same manner as profits and losses are allocated for the  
20 taxable year.

21 (4) A credit is not allowed under this section against any  
22 employer withholding taxes imposed by article twenty-one of this  
23 chapter.

24 (d) Unused credit. -- If any credit remains after application

1 of subsection (c) of this section, that amount is forfeited. A  
2 carryback to a prior taxable year is not allowed for the amount of  
3 any unused portion of any annual credit allowance.

NOTE: The purpose of this bill is to create tax credits for small business economic impact in order to assist and encourage the growth of small business owners in the State of West Virginia, as well as promoting job growth from within this state by hiring residents of the state, for those tax years beginning on or after January 1, 2014 through June 2016.

This article is new; therefore, it has been completely underscored.