

Representative Rosalind J. McGee proposes the following substitute bill:

**TAX CREDIT FOR VOLUNTEER SERVICE BY
A HEALTH CARE PROFESSIONAL**

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen D. Clark

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends the Individual Income Tax Act and the Health Care Providers Immunity from Liability Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides a nonrefundable tax credit for volunteer service by a health care professional;
- ▶ provides that the tax credit is not remuneration or compensation for purposes of the Health Care Providers Immunity from Liability Act; and
- ▶ provides procedures and requirements for claiming the tax credit.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides for retrospective operation.

Utah Code Sections Affected:

AMENDS:



26 **58-13-3**, as last amended by Chapter 299, Laws of Utah 2005

27 ENACTS:

28 **59-10-134.3**, Utah Code Annotated 1953

29

30 *Be it enacted by the Legislature of the state of Utah:*

31 Section 1. Section **58-13-3** is amended to read:

32 **58-13-3. Qualified immunity -- Health professionals -- Charity care.**

33 (1) (a) (i) The Legislature finds many residents of this state do not receive medical care
34 and preventive health care because they lack health insurance or because of financial
35 difficulties or cost.

36 (ii) The Legislature also finds that many physicians, charity health care facilities, and
37 other health care professionals in this state would be willing to volunteer medical and allied
38 services without compensation if they were not subject to the high exposure of liability
39 connected with providing these services.

40 (b) The Legislature therefore declares that its intention in enacting this section is to
41 encourage the provision of uncompensated volunteer charity health care in exchange for a
42 limitation on liability for the health care facilities and health care professionals who provide
43 those volunteer services.

44 (2) As used in this section:

45 (a) "Health care facility" means any clinic or hospital, church, or organization whose
46 primary purpose is to sponsor, promote, or organize uncompensated health care services for
47 people unable to pay for health care services.

48 (b) "Health care professional" means individuals licensed under Title 58, Occupations
49 and Professions, as physicians and surgeons, osteopaths, podiatrists, optometrists,
50 chiropractors, dentists, dental hygienists, registered nurses, certified nurse midwives, other
51 nurses licensed under Section 58-31b-301, and licensed Direct-entry midwives.

52 (c) "Remuneration or compensation":

53 (i) (A) means direct or indirect receipt of any payment by the physician and surgeon,
54 health care facility, other health care professional, or organization, on behalf of the patient,
55 including payment or reimbursement under medicare or medicaid, or under the state program
56 for the medically indigent on behalf of the patient; and

57 (B) compensation, salary, or reimbursement to the health care professional from any
58 source for the health care professional's services or time in volunteering to provide
59 uncompensated health care; and

60 (ii) does not mean:

61 (A) any grant or donation to the health care facility used to offset direct costs
62 associated with providing the uncompensated health care such as medical supplies or drugs[-];

63 or

64 (B) a tax credit allowed by Section 59-10-134.3.

65 (3) A health care professional who provides health care treatment at or on behalf of a
66 health care facility is not liable in a medical malpractice action if:

67 (a) the treatment was within the scope of the health care professional's license under
68 this title;

69 (b) neither the health care professional nor the health care facility received
70 compensation or remuneration for the treatment;

71 (c) the acts or omissions of the health care professional were not grossly negligent or
72 willful and wanton; and

73 (d) prior to rendering services, the health care professional disclosed in writing to the
74 patient, or if a minor, to the patient's parent or legal guardian, that the health care professional
75 is providing the services without receiving remuneration or compensation and that in exchange
76 for receiving uncompensated health care, the patient consents to waive any right to sue for
77 professional negligence except for acts or omissions which are grossly negligent or are willful
78 and wanton.

79 (4) A health care facility which sponsors, promotes, or organizes the uncompensated
80 care is not liable in a medical malpractice action for acts and omissions if:

81 (a) the health care facility meets the requirements in Subsection (3)(b);

82 (b) the acts and omissions of the health care facility were not grossly negligent or
83 willful and wanton; and

84 (c) the health care facility has posted, in a conspicuous place, a notice that in
85 accordance with this section the health care facility is not liable for any civil damages for acts
86 or omissions except for those acts or omissions that are grossly negligent or are willful and
87 wanton.

88 (5) Immunity from liability under this section does not extend to the use of general
89 anesthesia or care that requires an overnight stay in a general acute or specialty hospital
90 licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

91 Section 2. Section **59-10-134.3** is enacted to read:

92 **59-10-134.3. Nonrefundable tax credit for volunteer service by a health care**
93 **professional.**

94 (1) As used in this section:

95 (a) (i) "Claimant" means a resident or nonresident individual who:

96 (A) is a health care professional; and

97 (B) has state taxable income under Part 1, Determination and Reporting of Tax

98 Liability and Information.

99 (ii) "Claimant" does not include a:

100 (A) nonresident estate;

101 (B) resident estate;

102 (C) nonresident trust; or

103 (D) resident trust.

104 (b) "Health care facility" is as defined in Section 58-13-3.

105 (c) "Health care professional" is as defined in Section 58-13-3.

106 (d) "Remuneration or compensation" is as defined in Section 58-13-3.

107 (e) "Total hours of volunteer service" is a time period:

108 (i) equal to the total number of hours of volunteer service a claimant performs during a
109 taxable year; and

110 (ii) calculated by:

111 (A) adding each:

112 (I) whole hour of volunteer service; and

113 (II) portion of an hour of volunteer service; and

114 (B) if the total number of hours of volunteer service added under Subsection

115 (1)(e)(ii)(A) is not in whole hour increments, that total number of hours of volunteer service
116 shall be rounded up to the next whole hour.

117 (f) "Volunteer service" means health care treatment provided by a health care

118 professional at or on behalf of a health care facility if:

119 (i) the health care treatment is within the scope of the health care professional's license
120 under Title 58, Occupations and Professions; and

121 (ii) neither the health care professional nor the health care facility receives
122 remuneration or compensation for the treatment.

123 (2) For taxable years beginning on or after January 1, 2006, a claimant may claim a
124 nonrefundable tax credit:

125 (a) as provided in this section; and

126 (b) against taxes otherwise due under this chapter.

127 (3) Except as provided in Subsection (4), the amount of the tax credit under Subsection
128 (2) is an amount equal to the product of:

129 (a) the total hours of volunteer service the claimant performs during the taxable year;
130 and

131 (b) \$50.

132 (4) A tax credit under this section may not exceed \$5,000 for any taxable year.

133 (5) (a) For any taxable year for which a claimant claims a tax credit under this section,
134 the claimant shall obtain a written statement from each health care facility:

135 (i) at or on behalf of which the claimant provides volunteer service for which the
136 claimant claims a tax credit under this section; and

137 (ii) listing the total hours of volunteer service performed by the claimant during the
138 taxable year.

139 (b) A claimant shall retain the written statement described in Subsection (5)(a) for
140 three years after the date the return is filed claiming the tax credit.

141 (6) A claimant may not carry forward or carry back a tax credit under this section.

142 **Section 3. Retrospective operation.**

143 (1) The amendments in this bill to Section 58-13-3 have retrospective operation to
144 January 1, 2006.

145 (2) The enactment of Section 59-10-134.3 by this bill has retrospective operation for
146 taxable years beginning on or after January 1, 2006.