

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

**Introduced**

### **House Bill 5522**

By Delegates Mallow, Vance, Sheedy, DeVault,  
Green, Barnhart, Zatezalo, Mazzocchi, Holstein,  
Miller, and Heckert

[Introduced February 08, 2024; Referred to the  
Committee on Energy and Manufacturing then  
Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §11-13-2s, relating to providing a credit against the business and occupation  
3 tax imposed on coal-fired electric generating units to help off-set environmental  
4 compliance costs.

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

### **ARTICLE 13. BUSINESS AND OCCUPATION TAX.**

#### **§11-13-2s. Tax credit for environmental compliance costs at coal-fired power plants.**

1 (a) The Legislature hereby finds that:

2 (1) West Virginia is rich in energy resources, including coal, which provide many  
3 advantages to the state, its economy and its citizens;

4 (2) West Virginia's abundant coal reserves have created, and will continue to create, many  
5 benefits to the state and its citizens;

6 (3) Electric generating units that rely on coal to generate electricity have made  
7 considerable investments in equipment at coal-fired plants to comply with numerous  
8 environmental regulations;

9 (4) Electric generating units that rely on coal continue to modify and install environmental  
10 pollution controls on power plants to comply with federal and state environmental regulatory  
11 requirements to ensure that those facilities can continue to operate and serve the citizens of the  
12 state with reliable and affordable energy and protect the environment;

13 (b) Credit authorized. – In order to aid in off-setting environmental compliance costs, there  
14 shall be allowed a credit against the tax imposed by §11-13-20 of this code to coal-fired electric  
15 generating units that are not exempt from the business and occupation tax pursuant to §11-13-2q  
16 of this code for expenses related to installing, repairing, and maintaining Environmental Pollution

17 Control Equipment.

18 (c) Amount of credit. –

19 (1) The credit authorized under this section shall be equal to 35% of the amount of a  
20 taxpayer's expenditures incurred in installing, maintaining, or repairing Environmental Pollution  
21 Control Equipment during any given tax year.

22 (2) For purposes of this section, "Environmental Pollution Control Equipment" shall include  
23 any equipment installed at a coal-fired electric generating unit that is designed to comply with any  
24 environmental regulatory mandates, including, but not limited to, environmental control programs  
25 whose goal is controlling air, water, or land pollution or contamination. Environmental Pollution  
26 Control Equipment shall also include, but not be limited to, carbon capture, reduction, and/or  
27 storage if reductions of carbon or CO2 emissions is required by state or federal law.

28 (3) In no event shall the credit allowed under this section be used to reduce a taxpayer's  
29 liability for the tax imposed under §11-13-20 of this code by more than 50% of the amount that  
30 would have otherwise been due after taking any other credits against the business and occupation  
31 tax the taxpayer qualifies for during any tax year.

32 (d) Claiming the credit. – When a taxpayer has qualifying expenses related to installing,  
33 maintaining, or repairing Environmental Pollution Control Equipment, the taxpayer may claim a  
34 credit in the amount specified in §11-13-2s(c) of this code against the taxes otherwise owed on the  
35 annual return filed pursuant to §11-13-5 of this code. As specified in §11-13-2s(c)(3) of this code,  
36 the amount of credit claimed may not reduce the taxpayer's liability by more than 50%. When the  
37 amount of the credit exceeds 50% of the taxpayer's tax liability for a given tax year, the unused  
38 portion of the credit may be carried forward and applied to subsequent tax years, subject to the  
39 limitation in §11-13-2s(c)(3) of this code: *Provided*, That the carryforward period for any unused  
40 credit authorized pursuant to this section may not exceed five years beyond the tax year the  
41 Environmental Pollution Control Equipment expenses were incurred.

42 (e) Rules. – The Tax Commissioner may prescribe such regulations as he deems

43 necessary to carry out the purposes of this section for approval by the Legislature.

NOTE: The purpose of this bill is to encourage and incentivize the installation, repair, and maintenance of environmental pollution control equipment at coal-fired electric generating units located in West Virginia and that serve West Virginia residents, by authorizing a credit against the business and occupation tax imposed on the business of generating electricity, thereby extending the life of coal-fired power plants, which will provide cheaper electricity to the State's residents.

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