

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

House Bill 4494

FISCAL
NOTE

BY DELEGATES BATES, COWLES, LAVENDER-BOWE,
PACK, ROHRBACH, SHOTT, ELLINGTON, BOGGS, HILL AND
ESPINOSA

[Introduced January 23, 2020; Referred to the
Committee on Health and Human Resources then
Finance]

1 A BILL to amend and reenact §4-11A-2 of the Code of West Virginia, 1931, as amended; and to
2 amend said code by adding thereto a new article, designated as §16-9G-1, §16-9G-2,
3 §16-9G-3 and §16-9G-4, all relating to expanding tobacco use reduction and cessation
4 initiatives; dedicating a portion of the proceeds from the West Virginia Tobacco Settlement
5 Medical Trust Fund for tobacco reduction and cessation programs; creating a task force
6 to undertake studies and monitor and advise the Division of Tobacco Cessation and
7 recommend policies to the Legislature; authorizing the Office of Tobacco Cessation to
8 apply and administer private grants and donations; and creation of a special revenue
9 account to fund the Office of Tobacco Cessation and state tobacco use reduction and
10 cessation programs.

Be it enacted by the Legislature of West Virginia:

CHAPTER 4. THE LEGISLATURE.

ARTICLE 11A. LEGISLATIVE APPROPRIATION OF TOBACCO SETTLEMENT FUNDS.

§4-11A-2. Receipt of settlement funds and required deposit in West Virginia Tobacco Settlement Medical Trust Fund until June 1, 2005, then to Workers' Compensation Debt Reduction Fund; deposit of strategic compensation payments; transfer of trust fund moneys.

1 (a) The Legislature finds and declares that certain dedicated revenues should be
2 preserved in trust for the purpose of stabilizing the state's health-related programs and delivery
3 systems. It further finds and declares that these dedicated revenues should be preserved in trust
4 for the purpose of educating the public about the health risks associated with tobacco usage and
5 establishing a program designed to reduce and stop the use of tobacco by the citizens of this
6 state and in particular by teenagers.

7 (b) There is hereby created a special account in the state Treasury, designated the West

8 Virginia Tobacco Settlement Medical Trust Fund, which shall be an interest-bearing account and
9 may be invested in the manner permitted by §12-6-9 of this code, with the interest income a proper
10 credit to the fund. Unless contrary to federal law, 50 percent of all revenues received pursuant to
11 the master settlement agreement shall be deposited in this fund. Funds paid into the account may
12 also be derived from the following sources:

13 (1) All interest or return on investment accruing to the fund;

14 (2) Any gifts, grants, bequests, transfers or donations which may be received from any
15 governmental entity or unit or any person, firm, foundation or corporation;

16 (3) Any appropriations by the Legislature which may be made for this purpose; and

17 (4) Any funds or accrued interest remaining in the board of Risk and Insurance
18 Management Physicians' Mutual Insurance Company account created pursuant to §33-20F-7 of
19 this code on or after July 1, 2004.

20 (c) (1) The moneys from the principal in the trust fund may not be expended for any
21 purpose, except that on April 1, 2003, the Treasurer shall transfer to the board of Risk and
22 Insurance Management Physicians' Mutual Insurance Company account created by §33-20F-7
23 of this code, \$24 million from the West Virginia Tobacco Settlement Medical Trust Fund for use
24 as the initial capital and surplus of the Physicians' Mutual Insurance Company created pursuant
25 to said article. The remaining moneys in the trust fund resulting from interest earned on the
26 moneys in the fund and the return on investments of the moneys in the fund shall be available
27 only upon appropriation by the Legislature as part of the state budget and expended in
28 accordance with the provisions of section three of this article.

29 (2) Notwithstanding any other provision (2) of this code to the contrary, on the effective date
30 of the amendment and reenactment of this section during the regular session of the Legislature
31 in 2006, all moneys in the trust fund and any interest or other return earned thereon shall be
32 transferred to the Revenue Shortfall Reserve Fund - Part B created in §11B-2-20 of this code and
33 the trust fund shall be closed. No provisions of the amendments made to this section during the

34 regular session of the Legislature in 2006 may be construed to change the requirements of this
35 section for the deposit of revenues received pursuant to the master settlement agreement into
36 the Workers' Compensation Debt Reduction Fund: Provided, That notwithstanding any other
37 provision of this code to the contrary, on the effective date of the amendment and reenactment of
38 this section during the regular session of the Legislature in 2020, the interest from this trust fund
39 shall be deposited into the "Tobacco Cessation Initiative Program Special Revenue Account"
40 created in §16-9G-3 of this code, for the purpose of funding the state program established in §16-
41 9G-1 et seq. of this code.

42 (d) Notwithstanding the preceding subsections to the contrary, the first \$30 million of all
43 revenues received after June 30, 2005, pursuant to section IX(c)(1) of the master settlement
44 agreement shall in the fiscal year beginning July 1, 2005, and each fiscal year thereafter, be
45 deposited in the Workers' Compensation Debt Reduction Fund established in the State Treasury
46 in §23-2D-5 of this code. Receipts in excess of \$30 million shall be deposited into the Tobacco
47 Settlement Fund provided in section three of this article.

48 (e) Notwithstanding anything in this code to the contrary, strategic compensation
49 payments received pursuant to section IX(c)(2) of the master settlement agreement, beginning in
50 2008, shall be deposited in their entirety in the Workers' Compensation Debt Reduction Fund.

51 (f) Notwithstanding anything in this code to the contrary, on the effective date of the sale
52 of the state's share to the authority as authorized in this article, the deposits and transfers provided
53 in this section shall cease and no longer be required.

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 9G. TOBACCO CESSATION INITIATIVE.

§16-9G-1. Establishment of Tobacco Use Cessation Initiative.

1 The purpose of this article is to direct a portion of the dedicated funding of the Tobacco
2 Master Settlement proceeds to fund state programs for the reduction of all forms of tobacco use

3 in West Virginia. The Bureau for Public Health's Division of Tobacco Prevention shall administer
4 the program, and the Tobacco Use Prevention and Cessation Task Force shall monitor the
5 agency's programs and activities and recommend programs and initiatives focused on reduction
6 of tobacco use, with a primary focus on reduction of the initiation of use of all tobacco products
7 by the youth of this state.

§16-9G-2. Tobacco Use Prevention and Cessation Task Force.

1 (a) Task Force Created. -- The West Virginia Tobacco Use Prevention and Cessation Task
2 Force is hereby created for the purpose of recommending and monitoring the establishment and
3 management of programs that are found to be effective in the reduction of tobacco use by all state
4 citizens, with particular and strong focus on the prevention of children and young adults use of
5 tobacco products. The Task Force is directed to meet regularly to study, monitor, and recommend
6 funding and initiation of programs that reduce tobacco consumption in West Virginia, and to
7 initiate studies and processes to provide the most efficient and effective use of the funds dedicated
8 for this purpose. The Task Force is to be compiled of a wide range of persons in the health care
9 field, tobacco cessation experts, advocates, and citizens, with the intention of the Legislature to
10 create a dynamic and innovative group to focus, monitor, and facilitate state resources towards
11 this goal.

12 (b) Task Force membership. --

13 (1) The Task Force on Tobacco Use Prevention and Cessation Task Force shall have the
14 following members:

15 (A) The Director of the Bureau for Public Health or his or her designee, who shall serve
16 as chair of the Task Force;

17 (B) A representative of the State Board of Medicine who is a licensed physician with
18 expertise in health impacts associated with tobacco consumption, as appointed by the board;

19 (C) The Superintendent of the Department of Education or his or her designee;

20 (2) Four members to be appointed by the Governor:

21 (A) A representative of a nationwide nonprofit organization dedicated to the elimination of
22 cancer;

23 (B) A representative of a nonprofit national organization that funds cardiovascular medical
24 research;

25 (C) A representative of the Board of Dental examiners with an expertise in oral health as
26 appointed by the board;

27 (D) A representative of a national voluntary health organization whose mission is to save
28 lives by improving lung health and preventing lung disease through education, advocacy, and
29 research; and

30 (E) Two citizen members that through professional or medical experience or advocacy
31 are committed to work and advocate for cessation of tobacco consumption in all forms in the state.

32 (c) Task Force authority and directives. --

33 The Task Force shall meet at least quarterly at the call of the chair. The Director of the
34 Division of Tobacco Prevention shall attend each task force meeting and shall provide staff
35 support services for the task force. The task force shall monitor the Division of Tobacco
36 Prevention's programs and make recommendations to the division on expenditures and programs
37 which are being administered by that office. The Task Force shall also provide annual reports to
38 the Legislative Oversight Committee on Health and Human Resources Accountability by
39 December 1st of each year, which shall include at a minimum, the following:

40 (1) An assessment of each program administered by the Division of Tobacco Prevention
41 towards reducing tobacco consumption and include overview of the Division of Tobacco
42 Prevention budget for the prior year and how state moneys and any other funding or grants
43 received by the office are being expended that year;

44 (2) Reviews and analysis of all the types of tobacco consumption practices in the state
45 and identification of any emerging trends related to tobacco delivery devices and related activities
46 impacting tobacco use, with particular emphasis on youth consumption trends and practices; and

47 (3) Recommendations for legislation or implementation of legislation, public policies, and
48 funding of programs that can further facilitate a reduction in tobacco usage in our state.

49 (d) Members of the task force are entitled to expenses reimbursement, consistent with
50 expense reimbursements for members of the Legislature, for expenses associated with fulfilling
51 their duties on the task force.

§16-9G-3. Division of Tobacco Prevention.

1 In addition to the administering and coordination of the state program on tobacco
2 cessation as herein authorized, the Division of Tobacco Prevention is further authorized to apply
3 for and administer federal and private grants and donations made for the purpose of reducing and
4 eliminating tobacco consumption in this state.

§16-9G-4. Special revenue account.

1 There is hereby created the "Tobacco Cessation Initiative Program Special Revenue
2 Account" the State Treasury. All moneys deposited into this special account shall be expended
3 for the purposes set forth in this article, and are not authorized from collections but are to be made
4 only in accordance with appropriation by the Legislature and in accordance with the provisions of
5 §12-3-1 et seq. of this code and upon fulfillment of the provisions of §11B-2-1 et seq. of this code:
6 Provided, That for the fiscal year ending June 30, 2021, expenditures are authorized from
7 collections rather than pursuant to appropriation by the Legislature.

NOTE: The purpose of this bill is to invigorate the state tobacco cessation program by providing a dedicated funding stream to the Office of Tobacco Prevention by dedicating funds from interest accrued by the state from the Tobacco Master Settlement Fund to be used for tobacco cessation initiatives; and by creating the Tobacco Use Prevention and Cessation Task Force, to be made up of experts and citizens to monitor the state program to monitor the Office of Tobacco Prevention and recommend public policies and initiatives to facilitate tobacco use reduction.

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