

**Senate Bill No. 319**

(By Senators Kessler (Acting President) and Unger)

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[Introduced January 27, 2011; referred to the Committee on Health  
and Human Resources; and then to the Committee on Finance.]

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10 A BILL to amend the Code of West Virginia, 1931, as amended, by  
11 adding thereto a new article, designated §11-13BB-1,  
12 §11-13BB-2, §11-13BB-3, §11-13BB-4, §11-13BB-5, §11-13BB-6,  
13 §11-13BB-7, §11-13BB-8 and §11-13BB-9, all relating to  
14 establishing a tax credit for medical providers who provide  
15 services at no charge to free health clinics in the state;  
16 setting the amount of tax credit; and authorizing the Tax  
17 Commissioner to promulgate rules.

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

19 That the Code of West Virginia, 1931, as amended, be amended  
20 by adding thereto a new article, designated §11-13BB-1, §11-13BB-2,  
21 §11-13BB-3, §11-13BB-4, §11-13BB-5, §11-13BB-6, §11-13BB-7,  
22 §11-13BB-8 and §11-13BB-9, all to read as follows:

23 **ARTICLE 13BB. TAX CREDIT FOR FREE MEDICAL SERVICES.**

24 **§11-13BB-1. Legislative finding and purpose.**

1       The Legislature finds that physicians practicing in this state  
2 who provide their services at no charge in free health clinics are  
3 in the public interest and promote the general welfare of the  
4 people of this state.

5 **§11-13BB-2. Definitions.**

6       (a) *General.* -- When used in this article, or in the  
7 administration of this article, terms defined in subsection (b) of  
8 this section have the meanings ascribed to them by this section,  
9 unless a different meaning is clearly required by the context in  
10 which the term is used.

11       (b) *Terms defined.* --

12       (1) "Eligible taxpayer" means any person subject to tax under  
13 section sixteen, article twenty-seven of this chapter or a  
14 physician who is a partner, member, shareholder or employee of an  
15 eligible taxpayer.

16       (2) "Person" means and includes any natural person,  
17 corporation, limited liability company, trust or partnership.

18 **§11-13BB-3. Eligibility for tax credits; creation of the credit.**

19       Every eligible taxpayer is allowed a credit against the tax  
20 payable under section sixteen, article twenty-seven of this  
21 chapter. The amount of this credit is determined and applied as  
22 provided in this article.

23 **§11-13BB-4. Amount of credit allowed.**

24       The amount of annual credit allowable under this article to an

1 eligible taxpayer is ten percent of the adjusted annual income:

2 *Provided*, That the credit allowed for an eligible taxpayer employed  
3 by the state, its agencies or subdivisions or an eligible taxpayer  
4 organization pursuant to coverage provided under article twelve,  
5 chapter twenty-nine of this code is five percent.

6 **§11-13BB-5. Excess credit forfeited.**

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

12 **§11-13BB-6. Application of credit; schedules; estimated taxes.**

13 (a) The credit allowed under this article is applied against  
14 the tax payable under section sixteen, article twenty-seven of this  
15 chapter.

16 (b) To assert this credit against tax, the eligible taxpayer  
17 shall prepare and file with its annual tax return filed under  
18 article twenty-seven of this chapter, and for information purposes,  
19 a schedule showing the amount of time spent in providing free  
20 medical services for the taxable year, the amount of credit allowed  
21 under this article, the taxes against which the credit is being  
22 applied and other information that the Tax Commissioner may  
23 require. This annual schedule shall set forth the information and  
24 be in the form prescribed by the Tax Commissioner.

1 (c) An eligible taxpayer may consider the amount of credit  
2 allowed under this article when determining the eligible taxpayer's  
3 liability under article twenty-seven of this chapter for periodic  
4 payments of estimated tax for the taxable year, in accordance with  
5 the procedures and requirements prescribed by the Tax Commissioner.  
6 The annual total tax liability and total tax credit allowed under  
7 this article are subject to adjustment and reconciliation pursuant  
8 to the filing of the annual schedule required by subsection (b) of  
9 this section.

10 **§11-13BB-7. Legislative rules.**

11 The Tax Commissioner shall propose for legislative approval  
12 pursuant to the provisions of article three, chapter twenty-nine-a  
13 of this code any rules that may be necessary to execute the  
14 purposes of this article.

15 **§11-13BB-8. Construction of article; burden of proof.**

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

21 **§11-13BB-9. Effective date.**

22 This article is effective for taxable years beginning after  
23 December 31, 2011: *Provided*, That the assertion of the credit by  
24 an eligible taxpayer is not allowed prior to July 1, 2012.

NOTE: The purpose of this bill is to establish a tax credit for medical providers who provide services at no charge to free health clinics in the state. The bill sets the amount of tax credit and authorizes the Tax Commissioner to promulgate rules.

§11-13BB-1, §11-13BB-2, §11-13BB-3, §11-13BB-4, §11-13BB-5, §11-13BB-6, §11-13BB-7, §11-13BB-8 and §11-13BB-9 are new; therefore, strike-throughs and underscoring have been omitted.