

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

**Enrolled**

**Committee Substitute**

**for**

**Senate Bill 243**

BY SENATORS PHILLIPS AND ROSE

[Passed March 14, 2026; in effect 90 days from  
passage (June 12, 2026)]



1 AN ACT 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-  
3 13NN-6, §11-13NN-7, §11-13NN-8, and §11-13NN-9, relating to establishing disaster  
4 repair and recovery effort tax credit for taxpayers subject to the severance and business  
5 privilege tax in certain circumstances; providing a short title; setting out legislative findings  
6 and purpose; defining terms; specifying the amount of the credit; providing for the  
7 application of credit and carry forward of unused credit; requiring filing of application for  
8 disaster repair and recovery effort tax credit as condition precedent to claiming credit;  
9 specifying procedure of application for certification, contents of application, and limitation  
10 on 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,  
3 services, and labor to assist with such repair and recovery efforts by taxpayers subject to the tax  
4 imposed by §11-13A-1 *et seq.* of the code in communities across the state is in the public interest,  
5 reduces the amount of time it takes for communities to cleanup, repair, and recover from disasters  
6 in this state, increases economic opportunity in this state, and thereby promotes the general  
7 welfare of the people of this state. In order to promote the private sector's willingness to assist

8 with disaster repair and recovery efforts in this state, and to provide the necessary equipment,  
9 materials, services, and labor to promptly complete such repair and recovery efforts, there is  
10 hereby enacted 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  
8 duly authorized by the Secretary of the Department of Environmental Protection directly, or  
9 indirectly, by one or more delegations of authority, to perform the functions mentioned or  
10 described in this article.

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

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

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

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

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

33 "Tax Commissioner" shall mean the Commissioner of the West Virginia State Tax Division.

34 "Taxpayer" shall mean any person subject to the tax imposed by §11-13A-1 *et seq.* of this  
35 code.

**§11-13NN-4. Credit allowed; amount of credit; application of credit; carry forward of  
unused credit for 10 years.**

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 \$500,000 of the taxpayer's expenditures for repair  
4 and recovery efforts on each disaster as determined and certified by the Secretary of the  
5 Department of Environmental Protection.

6 (c) The amount of credit allowable may be taken against up to 20 percent of the taxpayer's  
7 annual severance tax liability imposed by §11-13A-1 *et seq.* of this code, except any liability  
8 imposed under §11-13A-5a, §11-13A-6 and §11-13A-6a of this code. The repair and recovery  
9 efforts credit may be taken in the year the repair and recovery efforts are completed, as certified  
10 by the Secretary of the Department of Environmental Protection. The aggregate annual credit

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

13 (d) If any credit remains after application of subsection (c) of this section, the amount  
14 thereof may be carried forward to each ensuing tax year until used or until the expiration of the  
15 ninth taxable year subsequent to the year in which the credit was first available. If any unused  
16 credit remains after the 10th year, the amount is forfeited. No carryback to a prior taxable year is  
17 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. The Secretary of the Department of Environmental Protection may coordinate repair and  
6 recovery projects with other departments as necessary.

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

11 (c) Applications for certification of a repair and recovery effort project shall be filed with the  
12 Secretary of the Department of Environmental Protection within 72 hours of commencement of  
13 any project. Once a project application is filed, the Secretary of the Department of Environmental  
14 Protection shall work promptly with a taxpayer to ensure that the application contains all the  
15 information required by this article. Applications for credit may be supplemented or amended at  
16 any time after filing until all the information required by subsection (b) of this section has been

17 provided. Once a complete application has been filed, the Secretary of the Department of  
18 Environmental Protection shall review it promptly to determine whether the project should be  
19 certified as eligible for credit under this article.

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

25 (e) The eligible taxpayer claiming the credit for certified expenditures for repair and  
26 recovery efforts shall include information supporting the computation of the credit and any other  
27 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  
2 first day of January 2026.

The Clerk of the Senate and the Clerk of the House of Delegates hereby certify that the foregoing bill is correctly enrolled.

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*Clerk of the Senate*

.....  
*Clerk of the House of Delegates*

Originated in the Senate.

In effect 90 days from passage.

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*President of the Senate*

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*Speaker of the House of Delegates*

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The within is ..... this the.....  
Day of ....., 2026.

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*Governor*