

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

### **Committee Substitute**

**for**

### **Senate Bill 402**

By Senators Smith (Mr. President) and Woelfel

[by request of the executive]

[Reported January 28, 2026, from the Committee on  
the Workforce]

1 A BILL to amend and reenact §11-13W-1 and §30-1B-2 of the Code of West Virginia, 1931, as  
2 amended; and to amend the code by adding eight new sections, designated §11-21-12o,  
3 §11-24-6d, §18B-3D-8, §21-18-1, §21-18-2, §21-18-3, §21-18-4, and §21-18-5, relating to  
4 expanding opportunities and participation in the state's workforce through the Workforce  
5 Readiness and Opportunity Act; creating the West Virginia Micro-Credential Program  
6 under the authority of the West Virginia Higher Education Policy Commission; expanding  
7 the availability for the tax credit for apprenticeship training programs; providing additional  
8 modification from personal and corporate net income tax for contributions and recipients to  
9 voluntary portable benefits plans; allowing hiring parties to contribute to the portable  
10 benefits for independent contractors without creating an employer-employee relationship;  
11 removing the requirement that military-trained applicants must pass a proficiency  
12 examination before receiving a professional licensure; and clarifying who qualifies for a  
13 license as a military-trained applicant.

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

## **CHAPTER 11. TAXATION.**

### **ARTICLE 13W. APPRENTICESHIP TRAINING TAX CREDITS.**

#### **§11-13W-1. Tax credits for apprenticeship training in ~~construction~~ recognized trades.**

1 (a) *Credit allowed.* –

2 (1) For those tax years beginning on or after January 1, 2008, there is allowed a credit for  
3 any taxpayer against certain taxes imposed by this state as described in subsection (d) of this  
4 section for wages paid to apprentices in the construction trades who are registered with the United  
5 States Department of Labor, Office of Apprenticeship, West Virginia State Office, by the taxpayer  
6 in the tax year that an apprentice and taxpayer participate in a qualified apprenticeship training  
7 program, as described in this section, which is:

8 (4) (A) Administered pursuant to 29 U.S.C. Section § 50; and

9           ~~(2)~~ (B) Certified in accordance with regulations adopted by the United States Bureau of  
10 Apprenticeship and Training or the successor agency of that bureau.

11           (2) For taxable years beginning on or after January 1, 2026, there is allowed a credit for any  
12 taxpayer against certain taxes imposed by this state as described in subsection (d) of this section  
13 for wages paid to apprentices who are registered with the United States Department of Labor,  
14 Office of Apprenticeship, West Virginia State Office, by the taxpayer in the tax year that an  
15 apprentice and taxpayer participate in a qualified apprenticeship training program, as described in  
16 this section, which fulfills the requirements of paragraphs (A) and (B), subdivision (1) of this  
17 subsection.

18           **(b) Amount of credit.** – The tax credit equals \$2 per hour multiplied by the total number of  
19 hours worked during the tax year by an apprentice working for the participating taxpayer, and the  
20 amount of credit allowed for any tax year with respect to each apprentice may not exceed \$2,000,  
21 or 50 percent of actual wages paid in that tax year for the apprenticeship, whichever is less.

22           **(c) Qualified apprenticeship training program requirements.** — In addition to the  
23 qualifications specified in subsection (a) of this section, a qualified apprenticeship training  
24 program consists of at least ~~two thousand~~ 2,000 but not more than ~~ten thousand~~ 10,000 hours of  
25 on-the-job apprenticeship training for certification of the apprenticeship by the United States  
26 Bureau of Apprenticeship and Training or the successor agency of the bureau.

27           **(d) Application of annual credit allowance.** – The amount of credit as determined under  
28 subsection (b) of this section is allowed as a credit against the taxpayer's state tax liability applied  
29 as provided in subdivisions (1) through (2), inclusive, of this subsection, and in that order.

30           **(1) Corporation net income taxes.** – The credit must first be applied to reduce the taxes  
31 imposed by §11-24-1 *et seq.* of this code for the taxable year.

32           **(2) Personal income taxes.** – After application of subdivision (1) of this subsection, any  
33 unused credit is next applied as follows:

(A) If the person making the qualified investment is an electing small business corporation (as defined in Section 1361 of the United States Internal Revenue Code of 1986, as amended), a partnership, a limited liability company that is treated as a partnership for federal income tax purposes, or a sole proprietorship, then any unused credit (after application of subdivision (1) of this subsection) is allowed as a credit against the taxes imposed by §11-21-1 *et seq.* of this code on the income from business or other activity on income of a sole proprietor attributable to the business.

(B) Electing small business corporations, limited liability companies, partnerships, and other unincorporated organizations shall allocate the credit allowed by this article among its members in the same manner as profits and losses are allocated for the taxable year.

(3) A credit is not allowed under this section against any employer withholding taxes imposed by §11-21-1 *et seq.* of this code.

(e) *Unused credit.* — If any credit remains after application of subsection (d) of this section, that amount is forfeited. A carryback to a prior taxable year is not allowed for the amount of any unused portion of any annual credit allowance.

## ARTICLE 21. PERSONAL INCOME TAX.

### **§11-21-12o. Additional modifications related to Voluntary Portable Benefits Plans.**

(a) Modification for contributions. — For taxable years beginning on or after January 1, 2026, in addition to the amounts authorized to be subtracted from federal adjusted gross income pursuant to §11-21-12(c) of this code there shall be subtracted an amount equal to a West Virginia taxpayer's contribution to a voluntary portable benefits plan for the taxable year in which the payment is made, in accordance with §21-18-1 *et seq.* of this code, but only to the extent the amount is not allowable as a deduction when arriving at the taxpayer's federal adjusted gross income for the taxable year.

(b) Modification for recipients. — For taxable years beginning on or after January 1, 2026, in addition to the amounts authorized to be subtracted from federal adjusted gross income pursuant

10 to §11-21-12(c) of this code there shall be subtracted an amount equal to a West Virginia  
11 taxpayer's receipt of a contribution to a voluntary portable benefits plan for the taxable year in  
12 which the payment is made, in accordance with §21-18-1 *et seq.* of this code, but only to the extent  
13 the amount is includable when arriving at the taxpayer's federal adjusted gross income for the  
14 taxable year.

**ARTICLE            24.            CORPORATION            NET            INCOME            TAX.**

**§11-24-6d. Additional modification related to Voluntary Portable Benefits Plans.**

1        For taxable years beginning on or after January 1, 2026, in addition to the amounts  
2 authorized to be subtracted from federal taxable income pursuant to §11-24-6(c) of this code,  
3 there shall be subtracted from federal taxable income an amount equal to a West Virginia  
4 taxpayer's contribution to a voluntary portable benefits plan for the taxable year in which the  
5 payment is made, in accordance with §21-18-1 *et seq.* of this code, but only to the extent the  
6 amount is not allowable as a deduction when arriving at the taxpayer's federal taxable income for  
7 the taxable year.

**CHAPTER 18B. HIGHER EDUCATION.**

**ARTICLE            3D.            WORKFORCE            DEVELOPMENT            INITIATIVE.**

**§18B-3D-8.            West            Virginia            Micro-Credential            Program.**

1        (a) The Legislature finds that:

2        (1) Within and outside of the classroom, students and employees often engage in project-  
3 based and experiential learning by which they attain knowledge and skills, such as critical thinking,  
4 communication, and collaboration, that are essential for productive employment and effective  
5 citizenship, but are not recognized or identified through an assessment score or a course grade;

6        (2) Students and employees often attain the mastery of valuable skills but lack the ability to  
7 demonstrate this mastery in a manner that is meaningful or credible for school districts, charter  
8 schools, institutions of higher education, or employers;

9           (3) School districts, nonprofit organizations, institutions of higher education, and  
10 employers have created micro-credentialing systems in the past. In these systems, an entity that  
11 provides educational opportunities for students and adults establishes the criteria, including  
12 curriculum and competencies, and assessments for determining whether a person has acquired  
13 the necessary skills for the micro-credential. Individuals who earn the micro-credential can then  
14 share the credential with formal or informal education providers or employers or other groups that  
15 have a need for persons with the skills represented by the micro-credential;

16           (4) A micro-credentialing system enables individuals to earn micro-credentials from a  
17 variety of issuers and use the micro-credentials to provide a much more complete picture of the  
18 range of knowledge and skills that the individual has developed. The individual can then  
19 incorporate the micro-credentials with the individual's resume when applying for entrance into  
20 select post-secondary education programs or the workforce;

21           (5) For certain persons, nonprofits, and employers, especially those involved in manual  
22 labor and skilled-trades, a system of micro-credentialing may be a cost and time-effective  
23 alternative to traditional higher education formats for employee development and workforce-  
24 readiness; and

25           (6) State institutions of higher education can also incorporate micro-credentials into degree  
26 programs to provide students with enhanced practical skills that improve their employment  
27 prospects compared to peers.

28           (b) The Legislature concludes that promoting and expanding a system of micro-  
29 credentialing to document student learning and mastery of distinct skills is useful to enable  
30 students and employees to demonstrate specific skills attained either within or outside of the  
31 classroom in a manner that is credible and useful for school districts, charter schools, and state  
32 institutions of higher education. The Legislature further finds that a standardized, credible system  
33 of micro-credentialing is a valuable component of workforce development in West Virginia.

34           (c) Therefore, the West Virginia Micro-Credential Program is established within the West

Virginia Higher Education Policy Commission. The Chancellor or their designee shall be responsible for developing and administering the Micro-Credential Program that shall provide at least the following:

(1) Standards and procedures for identifying the appropriate subjects and skills for micro-credentialing and the manner in which a traditional or nontraditional student may demonstrate the level of mastery necessary to obtain a micro-credential;

(2) Standards and procedures for the design of micro-credentials, including how the micro-credentials are validated, stored, accessed, and maintained;

(3) Standards and procedures for the platform for creating, maintaining, accessing, and sharing micro-credentials;

(4) Standards and procedures for determining the entity or entities that may store and maintain records of the micro-credential completion, along with other educational attainments and learning achievements such as post-secondary certificates and degrees, professional licenses, industry certifications, and completed apprenticeships, as well as protocols to protect the security of micro-credentials and other educational attainments and learning achievements and to help ensure that a student who obtains a micro-credential or other educational attainment or learning achievement controls access to their record;

(5) Standards and procedures for verifying the completion of micro-credentials and that they lead to demonstrable, measurable improvements in workforce participation and earnings; and

(6) Assistance to state institutions of higher education with implementing micro-credential offerings that are high-quality, transparent, aligned with workforce needs, and implemented through sound institutional processes, through increased capacity building for needs assessment, program development, marketing, student supports, documentation, and program and process improvement.

(d) The Commission is authorized and empowered, as necessary in developing and

implementing the Micro-Credential Program, to:

(1) Coordinate with the Department of Commerce, Department of Education, the Professional Charter School Board, the Council for Community and Technical College Education, any institution of higher education as that term is defined in §18B-1-2 of this code, and employers to develop joint criteria, curriculum, competencies, assessments, and class credit for specific micro-credentials within the program;

(2) Contract with education experts and service providers to consult on and develop the program or specific micro-credentials within the program;

(3) Prioritize the development and deployment of micro-credentials for manual labor or skilled trade-related workforce positions such as those found within the industries of construction, manufacturing, and energy;

(4) Utilize digital, web-based, artificial intelligence-based, hands-on, or on-the-job micro-credentials as needed to meet workforce and market demands; and

(5) Communicate with the Department of Commerce, employers, and industry representatives to ensure that the micro-credentials being offered respond to local and regional needs for specific workforce knowledge and skills.

(e) The Chancellor may propose rules in accordance with §29A-3-1 *et seq.* of this code, as needed, to establish and implement the Micro-Credential Program.

## **CHAPTER 21. LABOR.**

### **ARTICLE 18. VOLUNTARY PORTABLE BENEFITS PLAN ACT.**

#### **§21-18-1. Legislative Findings.**

The Legislature hereby finds:

(1) As of the effective date of this Act, there are over 90,000 independent contractors in West Virginia. Nationally, a substantial majority of independent contractors prefer their independent work arrangement over traditional employment, citing autonomy, flexibility, and



control over their schedules;

(2) Under current law, hiring entities are generally prohibited from providing employment-based benefits to independent contractors without risking the reclassification of those workers as employees;

(3) As a result, many independent contractors lack access to affordable benefits through traditional employment channels, spousal coverage, or public programs. For many, private market alternatives remain prohibitively expensive; and

(4) Establishing a portable benefit plan would provide tax incentives for hiring entities as contributions are deductible business expenses, and enhance financial stability for independent contractors, as contributions would not be included in their gross income.

**§21-18-2.**

**Definitions.**

As used in this article:

"Hiring party" means a person who hires or enters into a contract with an independent contractor;

"Independent contractor" means an individual who performs services for a hiring party in exchange for compensation, and the relationship with the hiring party qualifies the individual as an independent contractor based upon §21-51-1 *et seq.* of this code;

"Portable benefit plan" means a benefit plan administered by a third-party portable benefit plan provider chosen by the independent contractor and assigned to a beneficiary rather than to a hiring party, and includes, but is not limited to:

(A) Health insurance;

(B) Unemployment insurance;

(C) Income replacement insurance;

(D) Disability insurance;

(E) Life insurance; and

(F) Retirement benefits;

"Portable benefit plan provider" means the administrator of a portable benefit account, and includes:

(A) A bank;

(B) An investment management firm;

(C) A technology provider or program manager that offers services through a bank or investment management firm; or

(D) Any other person who demonstrates to the satisfaction of the West Virginia Division of Labor that the manner in which the person will administer the portable benefit account will be consistent with the portable benefit account requirements under this chapter.

**§21-18-3. Administration.**

(a) Any person or entity, whether public or private, including an internet or application-based company, may voluntarily contribute funds to a portable benefit account, as set forth in this article, for an independent contractor who resides in West Virginia or who performs actual work in West Virginia.

(b) Contributions to a portable benefit account may be made using the funds of the hiring party, or a percentage of funds withheld from the compensation owed to the independent contractor, or both.

(c) A percentage of funds may be withheld only if the following conditions are met:

(1) The withholding of compensation is expressly agreed to in writing;

(2) The written agreement is clear, unambiguous, and prominently displayed either in a work contract or a separate invoice;

(3) The withholdings are voluntary and require the independent contractor to opt-in; and

(4) The independent contractor may choose to opt-out for such withholdings at any time.

**§21-18-4. Employment Classification.**

(a) Contributions to a portable benefit account must not be used as a criterion for determining a worker's employment classification for purposes of:

(1) Human Rights Act rights, as set forth in §16B-17-1 *et seq.* of this code;  
(2) Wage payment and collection, as set forth in §21-5-1 *et seq.* of this code;  
(3) Unemployment compensation, as set forth Chapter 21A of this code;  
(4) Workers' compensation, as set forth in Chapter 23 of this code;  
(5) Taxes due the state, except for as set forth in §11-21-12o and §11-24-6d of this code;  
(6) Any lawsuit implicating employment law, including, but not limited to, discrimination, hostile work environment, wrongful discharge, or retaliation;  
(7) Any lawsuit implicating a third party, including, but not limited to, vicarious liability; or  
(8) Establishing any other right, privilege, or legal standing which would only apply when there is an employer-employee relationship.  
(b) This section does not preclude the establishment of an employer-employee relationship for any of these purposes. However, any act under this article, including the creation, use, or contributions to a portable benefit account, is strictly prohibited from being used to establish an employer-employee relationship between the hiring party and the independent contractor.

**§21-18-5. Rulemaking.**

The Director of the Division of Labor is authorized to promulgate legislative rules, and emergency legislative rules, in accordance with §29A-3-1 *et seq.* of this code to effectuate the provisions of this article.

**CHAPTER 30. PROFESSIONS AND OCCUPATIONS.**

**ARTICLE 1B. PROVISIONS APPLICABLE TO MILITARY MEMBERS AND THEIR SPOUSES.**

**§30-1B-2. Licensure for individuals with military training and experience.**

(a) As used in this article:

"Armed Forces of the United States" means the Army, Air Force, Navy, Marine Corps,

Space Force, and Coast Guard.

"Military occupational specialty" means the detail jobs or specialties in the Armed Forces, including the Army, Air Force, Marine Corps, Space Force, and Coast Guard; the detail jobs or specialties in the Navy Ratings List; and the detail jobs or specialties in the West Virginia National Guard.

"Military-trained applicant" means any active member of the Armed Forces of the United States, any active or inactive member of the West Virginia National Guard, and any veteran of the Armed Forces of the United States or the West Virginia National Guard.

"West Virginia National Guard" means the state organized militia, which includes the army National Guard, the air National Guard, and the inactive National Guard of this state, and shall be deemed to include any unit, component, element, headquarters, staff, or cadet thereof, as well as any member or members.

~~(b) Except as provided in subsection (c) of this section, and notwithstanding any other provision of this Code to the contrary, All~~ boards referred to in this chapter shall issue a license, certification, or registration to a military-trained applicant to allow the applicant to lawfully practice the applicant's occupation in this state if, upon application to a board, the military-trained applicant satisfies the following conditions:

(1) ~~Has~~ The applicant has been awarded a military occupational specialty and has done all of the following at a level that is substantially equivalent to or exceeds the requirements for licensure, certification, or registration of the board from which the applicant is seeking licensure, certification, or registration in this state:

(A) Completed a military program of training;

(B) Completed testing or equivalent training and experience; and

(C) Performed in the occupational specialty;

(2) ~~Has~~ The applicant has engaged in the active practice of the occupation for which the person is seeking a license, certification, or permit from the board in this state for at least two of the

five years preceding the date of the application under this section. All relevant experience of a military service member in the discharge of official duties shall be credited in the calculation of years of practice in an occupation; and

(3) Has The applicant has not committed any act in any jurisdiction that would have constituted grounds for refusal, suspension, or revocation of a license to practice that occupation in this state at the time the act was committed and has no pending complaints;

(4) The applicant was honorably discharged, if the applicant is a veteran;

(5) The applicant has never had a comparable license, registration, or certificate revoked by any other licensing board;

(6) The applicant does not have a disqualifying criminal history as determined by the board;-

~~(b) No later than 15 days following receipt of an application from a military-trained applicant, the board shall either issue a license, certification, registration, or notify an applicant when the applicant's military training or experience does not satisfy the requirements for licensure, certification, or registration and specify the criteria or requirements that the board determined that the applicant failed to meet and the basis for that determination. If a military-trained applicant has a pending complaint under §30-1B-3(a)(3), the board shall notify the applicant no later than 15 days following the board receiving written notice of the disposition of the pending complaint.~~

~~(c) A board shall issue a license, certification, or registration to a military-trained applicant to allow the applicant to lawfully practice the applicant's occupation in this state if the military-trained applicant, upon application to the board, satisfies the following conditions:~~

~~(1) Presents~~ (7) The applicant provides official, notarized documentation, such as a U.S. Department of Defense Form 214 (DD-214), or similar substantiation, attesting to the applicant's military occupational specialty certification and experience in an occupational field within the board's purview; and

(8) The applicant provides any additional information requested by the board, if the

additional information is necessary to establish that the applicant's military occupational specialty is sufficiently consistent with the license, registration, or certificate that the applicant seeks.

~~(2) Passes a proficiency examination offered by the board to military-trained applicants in lieu of satisfying the conditions set forth in subsection (a) of this section; However, if an applicant fails the proficiency examination, then the applicant may be required by the board to satisfy those conditions.~~

~~(d) In any case where a proficiency examination is not offered routinely by a board, the board shall design a fair proficiency examination for military-trained applicants to obtain licensure, certification, or registration under this section. If a proficiency examination is offered routinely by a board, that examination shall satisfy the requirements of this section.~~

~~(e) All relevant experience of a military service member in the discharge of official duties shall be credited in the calculation of years of practice in an occupation as required under subsection (a) of this section.~~

~~(f) (c) If the applicant meets the criteria set forth in (b) of this section, the board is prohibited from requiring the applicant to pass a proficiency examination or take additional testing, unless the board can establish good cause for determining that the applicant may not be proficient or otherwise qualified. Good cause must be based on the individual applicant and cannot be applied to military-trained applicants as a class.~~

~~(d) A nonresident licensed, certified, or registered under this section shall be entitled to the same rights and subject to the same obligations as required of a resident licensed, certified, or registered by all boards referred to in this chapter.~~

~~(g) (e) Nothing in this section may be construed to apply to the practice of law under §30-2-1 et seq. of this code, the practice of medicine under article § 30-3-1 et. seq. of this code, or the practice of osteopathic medicine under article § 30-14-1 et seq. of this code. Further, the licensing board for professions regulated by §30-4-1 et seq. may still require the applicant to complete a clinical hand-skills exam.~~

81           ~~(h)~~ (f) Nothing in this section may be construed to prohibit a military-trained applicant from  
82 proceeding under the existing licensure, certification, or registration requirements established by a  
83 board referred to in this chapter.

84           ~~(i)~~ (g) A board may not charge a military-trained applicant an initial application fee for a  
85 license, certification, registration, or temporary practice permit issued pursuant to this  
86 section: ~~Provided, That nothing in this subsection may be construed to prohibit a board from~~  
87 ~~charging its ordinary fee for a renewal application or prohibit a third party from charging actual~~  
88 ~~costs for a service such as a background check. A third party may charge the applicant for the~~  
89 ~~actual costs for a service associated with the application, such as a background check, and a~~  
90 ~~board may charge its ordinary fee for a renewal application.~~

NOTE: The purpose of this bill is all related to the Workforce Readiness and Opportunity Initiatives Act including by establishing the West Virginia Micro-Credential Program, expanding the apprenticeship training tax credit, allowing for independent contractors to have portable benefits which hiring parties can contribute to without altering the nature of the relationship, providing for tax treatment of portable benefits, and eliminating barriers to professional licensures for military trained applicants.

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