

# WEST VIRGINIA LEGISLATURE

## 2023 REGULAR SESSION

Introduced

### House Bill 2958

FISCAL  
NOTE

By Delegate Burkhammer

[Introduced January 24, 2023; Referred to the Committee  
on Economic Development and Tourism then Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
 2 designated §11-13MM-1, §11-13MM-2, §11-13MM-3, §11-13MM-4, §11-13MM-5, §11-  
 3 13MM-6, and §11-13MM-7, all relating to the creation of the West Virginia Business  
 4 Incentive Program; providing for a short title; providing for legislative findings and purpose;  
 5 creating the program and setting forth qualifications; setting forth a penalty for failure to  
 6 keep records; providing for rulemaking; providing for the application of the West Virginia  
 7 Tax Procedure and Administration Act and West Virginia Tax Crimes and Penalties Act to  
 8 the West Virginia Business Incentive Program; and providing for an effective date.

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

**ARTICLE 13MM. BUSINESS INCENTIVE PROGRAM.**

**§11-13MM-1. Short title.**

1 This article may be cited as the "West Virginia Business Incentive Program."

**§11-13MM-2. Legislative findings and purpose.**

1 The Legislature finds that the creation of new labor through existing businesses in this  
 2 state, and the expansion, growth and revitalization of labor is in the public interest and promotes  
 3 the general welfare of the people of this state. By adding a tax rebate incentive to existing  
 4 businesses, those businesses will have more reason to stay and expand in our state.

**§11-13MM-3. Business tax rebate program defined; qualifications.**

1 (a) There is hereby established the West Virginia Business Incentive Program.

2 (b) Businesses located in West Virginia shall be eligible for a 10% rebate on the payment of  
 3 the amount of the annual growth of their business equipment and business inventory taxes for  
 4 each additional job that is created during year. The rebate percentage shall only be applied to the  
 5 increase of the tax from the previous year to the current year.

6 (c) Money for the rebate shall be transferred from the state's General Revenue fund  
 7 through the Department of Economic Development.

8 (d) West Virginia businesses seeking the rebate shall apply through the Department of

9 Economic Development, and approval shall be based on the following criteria:

10 (1) The business shall be located in West Virginia and currently pay business equipment  
11 and/or business inventory taxes in this state;

12 (2) The business must be in good standing with both county and state tax departments;

13 (3) The amount of annual W-2 forms shall determine the number of employees for both the  
14 previous and current year;

15 (4) The annual payroll must increase by 10% within the state of West Virginia; and

16 (5) At least 80% of the company’s employees must reside in the state of West Virginia.

17 (e) Employees being claimed under the West Virginia Business Incentive Program as  
18 newly created jobs shall be West Virginia residents.

**§11-13MM-4. Failure to keep records for West Virginia Business Incentive Program.**

1 Any business who does not keep the records required for purposes of the West Virginia  
2 Business Incentive Program under section 3 of this article shall not be eligible for the incentive  
3 program until all records are provided.

**§11-13MM-5. Rulemaking.**

1 (a) In order to effectuate the purposes of this article, the Tax Commissioner may  
2 promulgate procedural rules, interpretive rules and legislative rules, including emergency rules, or  
3 any combination thereof, in accordance with §29A-3-1 et seq. of this code.

4 (b) In order to effectuate the purposes of this article, the Department of Economic  
5 Development or any agency, division or subdivision thereof, may promulgate procedural rules,  
6 interpretive rules and legislative rules, including emergency rules, or any combination thereof, in  
7 accordance with §29A-3-1 et seq. of this code.

**§11-13MM-6. Application of the West Virginia Tax Procedure and Administration Act and**  
**West Virginia Tax Crimes and Penalties Act.**

1 The provisions of this article are subject to the West Virginia Tax Procedure and  
2 Administration Act, set forth in §11-10-1 et seq. of this code, and the West Virginia Tax Crimes and

3 Penalties Act, set forth in §11-9-1 et seq. of this code, as if the provisions thereof were set forth in  
 4 extenso in this article.

**§11-13MM-7. Effective date.**

1 This article shall be effective for corporate net income tax years and personal income tax  
 2 years beginning on and after January 1, 2023, with retrospective effective back to such date.

NOTE: The purpose of this bill is to create the West Virginia Business Incentive Program. The bill provides for a short title. The bill provides for legislative findings and purpose. The bill creates the program and sets forth qualifications. The bill sets forth a penalty for failure to keep records. The bill provides for rulemaking. The bill provides for the application of the West Virginia Tax Procedure and Administration Act and West Virginia Tax Crimes and Penalties Act to the West Virginia Business Incentive Program. Finally, the bill provides for an effective date.

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