

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 5374

FISCAL
NOTE

By Delegate Worrell

[Introduced January 31, 2024; Referred to the
Committee on 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, §11-13NN-2, and §11-13NN-3 creating a Strong Family Tax
 3 Credit to eligible charitable organizations that are exempt from federal income taxation
 4 under §501(c)(3) of the Internal Revenue Code and that are located in West Virginia
 5 providing services approved by the Department of Human Services; and providing that the
 6 State Tax Commissioner promulgate legislative rules regarding the applicability, method of
 7 claiming of the credit, recapture of the credit

Be it enacted by the Legislature of West Virginia:

ARTICLE 13NN. STRONG FAMILY TAX CREDIT.

§11-13NN-1. Legislative purpose.

1 (a) The Legislature finds and declares that taxpayers making contributions to
 2 organizations that are designated by the Department Human Services as " Eligible charitable
 3 organization" means an organization eligible to receive funding under this section.

4 (b) "Eligible contribution" means a monetary contribution from a taxpayer, subject to the
 5 restrictions provided in this section, to an eligible charitable organization. The taxpayer making the
 6 contribution may not designate a specific child assisted by the eligible charitable organization as
 7 the beneficiary of the contribution.

8 (c) "Tax credit cap amount" means the maximum annual tax credit amount that the
 9 Department of Revenue may approve for a state fiscal year.

§11-13NN-2. Strong families tax credits; eligibility.

1 (a) The Department of Human Services shall designate as an eligible charitable
 2 organization an organization that meets all of the following requirements:

3 (1) Is exempt from federal income taxation under §501(c)(3) of the Internal Revenue Code.

4 (2) Is a West Virginia entity formed under Chapter 31 of this code and whose principal
 5 office is located in this state.

6 (3) Provides services to:

7 (i) Prevent child abuse, neglect, abandonment, or exploitation;

8 (ii) Assist fathers in learning and improving parenting skills or to engage absent fathers in
9 being more engaged in their children’s lives;

10 (iii) Provide books to the homes of children eligible for a federal free or reduced-price
11 meals program or those testing below grade level in kindergarten through grade 5;

12 (iv) Assist families with children who have a chronic illness or a physical, intellectual,
13 developmental, or emotional disability; or

14 (v) Provide workforce development services to families of children eligible for a federal free
15 or reduced-price meals program.

16 (4) Provides to the Department of Human Services accurate information, including, at a
17 minimum, a description of the services provided by the organization which are eligible for funding
18 under this section, the total number of individuals served through those services during the last
19 calendar year and the number served during the last calendar year using funding under this
20 section, basic financial information regarding the organization and services eligible for funding
21 under this section; outcomes for such services, and contact information for the organization.

22 (5) Annually submits a statement, signed under penalty of perjury by a current officer of the
23 organization, that the organization meets all criteria to qualify as an eligible charitable
24 organization, has fulfilled responsibilities under this section for the previous fiscal year if the
25 organization received any funding through this credit during the previous year, and intends to fulfill
26 its responsibilities during the upcoming year.

27 (6) Provides any documentation requested by the Department of Human Services to verify
28 eligibility as an eligible charitable organization or compliance with this section.

29 (b) The Department of Human Services may not designate as an eligible charitable
30 organization an organization that:

31 (1) Provides abortions or pays for or provides coverage for abortions; or

32 (2) Has received more than 50 percent of its total annual revenue from the Department of

33 Human Services, either directly or via a contractor of the department, in the prior fiscal year.

34 (3) Responsibilities of eligible charitable organizations. An eligible charitable organization
35 that receives a contribution under this section shall do all of the following:

36 (a) Apply to the Secretary of the West Virginia Department of Human Services for eligibility
37 as a charitable organization under this article and, if accepted, the secretary shall conduct
38 background screening on all volunteers and staff working directly with children in any program
39 funded under this section. Background screening shall use screening standards pursuant to the
40 West Virginia Clearance for Access: Registry and Employment Screening Act in §16-49-1 et seq.
41 of this code, and additionally include, but need not be limited to, a check of the Dru Sjodin National
42 Sex Offender Public Website.

43 (b) Expend 100 percent of any contributions received under this section for direct services
44 to state residents for the purposes specified in this section..

45 (c) Annually submit to the Department of Children and Families:

46 (1) An audit of the eligible charitable organization conducted by an independent certified
47 public accountant in accordance with auditing standards generally accepted in the United States,
48 government auditing standards, and rules adopted by the Auditor General. The audit report must
49 include a report on financial statements presented in accordance with generally accepted
50 accounting principles. The audit report must be provided to the Department of Children and
51 Families within 180 days after completion of the eligible charitable organization's fiscal year; and

52 (2) A copy of the eligible charitable organization's most recent federal Internal Revenue
53 Service Return of Organization Exempt from Income Tax form (Form 990).

54 (d) Notify the West Virginia Department of Human Services within five business days after
55 the eligible charitable organization ceases to meet eligibility requirements or fails to fulfill its
56 responsibilities under this section.

57 (e) Upon receipt of a contribution, provide the taxpayer that made the contribution with a
58 certificate of contribution. Certificate of contribution must include the taxpayer's name and, if

59 available, its federal employer identification number, the amount contributed, the date of
60 contribution, and the name of the eligible charitable organization.

61 (4) Responsibilities of the West Virginia Department of Human Services. The department
62 shall do all of the following:

63 (a) Annually redesignate eligible charitable organizations that have complied with all
64 requirements of this section.

65 (b) Remove the designation of organizations that fail to meet all requirements of this
66 section. An organization that has had its designation removed by the department may reapply for
67 designation as an eligible charitable organization, and the requirements of this section and
68 demonstrates through its application that all factors leading to its removal as an eligible charitable
69 organization have been sufficiently addressed.

70 (c) Publish information about the tax credit program and eligible charitable organizations
71 on a West Virginia Department of Human Services website. The website shall, at a minimum,
72 provide all of the following:

73 (1) The requirements and process for becoming designated or redesignated as an eligible
74 charitable organization.

75 (2) A list of the eligible charitable organizations that are currently designated by the
76 department and the information provided regarding each eligible charitable organization.

77 (3) The process for a taxpayer to select an eligible charitable organization as the recipient
78 of funding through a tax credit.

79 (d) Compel the return of funds that are provided to an eligible charitable organization that
80 fails to comply with the requirements of this section. Eligible charitable organizations that are
81 subject to return of funds are ineligible to receive funding under this section for a period of 10 years
82 after final agency action to compel the return of funding.

83 (5) Strong families tax credits; applications, transfers, and limitations:

84 (e) The Tax Commissioner shall propose rules for legislative approval in accordance with

85 §29A-3-1 et seq. of this code relating to implementing the taxpayers obligations and procedures
86 and application for tax credits under this article: *Provided*, That the rules comply with §11-13NN-2
87 of this code.

§11-13NN-3. Application of credit; limitation of credit; tax commissioner to promulgate forms and legislative rule; notice of credit.

88 (a) The credit allowed in this article shall be first applied to a taxpayer's business franchise
89 tax liability, and then to either the taxpayer's personal income tax liability or corporation net income
90 tax liability, as the case may be.

91 (b) The credit allowed in this article shall not exceed \$10,000 per year and shall not be
92 refundable, nor carried forward nor backward to other tax years.

93 (c) The State Tax Commissioner shall promulgate legislative rules pursuant to §29A-3-1 et
94 seq. of this code regarding the applicability, method of claiming of the credit, recapture of the credit
95 and documentation necessary to claim the credit herein allowed.

NOTE: The purpose of this bill is to create a Strong Family Tax Credit to eligible charitable organizations that are exempt from federal income taxation under §501(c)(3) of the Internal Revenue Code and that are located in West Virginia providing services approved by the Department of Health and Human Resources.

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