

# **WEST VIRGINIA LEGISLATURE**

**2023 REGULAR SESSION**

**Introduced**

## **Senate Bill 438**

BY SENATORS CLEMENTS, SWOPE, CHAPMAN, AND

NELSON

[Introduced January 23, 2023; 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 §11-13MM-1, §11-13MM-2, §11-13MM-3, §11-13MM-4, §11-13MM-5, and  
3 §11-13MM-6, all relating to creating the Return to West Virginia Tax Credit Act; providing  
4 for a title, findings, and purpose; providing for a non-refundable credit against state  
5 personal income taxes; providing a definition; providing for limitations and eligibility  
6 requirements of the credit; authorizing legislative rule; authorizing the Tax Commissioner  
7 to create forms and require documentation; providing for effective and expiration dates of  
8 the credit; and requiring reporting.

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

**ARTICLE 13MM. RETURN TO WEST VIRGINIA TAX CREDIT ACT.**

**§11-13MM-1. Short title.**

1 This article may be cited as the Return to West Virginia Tax Credit Act.

**§11-13MM-2. Findings and purpose.**

1 The Legislature finds that it is an important public policy to encourage former West  
2 Virginians to return home and seek employment in West Virginia. West Virginia is enjoying low  
3 unemployment rates and seeks the return of West Virginians who have been gone because they,  
4 or their family members, felt the need to pursue employment opportunities outside of the state. In  
5 furtherance of its findings and as an incentive to return home and work in the state, the purpose  
6 of this article is to create a non-refundable credit against state personal income taxes.

**§11-13MM-3. Amount and limitation of credit.**

1 There is allowed to an eligible taxpayer a non-refundable credit against taxes imposed by  
2 §11-21-1 et seq. of this code in the amount \$25,000. If the total amount of the credit authorized  
3 by this article is not used in any tax year, the unused portion of the credit may be applied to a  
4 future tax year to which this credit applies: *Provided*, That the total amount of the credit claimed  
5 by an eligible taxpayer may not exceed \$25,000. No carryback to a prior taxable year is allowed  
6 for any unused portion of the credit.

**§11-13MM-4. Eligibility for credit; definition.**

1 "Eligible taxpayer " as used in this article means an individual in this state who meets the  
2 following criteria:

3 (1) The individual resided and was employed in West Virginia for a minimum of 10 years;  
4 or the individual was born in West Virginia; and

5 (2) The individual has not been a resident of West Virginia for at least 10 consecutive  
6 years preceding the year 2023; and

7 (3) The individual became a West Virginia resident again on or after January 1, 2023.

**§11-13MM-5. Legislative rules; authority of the Tax Commissioner.**

1 (a) The Tax Commissioner may propose rules for legislative approval in accordance with  
2 the provisions of §29A-3-1 et seq. of this code as may be necessary to carry out the purpose of  
3 this article.

4 (b) The Tax Commissioner may create forms and require the submission of documentation  
5 from any taxpayer who claims entitlement to the credit authorized by this article in order to verify  
6 such entitlement.

**§11-13MM-6. Effective date and expiration of credit; reporting.**

1 (a) The credit authorized in this article may be claimed after December 31, 2023.

2 (b) The credit authorized in this article shall expire and not be authorized or applied for  
3 any taxable year after December 31, 2029.

4 (c) On or before July 1, 2024, and annually thereafter for as long as the credit authorized  
5 in this article may be claimed, the Tax Commissioner shall provide an annual report in an  
6 electronic format to the Joint Committee on Government and Finance setting forth details  
7 concerning the utilization of the credit, including the number of taxpayers claiming the credit, the  
8 number of taxpayers deemed eligible or ineligible by the Tax Commissioner to receive the credit,  
9 benefits realized as a result of the credit, and the annual amount of the credit.