

# WEST VIRGINIA LEGISLATURE

## 2023 REGULAR SESSION

Introduced

### House Bill 3007

FISCAL  
NOTE

By Delegates Hornby, Clark, Hardy, Capito,  
Householder, Dean, Hanshaw (Mr. Speaker), Riley,  
Holstein, Hite, and Skaff

[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, and §11-13MM-4, all relating to  
 3 creating the Small Business Payroll Tax Credit, a three-year program establishing a tax  
 4 credit for up to five employees for new businesses with fewer than 15 employees;  
 5 establishing a start date and end date; listing the amounts of credits for five employees;  
 6 and requiring the Department of Economic Development to track the progress of this  
 7 program and present a report.

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

**ARTICLE 13MM. SMALL BUSINESS PAYROLL TAX CREDIT**

**§11-13MM-1. Establishing a Small Business Payroll Tax Credit.**

1 (a) Any business formed on or after July 1, 2023, and employing fewer than 15 employees  
 2 shall be eligible for the Small Business Payroll Tax Credit.

3 (b) The business must be newly-formed and cannot be a business that has existed in West  
 4 Virginia with the same members at any period between 2013 and 2023;

5 (c) The business cannot be a foreign corporation opening a subsidiary in West Virginia.

**§11-13MM-2. Tax credit rates per employee.**

1 (a) Over the three years of this program, the following schedule shall apply for tax credits  
 2 for a business that is eligible for this program:

3 (1) The first employee, for the purposes of this Article, shall be the first employee hired  
 4 chronologically after the business is established with the Secretary of State;

5 (A)The business's first employee for the first year of the qualifying business shall qualify  
 6 the business for a tax credit equal to 100 percent of the payroll tax assessed against the employer  
 7 for that employee's salary;

8 (B) The business's first employee for the second year of the qualifying business shall  
 9 qualify the business for a tax credit equal to 75 percent of the payroll tax assessed against the  
 10 employer for that employee's salary;

11 (C) The business's first employee for the third year of the qualifying business shall qualify  
12 the business for a tax credit equal to 50 percent of the payroll tax assessed against the employer  
13 for that employee's salary;

14 (2) The second employee for the purposes of this Article, shall be the second employee  
15 hired chronologically after the business is established with the Secretary of State;

16 (A) The business's second employee for the first year of the qualifying business shall  
17 qualify the business for a tax credit equal to 75 percent of the payroll tax assessed against the  
18 employer for that employee's salary;

19 (B) The business's second employee for the second year of the qualifying business shall  
20 qualify the business for a tax credit equal to 60 percent of the payroll tax assessed against the  
21 employer for that employee's salary;

22 (C) The business's second employee for the third year of the qualifying business shall  
23 qualify the business for a tax credit equal to 30 percent of the payroll tax assessed against the  
24 employer for that employee's salary;

25 (3) The third employee, for the purposes of this Article, shall be the third employee hired  
26 chronologically after the business is established with the Secretary of State;

27 (A)The business's third employee for the first year of the qualifying business shall qualify  
28 the business for a tax credit equal to 50 percent of the payroll tax assessed against the employer  
29 for that employee's salary;

30 (B) The business's third employee for the second year of the qualifying business shall  
31 qualify the business for a tax credit equal to 50 percent of the payroll tax assessed against the  
32 employer for that employee's salary;

33 (C) The business's third employee for the third year of the qualifying business shall qualify  
34 the business for a tax credit equal to 25 percent of the payroll tax assessed against the employer  
35 for that employee's salary;

36 (4) The fourth employee, for the purposes of this Article, shall be the fourth employee hired

37 chronologically after the business is established with the Secretary of State;

38 (A)The business's fourth employee for the first year of the qualifying business shall qualify  
39 the business for a tax credit equal to 25 percent of the payroll tax assessed against the employer  
40 for that employee's salary;

41 (B) The business's fourth employee for the second year of the qualifying business shall  
42 qualify the business for a tax credit equal to 20 percent of the payroll tax assessed against the  
43 employer for that employee's salary;

44 (C) The business's fourth employee for the third year of the qualifying business shall  
45 qualify the business for a tax credit equal to 10 percent of the payroll tax assessed against the  
46 employer for that employee's salary;

47 (5) The fifth employee, for the purposes of this Article, shall be the fifth employee hired  
48 chronologically after the business is established with the Secretary of State;

49 (A)The business's fifth employee for the fifth year of the qualifying business shall qualify  
50 the business for a tax credit equal to 15 percent of that employee's salary;

51 (B) The business's fifth employee for the second year of the qualifying business shall  
52 qualify the business for a tax credit equal to 10 percent of the payroll tax assessed against the  
53 employer for that employee's salary;

54 (C) The business's fifth employee for the third year of the qualifying business shall qualify  
55 the business for a tax credit equal to 0 percent of the payroll tax assessed against the employer for  
56 that employee's salary;

57 (b) This tax rebate is to be calculated according to the years that the business has been  
58 registered and operating and not the date of hire of the employees; and

59 (c) In the event that an employee leaves his or her position and is replaced, the new  
60 employee steps into the shoes of the employee he or she replaced, and the business's tax credit  
61 can be up to the amount of payroll tax that the employer paid the previous employee for the  
62 purposes of this business's tax credit;

**§11-13MM-3. Effective date and date program ends.**

1 This program shall begin on July 1, 2023, and end on December 31, 2025. It shall apply to  
2 the tax years beginning January 1, 2023, January 1, 2024, and January 1, 2025.

**§11-13MM-4. Report.**

1 The progress of this program shall be tracked by the Department of Economic  
2 Development over the three-year trial period of this program. The information to be tracked  
3 includes:

- 4 (a) The number of businesses using this program;
- 5 (b) The number of new small businesses registered from the start of this program;
- 6 (c) The number of employees hired by these businesses over the course of the three-year  
7 period; and
- 8 (d) The profits reported by the businesses.

NOTE: The purpose of this bill is to create the Small Business Payroll Tax Credit, a three-year program establishing a tax credit for up to five employees for new businesses with fewer than 15 employees; establishing a start date and end date; listing the amounts of credits for five employees; and requiring the Department of Economic Development to track the progress of this program and present a report.

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