

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 4421

**FISCAL
NOTE**

DELEGATE SKINNER

[Introduced February 5, 2016; referred to the
Committee on Education then Finance.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto two new
2 sections, designated §11-21-8i and §11-21-12j; and to amend said code by adding thereto
3 a new section, designated §11-24-25, all relating to providing tax breaks for employers
4 assisting employees paying student loans; providing tax credits from personal and
5 corporate income taxes; and providing modification reducing federal adjusted gross
6 income for certain student loan payments.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto two
2 new sections, designated §11-21-8i and §11-21-12j; and that said code be amended by adding
3 thereto a new section, designated §11-24-25, all to read as follows:

ARTICLE 21. PERSONAL INCOME TAX.

§11-21-8i. Employer tax credit for employee student loan repayment.

1 (a) Subject to the conditions of this section, an employer is allowed a credit against the
2 taxes imposed by this article in the amount of twenty-five percent of a student loan repayment of
3 principal and interest made by the employer directly to the relevant lender or lenders on behalf of
4 each qualified employee of the employer. The credit allowed under this section applies only to
5 student loans incurred by a qualified employee while attending an accredited institution of higher
6 education.

7 (b) The employer is allowed a credit of up to \$450 for each qualified employee for whom
8 the employer makes student loan repayments in the tax year. To qualify for the credit for a
9 qualified employee under this section, the student loan repayment for a qualified employee must
10 be at least \$800 in the tax year.

11 (c) (1) The credit for a student loan repayment made by the employer for a qualified
12 employee may be claimed for no more than three tax years.

13 (2) The credit allowed by this section may not be refunded if the taxpayer has a tax liability
14 less than the amount of the credit.

15 (3) There is no carryback or carryforward of the credit permitted under this section.

16 (d) If the credit allowed under this section is claimed by an electing small business
17 corporation (S corporation), a pass-through entity, or a partnership, the credit must be attributed
18 to shareholders, owners, or partners using the same proportion as used to report the entity's
19 income or loss.

20 (e) The taxpayer shall provide to the Tax Commissioner, on a form provided by the Tax
21 Commissioner, documentation of the amount of the student loan repayment made on behalf of a
22 qualified employee in any tax year for which a credit is claimed under this section, and the qualified
23 employee's taxpayer identification number.

24 (f) As used in this section, the following definitions apply:

25 (1) "Qualified employee" means an employee who has:

26 (A) Been employed by the taxpayer for at least one hundred sixty hours in West Virginia
27 during the tax year; and

28 (B) Not been claimed for more than three tax years, regardless of whether the employee
29 is a qualified employee of one or more employers.

30 (2) "Student loan" means a student educational loan for higher education expenses that
31 is authorized by Title 20 of the United States Code.

32 (g) The Tax Commissioner may adopt interpretive and procedural rules and propose
33 legislative rules for legislative approval in accordance with the provisions of article three, chapter
34 twenty-nine-a of this code, necessary to implement and administer this section.

35 (h) This section applies to tax years beginning after December 31, 2015.

**§11-21-12j. Additional modification reducing federal adjusted gross income for certain
loan payments.**

1 (a) In addition to amounts authorized to be subtracted from federal adjusted gross income
2 pursuant to other sections of this article, a taxpayer may exclude the amount of the loan payment
3 received pursuant to subdivision (4) of this section not to exceed \$5,000, from the taxpayer's

4 adjusted gross income to the extent included therein, if the taxpayer:

5 (1) Is a health care professional licensed in West Virginia licensed under chapter thirty of
6 this code;

7 (2) Is serving a significant portion of a designated geographic area, special population, or
8 facility population in a federally designated health professional shortage area, a medically
9 underserved area or population, or a federal nursing shortage county as determined by the
10 Secretary of the Department of Health and Human Resources or by the Governor;

11 (3) Has had a student loan incurred as a result of health-related education; and

12 (4) Has received a loan payment during the tax year made on the taxpayer's behalf by a
13 loan repayment program described in subsection (b) of this section as an incentive to practice in
14 West Virginia.

15 (b) (1) For the purposes of subsection (a) of this section, a loan repayment program
16 includes a federal, state or qualified private program. A qualified private loan repayment program
17 includes a licensed health care facility that makes student loan payments on behalf of the person
18 who is employed by the facility as a licensed health care professional.

19 (2) (A) For purpose of this section a "health care facility" means all or a portion of an
20 institution, building, or agency, private or public, excluding federal facilities, whether organized for
21 profit or not, that is used, operated, or designed to provide health services, medical treatment, or
22 nursing, rehabilitative, or preventive care to any individual. The term includes chemical
23 dependency facilities, critical access hospitals, end-stage renal dialysis facilities, home health
24 agencies, home infusion therapy agencies, hospices, hospitals, infirmaries, long-term care
25 facilities, intermediate care facilities for the developmentally disabled, medical assistance
26 facilities, mental health centers, outpatient centers for primary care, outpatient centers for surgical
27 services, rehabilitation facilities, residential care facilities and residential treatment facilities.

28 (B) The term does not include offices of private physicians, dentists, or other physical or
29 mental health care workers regulated under chapter thirty of this code.

30 (c) The Tax Commissioner may adopt interpretive and procedural rules and propose
31 legislative rules for legislative approval in accordance with the provisions of article three, chapter
32 twenty-nine-a of this code, necessary to implement and administer this section.

33 (d) This section applies to tax years beginning after December 31, 2015.

ARTICLE 24. CORPORATION NET INCOME TAX.

§11-24-25. Employer tax credit for employee student loan repayment.

1 (a) Subject to the conditions of this section, an employer is allowed a credit against the
2 taxes imposed by this article in the amount of twenty-five percent of a student loan repayment of
3 principal and interest made by the employer directly to the relevant lender or lenders on behalf of
4 each qualified employee of the employer. The credit allowed under this section applies only to
5 student loans incurred by a qualified employee while attending an accredited institution of higher
6 education.

7 (b) The employer is allowed a credit of up to \$450 for each qualified employee for whom
8 the employer makes student loan repayments in the tax year. To qualify for the credit for a
9 qualified employee under this section, the student loan repayment for a qualified employee must
10 be at least \$800 in the tax year.

11 (c) (1) The credit for a student loan repayment made by the employer for a qualified
12 employee may be claimed for no more than three tax years.

13 (2) The credit allowed by this section may not be refunded if the taxpayer has a tax liability
14 less than the amount of the credit.

15 (3) There is no carryback or carryforward of the credit permitted under this section.

16 (d) The taxpayer shall provide to the Tax Commissioner, on a form provided by the Tax
17 Commissioner, documentation of the amount of the student loan repayment made on behalf of a
18 qualified employee in any tax year for which a credit is claimed under this section, and the qualified
19 employee's taxpayer identification number.

20 (e) As used in this section, the following definitions apply:

- 21 (1) "Qualified employee" means an employee who has:
22 (A) Been employed by the taxpayer for at least one hundred sixty hours in West Virginia
23 during the tax year; and
24 (B) Not been claimed for more than three tax years, regardless of whether the employee
25 is a qualified employee of one or more employers.
26 (2) "Student loan" means a student educational loan for higher education expenses that
27 is authorized by Title 20 of the United States Code.
28 (f) The Tax Commissioner may adopt interpretive and procedural rules and propose
29 legislative rules for legislative approval in accordance with the provisions of article three, chapter
30 twenty-nine-a of this code, necessary to implement and administer this section.
31 (g) This section applies to tax years beginning after December 31, 2015.

NOTE: The purpose of this bill is to provide tax breaks for employers assisting employees paying student loans. It provides tax credits from personal and corporate income taxes and provides a modification reducing federal adjusted gross income for certain student loan payments.

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