

1 **Senate Bill No. 166**

2 (By Senators Kessler (Mr. President), Unger, Stollings, Jenkins,
3 Miller and Laird)

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5 [Introduced February 15, 2013; referred to the Committee on
6 Health and Human Resources; and then to the Committee on
7 Finance.]

**FISCAL
NOTE**

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12 A BILL to amend the Code of West Virginia, 1931, as amended, by
13 adding thereto a new article, designated §11-13DD-1, §11-13DD-
14 2, §11-13DD-3, §11-13DD-4, §11-13DD-5, §11-13DD-6, §11-13DD-7,
15 §11-13DD-8 and §11-13DD-9, all relating to establishing a tax
16 credit for certain physicians who provide certain physician's
17 services at no charge to certain free health facilities in
18 West Virginia; setting forth findings; specifying definitions;
19 authorizing credit; specifying the amount of tax credit;
20 specifying how credit may be asserted; specifying no credit
21 carryovers; specifying forms and schedules to be established
22 by the Tax Commissioner; specifying \$10,000 maximum credit per
23 taxpayer per tax year; disallowing application of tax credit

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

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

9 That the Code of West Virginia, 1931, as amended, be amended
10 by adding thereto a new article, designated §11-13DD-1, §11-13DD-2,
11 §11-13DD-3, §11-13DD-4, §11-13DD-5, §11-13DD-6, §11-13DD-7, §11-
12 13DD-8 and §11-13DD-9, all to read as follows:

13 **ARTICLE 13DD. TAX CREDIT FOR FREE MEDICAL SERVICES.**

14 **§11-13DD-1. Legislative finding and purpose.**

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

19 **§11-13DD-2. Definitions.**

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

1 which the term is used.

2 (b) *Terms defined.* --

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

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

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

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

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

1 **§11-13DD-3. Eligibility for tax credits; creation of the credit.**

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

5 **§11-13DD-4. Amount of credit allowed.**

6 The amount of annual credit allowable under this article to an
7 eligible taxpayer is \$10,000.

8 **§11-13DD-5. Excess credit forfeited.**

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

14 **§11-13DD-6. Application of credit; schedules; estimated taxes.**

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

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

22 (c) An eligible taxpayer may consider the amount of credit
23 allowed under this article when determining the eligible taxpayer's

1 liability under article twenty-one of this chapter for periodic
2 payments of estimated tax for the tax year, in accordance with the
3 procedures and requirements prescribed by the Tax Commissioner.

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

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

22 **§11-13DD-7. Legislative rules.**

23 The Tax Commissioner may propose for legislative approval

1 pursuant to the provisions of article three, chapter twenty-nine-a
2 of this code any rules that may be necessary to execute the
3 purposes of this article.

4 **§11-13DD-8. Construction of article; burden of proof.**

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

10 **§11-13DD-9. Effective date.**

11 This article is effective for taxable years beginning after
12 December 31, 2013.

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.