

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

**Introduced**

### **Senate Bill 243**

**FISCAL  
NOTE**

By Senator Phillips

[Introduced January 14, 2026; referred

to the Committee on Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new article,  
2 designated §11-13NN-1, §11-13NN-2, §11-13NN-3, §11-13NN-4, §11-13NN-5, §11-13NN-  
3 6, §11-13NN-7, §11-13NN-8, and §11-13NN-9, relating to establishing disaster repair and  
4 recovery effort tax credit for taxpayers subject to the severance and business privilege tax  
5 in certain circumstances; providing a short title; setting out legislative findings and  
6 purpose; defining terms; specifying the amount of the credit; providing for the application of  
7 credit and carryforward of unused credit; requiring filing of application for disaster repair  
8 and recovery effort tax credit as condition precedent to claiming credit; specifying  
9 procedure of application for certification, contents of application, and limitation on  
10 maximum amount of credits which can be approved; allowing transfer of credits to  
11 successors; providing for forfeiture of unused tax credits; providing legislative and  
12 emergency rulemaking; and establishing an effective date.

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

**ARTICLE 13NN. TAX CREDIT FOR DISASTER REPAIR AND RECOVERY EFFORT  
EXPENDITURES.**

**§11-13NN-1. Short title.**

1 This article may be cited as the "West Virginia Disaster Repair and Recovery Tax Credit  
2 Act".

**§11-13NN-2. Legislative findings and purpose.**

1 The Legislature finds that the private sector's assistance with prompt repair to public  
2 property and infrastructure following a disaster and the provision of equipment, materials, services  
3 and labor to assist with such repair and recovery efforts by taxpayers subject to the tax imposed  
4 by §11-13A-1 *et seq.* of the code in communities across the state, is in the public interest, reduces  
5 the amount of time it takes for communities to cleanup, repair and recover from disasters in this  
6 state, increases economic opportunity in this state and thereby promotes the general welfare of

7 the people of this state. In order to promote the private sector's willingness to assist with disaster  
8 repair and recovery efforts in this state, and to provide the necessary equipment, materials,  
9 services and labor to promptly complete such repair and recovery efforts, there is hereby enacted  
10 a disaster repair and recovery tax credit.

**§11-13NN-3.****Definitions.**

1 (a) When used in this article, or in the administration of this article, terms defined in this  
2 section shall have the meanings ascribed to them by this section, unless a different meaning is  
3 clearly required by either the context in which the term is used, or by specific definition, in this  
4 article.

5 (b) Defined terms:

6 "Designee" when used in reference to the Secretary of the Department of Environmental  
7 Protection, shall mean any officer or employee of the Department of Environmental Protection duly  
8 authorized by the Secretary of the Department of Environmental Protection directly, or indirectly by  
9 one or more delegations of authority, to perform the functions mentioned or described in this  
10 article.

11 "Disaster" shall mean any natural catastrophe including but not limited to a hurricane,  
12 tornado, derecho, earthquake, landslide, mudslide, snowstorm, or ice storm, or fire, and flood or  
13 explosion, regardless of cause.

14 "Eligible taxpayer" shall mean any person who makes a qualified expenditure for disaster  
15 repair and recovery efforts in this state and who is subject to the tax imposed by section three,  
16 article thirteen-a of this chapter. "Eligible taxpayer" shall include an affiliated group of taxpayers if  
17 the group elects to file a consolidated severance tax return under 11-13A- 1 et seq. of this code.

18 "Expenditures for repair and recovery efforts" shall include payments made by an eligible  
19 taxpayer for labor done, tangible personal property, materials, services or supplies furnished in  
20 furtherance of the removal of debris, damaged structures, earth and other disaster-related refuse,  
21 clearing, grubbing, grading, and excavation of the ground in preparation for construction.

22 installation and repair of public property and infrastructure, and the construction, installation and  
23 repair of public property and infrastructure following a disaster. In addition, the term "expenditures  
24 for repair and recovery efforts" includes the cost of machinery and equipment, including the cost of  
25 repairs, upgrades, or refurbishments of the machinery and equipment, purchased or leased by an  
26 eligible taxpayer and directly used as part of the repair and recovery efforts. The term  
27 "expenditures for repair and recovery efforts" excludes purchases of property and services that  
28 exceed the fair market value of the similar equipment, materials, services or labor obtained in the  
29 open market in the area of the disaster at the time of the expenditure. The terms "includes" and  
30 "including", when used in a term or phrase defined in this article, shall not be deemed to exclude  
31 other things otherwise within the meaning of the term defined.

32 "Secretary of the Department of Environmental Protection" shall mean the same as that  
33 term is defined in §22-1-2 of this code.

34 "Tax Commissioner" shall mean the Commissioner of the West Virginia State Tax  
35 Department.

36 "Taxpayer" shall mean any person subject to the tax imposed by §11-13A-3 of this code.

**§11-13NN-4. Credit allowed; amount of credit; application of credit; carry forward of unused**

<u>credit</u>	<u>for</u>	<u>10</u>	<u>years.</u>
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1 (a) An eligible taxpayer shall be allowed a credit against a portion of its annual severance  
2 tax liability. The amount of this credit shall be determined and applied as provided in this article.

3 (b) The amount of credit allowable is the total amount of the taxpayer's expenditures for  
4 repair and recovery efforts as determined and certified by the Secretary of the Department of  
5 Environmental Protection.

6 (c) The amount of credit allowable may be taken against up to 20 percent of taxpayer's  
7 annual severance tax liability imposed by §11-13A-3 of this code. The repair and recovery efforts  
8 credit may be taken in the year the repair and recovery efforts are completed, as certified by the  
9 Secretary of the Department of Environmental Protection. The aggregate annual credit allowance

10 may be claimed by taxpayer against its severance tax liability shown on its monthly tax returns at  
11 the rate of one-twelfth of the annual credit allowance per month.

12 (d) If any credit remains after application of subsection (c) of this section, the amount  
13 thereof may be carried forward to each ensuing tax year until used or until the expiration of the  
14 ninth taxable year subsequent to the year in which the credit was first available. If any unused  
15 credit remains after the 10th year, the amount is forfeited. No carryback to a prior taxable year is  
16 allowed for the amount of any unused portion of any annual credit allowance.

**§11-13NN-5. Application for disaster repair and recovery efforts project; contents of**  
**application; review of credit application; limitation on total credits authorized;**

**taking of credit.**

1 (a) Notwithstanding any provision of this article to the contrary, no credit shall be allowed  
2 or applied under this article for any expenditure for repair and recovery efforts until the person  
3 asserting a claim for the allowance of credit receives certification of the repair and recovery effort  
4 project from the Secretary of the Department of Environmental Protection, as provided in this  
5 section. Applications for certification of a repair and recovery effort project shall be filed with the  
6 Secretary of the Department of Environmental Protection and approved prior to the  
7 commencement of any project.

8 (b) Applications for certification of a repair and recovery effort project shall contain a  
9 detailed description of the work to be performed, the project timetable, a detailed breakdown of the  
10 cost of the project, the amount of credit requested and any other information which the Secretary  
11 of the Department of Environmental Protection or his or her designee may require.

12 (c) Once a project application is filed, the Secretary of the Department of Environmental  
13 Protection shall work with a taxpayer to ensure that the application contains all the information  
14 required by this article. Applications for credit may be supplemented or amended at any time after  
15 filing until all the information required by subsection (b) has been provided. Once a complete  
16 application has been filed, the Secretary of the Department of Environmental Protection shall

17 review it promptly to determine whether the project should be certified as eligible for credit under  
18 this article.

19 (d) The Secretary of the Department of Environmental Protection is authorized to certify no  
20 more than \$5 million of expenditures for repair and recovery efforts as eligible for the credit  
21 provided in this article. The Secretary of the Department of Environmental Protection shall keep  
22 track of the total expenditures approved and will cease accepting applications once the  
23 expenditure limit has been reached.

24 (e) The eligible taxpayer claiming the credit for certified expenditures for repair and  
25 recovery efforts shall include information supporting the computation of the credit and any other  
26 information the Tax Commissioner requires with its severance tax returns filed under this chapter.

**§11-13NN-6. Transfer of tax credit to successors.**

1 (a) The tax credit allowed in this article shall not be lost by reason of a mere change in the  
2 form of conducting the business in this state, if the transferor business retains a controlling interest  
3 in the successor business. In this event, the successor business shall be allowed to claim the  
4 amount of credit still available with respect to the project.

5 (b) The tax credit allowed pursuant to this article shall not be lost by reason of any transfer  
6 or sale of the stock or assets of the eligible taxpayer to a successor business which continues to  
7 operate in this state. Upon transfer or sale, the successor shall acquire the amount of credit that  
8 remains available under this article for each subsequent taxable year.

**§11-13NN-7. Identification of repair and recovery efforts.**

1 Every taxpayer who claims a credit under this article shall maintain sufficient records to  
2 reasonably establish the value of the claimed expenditures for repair and recovery efforts giving  
3 rise to the tax credit authorized by this article.

**§11-13NN-8. Rulemaking.**

1 The Secretary of the Department of Environmental Protection and the Tax Commissioner  
2 shall propose legislative rules including emergency legislative rules for promulgation to implement

3 the provisions of this article in accordance with §29A-3-1 *et seq* of this code.

**§11-13NN-9. Effective date.**

1 The credit allowed by this article shall be allowed for tax years beginning on or after the first

2 day of January 2026.

NOTE: The purpose of this bill is to create a credit against the severance tax to encourage private companies to assist with repair and recovery efforts following disasters in this state. The bill limits the total amount of repair and recovery effort credits which can be certified by the Secretary of the Department of Environmental Protection. The bill requires the Secretary of the Department of Environmental Protection and the Tax Commissioner to propose legislative rules and emergency legislative rules for promulgation to implement the provisions of the bill. The bill will increase economic opportunity in this state. The bill authorizes the claiming of the credits. Finally, the bill provides for an effective date.

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