

# **WEST VIRGINIA LEGISLATURE**

**2023 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 85**

By Senators Takubo, Phillips, Plymale, and Woodrum

[Originating in the Committee on Health and Human  
Resources; reported on January 18, 2023]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
2 designated §11-13MM-1, §11-13MM-2, §11-13MM-3, §11-13MM-4, §11-13MM-5, §11-  
3 13MM-6, §11-13MM-7, §11-13MM-8, and §11-13MM-9, all relating to establishing a tax  
4 credit for certain physicians who locate in this state to practice; providing for criteria for the  
5 tax credit; establishing education requirements; setting forth a time limit to claim the tax  
6 credit; setting forth length of residency requirements; setting forth findings; defining terms;  
7 authorizing the credit; specifying the amount of the tax credit; providing how the credit may  
8 be asserted; specifying no tax credit carryover; allowing forms and schedules to be  
9 established by the Tax Commissioner in rule; setting maximum amount of tax credit  
10 allowed per taxpayer per year; authorizing the Tax Commissioner to promulgate rules; and  
11 setting effective date.

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

**ARTICLE 13MM. TAX CREDIT FOR ESTABLISHING A NEW PHYSICIAN PRACTICE.**

**§11-13MM-1. Legislative findings.**

1 The Legislature finds that West Virginia suffers from a tremendous lack of physicians  
2 practicing within our state. This creates a crisis in the delivery of health care services to one of the  
3 unhealthiest populations in the nation. As a state we need to seek ways to attract qualified  
4 physicians to locate here to provide our citizens necessary health care services and to promote  
5 the general good health of this state.

**§11-13MM-2. Definitions.**

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

4 (b) *The following words have the following meanings:*

5 (1) "Accredited medical school" means a medical school accredited by either the Liaison  
6 Committee on Medical Education or the American Osteopathic Association Commission on

7 Osteopathic College Accreditation.

8 (2) "Eligible taxpayer" means any physician as that term is defined in this article who  
9 locates in West Virginia, as a resident, to practice medicine.

10 (3) "Personal taxable income" means a resident individual's West Virginia adjusted gross  
11 income less the individual's West Virginia personal exemptions as set forth in part two, article 21 of  
12 this chapter.

13 (4) "Physician" means any allopathic or osteopathic doctor licensed to practice medicine in  
14 this state pursuant to the provisions of either §30-3-1 et seq. or §30-14-1 et seq. of this code and  
15 who graduated from an accredited medical school in the United States and completed an  
16 approved residency or fellowship program within the preceding 12 months from the time the  
17 physician claims the tax credit.

18 (5) "Physician Practice" or "Practice" means the delivery of health care services by a  
19 licensed physician pursuant to the scope of practice and licensing requirements of chapter 30 of  
20 this code and other applicable laws of this state.

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

1 Every eligible taxpayer is allowed a credit against the tax payable under §11-21-1 et seq. of  
2 this code. To be eligible the taxpayer must be an eligible physician as defined in this article and  
3 licensed in West Virginia pursuant to the provisions of §30-3-1 et seq. or §30-14-1 et seq. of this  
4 code. The eligible physician must be a graduate of an accredited allopathic or osteopathic medical  
5 school located in the United States. The eligible taxpayer shall remain and practice medicine in  
6 West Virginia for a six-year period, or that eligible taxpayer will face a repayment obligation. The  
7 amount of this credit is determined and applied as provided in this article.

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

1 The maximum allowable amount of annual credit under this article to an eligible taxpayer is  
2 the eligible taxpayer's personal taxable income as defined in this article. This amount may be  
3 claimed only for three consecutive years.

**§11-13MM-5. Excess credit forfeited.**

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

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

1 (a) The credit allowed under this article is applied against the tax payable by the eligible  
2 taxpayer under §11-21-1 et seq. of this code.

3 (b) To assert this credit against tax, the eligible taxpayer shall prepare and file with his or  
4 her annual tax return under §11-21-1 et seq. of this code such forms and schedules as the Tax  
5 Commissioner may require.

6 (c) An eligible taxpayer may consider the amount of credit allowed under this article when  
7 determining the eligible taxpayer's liability under §11-21-1 et seq. of this code for periodic  
8 payments of estimated tax for the tax year, in accordance with the procedures and requirements  
9 prescribed by the Tax Commissioner.

10 (d) Any charitable deduction, or other deduction, decreasing adjustment, or decreasing  
11 modification taken by any taxpayer in determining federal taxable income affecting West Virginia  
12 taxable income under §11-21-1 et seq. of this code, or taken by any taxpayer in determining West  
13 Virginia taxable income under §11-21-1 et seq. of this code for the taxable year, shall be added to  
14 West Virginia taxable income in determining the tax liability of the taxpayer under §11-21-1 et seq.  
15 of this code, before application of the credit allowed under this article for the taxable year, if such  
16 deduction, adjustment, or modification is the result of, or is calculated or determined based on, the  
17 physician meeting all of the requirements of this article and any applicable rules promulgated by  
18 the Tax Commissioner.

**§11-13MM-7. Legislative rules.**

1 The Tax Commissioner may propose rules for legislative approval pursuant to the  
2 provisions of §29A-3-1 et seq. of this code, as may be necessary to carry out the purposes of this

3 article. These rules shall include, but not be limited to, the following:

4 (1) Residency requirements;

5 (2) A time limit on claiming the tax credit which may not exceed three years;

6 (3) A means to repay the tax credit should the physician not remain and practice medicine  
7 in West Virginia for a six-year period;

8 (4) Forms and time frames; and

9 (5) Anything else necessary to accomplish the requirements of this article.

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

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

**§11-13MM-9. Effective date.**

1 This article is effective for taxable years beginning July 1, 2023.

NOTE: The purpose of this bill is to establish a tax credit for physicians who are new graduates and locate in West Virginia to practice medicine for at least six years.

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

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