

**Senate Bill No. 203**

(By Senator Kessler (Mr. President), Unger, Laird, Miller,  
Jenkins, Klempa, Stollings and Wills)

[Introduced January 17, 2012; referred to the Committee on Health  
and Human Resources; and then to the Committee on Finance.]

**FISCAL  
NOTE**

A BILL to amend the Code of West Virginia, 1931, as amended, by  
adding thereto a new article, designated §11-13CC-1, §11-13CC-  
2, §11-13CC-3, §11-13CC-4, §11-13CC-5, §11-13CC-6, §11-13CC-7,  
§11-13CC-8 and §11-13CC-9, all relating to establishing a tax  
credit for certain physicians who provide certain physician's  
services at no charge to certain free health facilities in  
West Virginia; setting forth findings; specifying definitions;  
authorizing credit; specifying the amount of tax credit;  
specifying how credit may be asserted; specifying no credit  
carryovers; specifying forms and schedules to be established  
by the Tax Commissioner; specifying \$10,000 maximum credit per  
taxpayer per tax year; disallowing application of tax credit  
if the credit allowed under article thirteen-j of said chapter

1 is allowed for the same credit base; providing for add back of  
2 deductions, adjustments or modifications to taxable income if  
3 based upon the same activity, in-kind service, donation or  
4 contribution for which credit is taken; authorizing the Tax  
5 Commissioner to promulgate rules; and specifying effective  
6 date.

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

8 That the Code of West Virginia, 1931, as amended, be amended  
9 by adding thereto a new article, designated §11-13CC-1, §11-13CC-2,  
10 §11-13CC-3, §11-13CC-4, §11-13CC-5, §11-13CC-6, §11-13CC-7, §11-  
11 13CC-8 and §11-13CC-9, all to read as follows:

12 **ARTICLE 13CC. TAX CREDIT FOR FREE MEDICAL SERVICES.**

13 **§11-13CC-1. Legislative finding and purpose.**

14 The Legislature finds that physicians practicing in this state  
15 who provide their services at no charge in free health clinics are  
16 providing services in the public interest and promote the general  
17 welfare of the people of this state.

18 **§11-13CC-2. Definitions.**

19 (a) *General.* -- When used in this article, or in the  
20 administration of this article, terms defined in subsection (b) of  
21 this section have the meanings ascribed to them by this section,  
22 unless a different meaning is clearly required by the context in  
23 which the term is used.

1 (b) *Terms defined.* --

2 (1) "Eligible taxpayer" means any physician who provides not  
3 less than three hundred hours per tax year of physician's services  
4 at no charge in one or more free health care facilities in this  
5 state.

6 (2) "Free health care facility" means a nonprofit, charitable,  
7 or eleemosynary health care facility qualified as exempt from  
8 federal taxation under Section 501(c)(3) of the Internal Revenue  
9 Code of 1987, as amended, which voluntarily and without expectation  
10 or receipt of payment or other compensation or financial benefit,  
11 provides health care services to persons who do not qualify for  
12 Medicare or Medicaid, have no private health insurance, and cannot  
13 afford to see a medical care professional.

14 (3) "Health care facility" means a facility defined as a  
15 health care facility by section three, article thirty-c, chapter  
16 sixteen of this Code.

17 (4) "Physician" means any allopathic or osteopathic doctor  
18 licensed to practice medicine in this state.

19 (5) "Physicians' services" means and is limited to those  
20 services furnished by a physician within the scope of the practice  
21 of allopathic or osteopathic medicine, as defined by the laws of  
22 this state.

23 **§11-13CC-3. Eligibility for tax credits; creation of the credit.**

1 Every eligible taxpayer is allowed a credit against the tax  
2 payable under article twenty-one of this chapter. The amount of  
3 this credit is determined and applied as provided in this article.

4 **§11-13CC-4. Amount of credit allowed.**

5 The amount of annual credit allowable under this article to an  
6 eligible taxpayer shall be equal to \$10,000.

7 **§11-13CC-5. Excess credit forfeited.**

8 After application of the credit against tax under this article  
9 for the tax year, the amount of tax credit remaining and not used,  
10 if any, is forfeited. Unused credit may not be carried back to any  
11 prior tax year and shall not carry forward to any subsequent tax  
12 year.

13 **§11-13CC-6. Application of credit; schedules; estimated taxes.**

14 (a) The credit allowed under this article is applied against  
15 the tax payable by the eligible taxpayer under article twenty-one  
16 of this chapter.

17 (b) To assert this credit against tax, the eligible taxpayer  
18 shall prepare and file with its annual tax return filed under  
19 article twenty-one of this chapter, such forms and schedules as the  
20 Tax Commissioner may require.

21 (c) An eligible taxpayer may consider the amount of credit  
22 allowed under this article when determining the eligible taxpayer's  
23 liability under article twenty-one of this chapter for periodic

1 payments of estimated tax for the tax year, in accordance with the  
2 procedures and requirements prescribed by the Tax Commissioner.

3 (d) Any charitable deduction, or other deduction, decreasing  
4 adjustment or decreasing modification taken by any taxpayer in  
5 determining federal taxable income which affects West Virginia  
6 taxable income under article twenty-one of this chapter, or taken  
7 by any taxpayer in determining West Virginia taxable income under  
8 article twenty-one of this chapter for the taxable year, shall be  
9 added to West Virginia taxable income in determining the tax  
10 liability of the taxpayer under article twenty-one of this chapter,  
11 before application of the credit allowed under this article for the  
12 taxable year, if such deduction, adjustment of modification is the  
13 result of, or is calculated or determined based on, physician's  
14 services provided by the eligible taxpayer during the tax year at  
15 no charge in one or more free health care facilities in this state,  
16 for which credit is claimed under this article,.

17 (e) No credit is allowed under this article for any activity,  
18 donation, contribution, or in-kind service, for which the tax  
19 credit authorized under article thirteen-j of this chapter has been  
20 authorized, taken or allowed.

21 **§11-13CC-7. Legislative rules.**

22 The Tax Commissioner may propose for legislative approval  
23 pursuant to the provisions of article three, chapter twenty-nine-a

1 of this code any rules that may be necessary to execute the  
2 purposes of this article.

3 **§11-13CC-8. Construction of article; burden of proof.**

4       The provisions of this article shall be reasonably construed.  
5 The burden of proof is on the person claiming the credit allowed by  
6 this article to establish by clear and convincing evidence that the  
7 person is entitled to the amount of credit asserted for the taxable  
8 year.

9 **§11-13BB-9. Effective date.**

10       This article is effective for taxable years beginning after  
11 December 31, 2012.

NOTE: The purpose of this bill is to establish a tax credit  
for physicians who provide physician's services at no charge to  
free health facilities in West Virginia

This article is new; therefore, strike-throughs and  
underscoring have been omitted.