

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2316

FISCAL
NOTE

By Delegate Fluharty

[Introduced January 11, 2023; Referred to the
Committee on Education then Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §11-21-26; to amend said code by adding thereto a new section, designated
 3 §18-2-44; and to amend said code by adding thereto a new section, designated §18B-2A-
 4 9, all relating to establishing the Stay in State tax credit against personal income for higher
 5 education tuition of certain state residents; creating credit for student loan payments of all
 6 in-state community college, college, or university undergraduates and their in-state
 7 employers against personal income tax; establishing conditions and qualifications for the
 8 tax credit; providing methodology for calculating credit; providing for graduate and
 9 employer eligibility of payments against student loans for employees; defining terms; and
 10 providing for the board of education, State Board of Education, and governing boards of
 11 colleges' promotion of the program.

Be it enacted by the Legislature of West Virginia:

CHAPTER 11. TAXATION.

ARTICLE 21. PERSONAL INCOME TAX.

§11-21-26. Stay in State Tax Credit.

1 (a) Credit allowed.-- To promote the retention of recent in-state college graduates, there is
 2 hereby created a tax credit for repayment of student loans against West Virginia personal income
 3 tax, available to those individuals that remain in West Virginia following graduation from an
 4 accredited West Virginia community college, college, or university. A qualified individual or an
 5 employer of a qualified individual is allowed a credit against the tax imposed by this article in
 6 accordance with the provisions of this section.

7 (b) A taxpayer entitled to the credit for any taxable year may carry over and apply to the tax
 8 liability for any one or more of the next succeeding 10 years the portion, as reduced from year to
 9 year, of any unused credits.

10 (c) A taxpayer may claim a credit based on loan payments actually made to a relevant

11 lender or lenders under this section only with respect to loans that are part of the qualified
12 individual's financial aid package and, for tax years beginning on or after January 1, 2023, only
13 with respect to loan payment amounts paid by the taxpayer during that part of the taxable year that
14 the qualified individual worked in this state. Payment of loan amounts in excess of the amounts
15 due during the taxable year does not qualify for the credit. Refinanced loans that are part of the
16 qualified individual's financial aid package are eligible for the credit under this section if the
17 refinanced loans remain separate from other debt, including debt incurred in an educational
18 program other than the degree program for which a credit is claimed under this section.
19 Forbearance or deferment of loan payments does not affect eligibility for the credit under this
20 section.

21 (d) Except as provided in §11-21-26(g) of this code, the credit under this section may not
22 reduce the tax otherwise due under this part to less than zero.

23 (e) Calculation of the credit.-- The credit with respect to a qualified individual is equal to the
24 amount determined under §11-21-26(e)(1) or §11-21-26(e)(2) of this code, whichever is less,
25 multiplied by the proration factor:

26 (1) The benchmark loan payment multiplied by the number of months during the taxable
27 year in which the taxpayer made loan payments; or

28 (2) The monthly loan payment amount multiplied by the number of months during the
29 taxable year in which the taxpayer made loan payments.

30 (f) The credit under §11-21-26(e) of this code for an individual who transferred to an
31 accredited West Virginia community college, college, or university from an accredited non-West
32 Virginia community college, college, or university on or after January 1, 2023, and who earned no
33 more than 30 credit hours of course work toward the degree at an accredited non-West Virginia
34 community college, college, or university is equal to 50 percent of the amount otherwise
35 determined under this section in the case of an associate degree and equal to 75 percent of the
36 amount otherwise determined under this section in the case of a bachelor's degree.

37 (g) Notwithstanding §11-21-26(d) of this code, the credit under this subsection is
38 refundable to the extent the credit is based on loans included in the financial aid package acquired
39 to obtain a bachelor's degree or associate degree in science, technology, engineering or
40 mathematics. For purposes of this subsection, the proration factor is the amount derived by
41 dividing the total number of academic credit hours earned for a bachelor's or associate degree on
42 or after January 1, 2015, by the total number of academic credit hours earned for the bachelor's or
43 associate degree.

44 (h) *Employer eligible to the credit.*-- An employer may qualify for the credit for a qualified
45 employee. A taxpayer constituting an employer making loan payments directly to a lender during
46 the taxable year on loans included in a qualified employee's financial aid package may claim a
47 credit equal to the benchmark loan payment or the actual monthly loan payment made by the
48 employer on the loans, whichever is less, multiplied by the number of months during the taxable
49 year the employer made loan payments on behalf of the qualified employee during the term of
50 employment. The credit under this subsection may not be claimed with respect to months of the
51 taxable year during which the employee was not a qualified employee. If the qualified employee is
52 employed on a part-time basis during the taxable year, the credit with respect to that employee is
53 limited to 50 percent of the credit otherwise determined under this subsection.

54 (i) The department shall assist the governing boards of West Virginia community colleges,
55 colleges, and universities with their participation in the "Stay in State Tax Credit" as provided in
56 §18B-2A-9 of this code. The department shall provide to the board's appropriate materials and
57 assistance needed to educate students on how to qualify and retain eligibility for the credit.

58 (j) The following definitions apply to this section:

59 "Accredited non-West Virginia community college, college, or university" means an
60 institution located outside the state that is accredited by a regional accrediting association or
61 approved by the United States Secretary of Education, under Section 1,099-b, Title 20 of the
62 United States Code;

63 "Accredited West Virginia community college, college, or university" means an institution
64 located in West Virginia that awards baccalaureate degrees and which holds accreditation by an
65 accrediting agency or association approved by the United States Secretary of Education, under
66 Section 1,099-b, Title 20 of the United States Code;

67 "Benchmark loan payment" means the monthly loan payment for the amount of the
68 principal cap paid over 10 years at the interest rate for federally subsidized Stafford loans under 20
69 United States Code, Section 1077a applicable during the individual's last year of enrollment at an
70 accredited West Virginia community college, college, or university;

71 "Full time" employment means employment with a normal workweek of 32 hours or more.

72 "Principal cap" means:

73 (A) For an individual obtaining a bachelor's degree and graduating from an accredited
74 West Virginia community college, college, or university, the average in-state tuition and mandatory
75 fees for attendance for the academic year ending during the calendar year prior to the year of
76 graduation multiplied by four; and

77 (B) For an individual obtaining an associate degree and graduating from an accredited
78 West Virginia community college, college, or university, the average in-state tuition and mandatory
79 fees for attendance for the academic year ending during the calendar year prior to the year of
80 graduation multiplied by two.

81 "Qualified person" means:

82 (A) A West Virginia resident that attended, and obtained an associate or a bachelor's
83 degree from, a West Virginia community college, college, or university on or after January 1, 2019.
84 The person need not obtain the degree from the institution in which that person originally enrolled,
85 as long as all course work toward the degree is performed at the West Virginia community college,
86 college, or university, except that an individual who transfers to a West Virginia community college,
87 college, or university on or after January 1, 2021, from outside the state and earned no more than
88 30 credit hours of course work toward the degree at an accredited non-West Virginia community

89 college, college, or university on or after January 1, 2023, and prior to the transfer is eligible for the
90 credit if all other eligibility criteria are met. Program eligibility for such a person must be determined
91 as if the commencement of course work at the relevant accredited community college, college, or
92 university was the commencement of course work for the degree program as a whole;

93 (B) Was a West Virginia resident while in attendance at the West Virginia community
94 college, college, or university. For purposes of this paragraph:

95 (C) Lived in West Virginia while pursuing the degree, excepting periods when it was
96 reasonably necessary for the individual to live elsewhere as part of the relevant institution's
97 academic programs or while pursuing course work at an accredited community college, college, or
98 university;

99 (D) During the taxable year, was a resident individual; and

100 (E) Worked during the taxable year for tax years at least part-time for an employer or self-
101 employed and was, during the taxable year, deployed for military service in the United States
102 armed forces, including the National Guard and the Reserves of the United States armed forces;
103 and

104 "Qualified student loan" means a loan taken out in the name of the taxpayer claiming the
105 credit authorized by this section and used solely to pay qualified education expenses for education
106 resulting in the award of a baccalaureate degree at an accredited West Virginia community
107 college, college, or university.

CHAPTER 18. EDUCATION.

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-44. Promoting student awareness of "Stay in State Tax Credit."

1 The State Board of Education shall notify superintendents about the "Stay in State Tax
2 Credit", as provided in §11-21-26 of this code, annually and encourage the superintendents to
3 publicize the availability of the credit among students, parents, and school staff, and may provide

1 summary and documentary materials explaining the credit to students and encouraging student
2 participation.

CHAPTER 18B. HIGHER EDUCATION.

ARTICLE 1. GOVERNANCE.

§18B-2A-9. Governing boards to provide notification of Stay in State Tax Credit eligibility.

1 (a) Each governing board of a West Virginia community college, college, or university shall
2 provide information about the "Stay in State Tax Credit" as provided in §11-21-26 of this code, by
3 promoting the program in financial aid award materials, entrance interviews, exit interviews, and
4 materials listing financial aid resources.

5 (b) Each board shall document for students' information relating to the "Stay in State Tax
6 Credit", including, once an eligible student has earned the degree, the total principal of eligible
7 loans the student received as part of that student's financial aid package related to course work
8 completed at an accredited West Virginia community college, college, or university. Each board
9 shall provide an original or certified copy to the student and shall retain a copy of the
10 documentation in its files for at least 10 years after the student graduates.

NOTE: The purpose of this bill is to establish the "Stay in State" tax credit that allows residents of this state who remain in state after graduating with an undergraduate or associate degree from a state institution to be granted a tax credit for the total cost of tuition and interest for student loans used to obtain their degree. The bill provides this tax credit is against personal income tax in West Virginia and is awarded over a 10-year period. The bill provides that employers are also allowed to claim the credit for employees that qualify for the credit. The bill provides that in-state high schools, colleges, and universities are required to inform and assist students with obtaining the tax credit.

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