

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Committee Substitute

for

House Bill 4494

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[Originating in the Committee on Finance; February
21, 2020.]

1 A BILL to amend the Code of West Virginia, 1931, as amended by adding thereto a new article,
2 designated as §16-9G-1, §16-9G-2, §16-9G-3 and §16-9G-4, all relating to expanding
3 tobacco use reduction and cessation initiatives; creating a task force to undertake studies
4 and monitor and advise the Division of Tobacco Prevention and recommend policies to
5 the Legislature; authorizing the task force to apply and administer private grants and
6 donations; creating the Tobacco Cessation Initiative Program Special Revenue Account;
7 and directing the annual transfer of a portion of the interest and other return earned that
8 may accrue on the moneys in the Revenue Shortfall Reserve Fund – Part B to the special
9 revenue account to be expended for the purposes of the new article.

Be it enacted by the Legislature of West Virginia:

ARTICLE 9G. TOBACCO CESSATION INITIATIVE.

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

1 (a) The purpose of this article is to direct a portion of interest and earnings on the funds
2 originally transferred from the West Virginia Tobacco Settlement Medical Trust Fund to fund state
3 programs for the reduction of all forms of tobacco, tobacco products, alternative nicotine products,
4 or vapor products use in West Virginia. The Bureau for Public Health’s Division of Tobacco
5 Prevention shall administer the program, and the Tobacco Use Prevention and Cessation Task
6 Force shall monitor the division’s programs and activities and recommend programs and
7 initiatives focused on reduction of tobacco, tobacco products, alternative nicotine products, and
8 vapor products use, with a primary focus on reduction of the initiation of use of all tobacco, tobacco
9 products, alternative nicotine products, and vapor products, as defined in §16-9a-1 of this code.

10 (b) Evidence-based recommendations from the United States Department of Health and
11 Human Services Treating Tobacco Use Dependence Guidelines and the 2018 American College
12 of Cardiology Expert Consensus Decision Pathway on Tobacco Cessation Treatment strongly
13 indicate that tobacco, tobacco products, alternative nicotine products, and vapor products use is
14 a chronic relapsing substance use disorder that requires repeated coordinated interventions. It is

15 important that clinicians and health care systems consistently identify and document tobacco,
16 tobacco products, alternative nicotine products, and vapor products use status, including
17 exposure to second hand smoke, and treat every tobacco, tobacco products, alternative nicotine
18 products, and vapor products user seen in a health care setting by strongly recommending the
19 use of effective tobacco, tobacco products, alternative nicotine products, and vapor products
20 dependence counseling and medication treatments. Joint actions by all providers creates a
21 culture within the health care community in which failure to intervene is not considered customary
22 care. The expert panel concluded that the most successful way to motivate clinicians to intervene
23 is to provide them with evidence-based training that has multiple concurrent treatment options,
24 and to ensure they have ample institutional support to use these options.

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

1 (a) The West Virginia Tobacco Use Prevention and Cessation Task Force is created for
2 the purpose of recommending and monitoring the establishment and management of programs
3 that are found to be effective in the reduction of tobacco, tobacco products, alternative nicotine
4 products, and vapor products use by all state citizens, with a strong focus on the prevention of
5 children and young adults use of tobacco, tobacco products, alternative nicotine products, and
6 vapor products. The task force shall meet quarterly to study, monitor, and recommend funding
7 and initiation of programs that reduce tobacco, tobacco products, alternative nicotine products,
8 and vapor products consumption in West Virginia, and to initiate studies and processes to provide
9 the most efficient and effective use of the funds dedicated for this purpose. The task force shall
10 include a variety of persons in the health care field, including individuals certified from one of the
11 programs accredited by the Council for Tobacco Treatment Training Programs or received a
12 National Certificate in Tobacco Treatment Practice, advocates, and citizens, with the intention of
13 the Legislature to create a dynamic and innovative group to focus, monitor, and facilitate state
14 resources towards this goal.

15 (b) The task force shall have the following members:

16 (1) The Director of the Bureau for Public Health or his or her designee, who shall serve as
17 chair;

18 (2) The Superintendent of the Department of Education or his or her designee;

19 (3) Eight members to be appointed by the Governor:

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

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

24 (C) A dentist, licensed under §30-4-1 et seq., with an expertise in oral health;

25 (D) A physician, licensed under §30-3-1 et seq. or §30-14-1 et seq. with expertise in health
26 impacts associated with tobacco, tobacco products, alternative nicotine products, or vapor
27 products consumption;

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

31 (F) A representative who is certified from one of the programs accredited by the Council
32 for Tobacco Treatment Training Programs or has received a National Certificate in Tobacco
33 Treatment Practice, who has advanced education in evidence-based tobacco treatment
34 competencies, skills, and practices;

35 (G) A representative from a national youth tobacco, tobacco products, alternative nicotine
36 products, or vapor products prevention organization;

37 (H) A representative from West Virginia Bureau for Behavioral Health/West Virginia
38 Prevention First Network; and

39 (3) Two citizen members that through professional or medical experience or advocacy
40 are committed to work and advocate for cessation of tobacco, tobacco products, alternative
41 nicotine products, and vapor products consumption in all forms in the state.

42 (c) The task force shall meet at least quarterly at the call of the chair. The Director of the
43 Division of Tobacco Prevention shall attend each task force meeting and shall provide staff
44 support services for the task force. The task force shall monitor the Division of Tobacco
45 Prevention's programs and make recommendations to the division on expenditures and programs
46 which are being administered by that office. The task force shall report annually to the Legislative
47 Oversight Committee on Health and Human Resources Accountability by December 1st, which
48 shall include at a minimum, the following:

49 (1) An assessment of each program administered by the Division of Tobacco Prevention
50 towards reducing tobacco, tobacco products, alternative nicotine products, and vapor products
51 consumption and include an overview of its budget for the prior year and how state moneys and
52 any other funding or grants received by the office are being expended that year;

53 (2) Review and analysis the types of tobacco, tobacco products, alternative nicotine
54 products, and vapor products consumption practices in the state and identify emerging trends
55 related to tobacco, tobacco products, alternative nicotine products, or vapor products delivery
56 devices and related activities impacting tobacco, tobacco products, alternative nicotine products,
57 and vapor products use, with particular emphasis on youth consumption trends and practices;
58 and,

59 (3) Recommend for legislation or implementation of legislation, public policies; and
60 funding of programs that can further facilitate a reduction in tobacco, tobacco products, alternative
61 nicotine products, or vapor products usage in our state.

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

1 In addition to administering and coordinating the program on tobacco, tobacco products,
2 alternative nicotine products, and vapor products cessation, the Division of Tobacco Prevention
3 may apply for and administer federal and private grants and donations made for the purpose of
4 reducing and eliminating tobacco, tobacco products, alternative nicotine products, and vapor
5 products consumption in this state.

§16-9G-4. Special revenue account.

1 (a) There is hereby created the “Tobacco Cessation Initiative Program Special Revenue
2 Account” the State Treasury to be administered by the Director of the Bureau for Public Health.
3 All moneys deposited into this special account shall be expended for the purposes set forth in this
4 article, and are not authorized from collections but are to be made only in accordance with
5 appropriation by the Legislature and in accordance with the provisions of §12-3-1 *et seq.* of this
6 code and upon fulfillment of the provisions of §11B-2-1 *et seq.* of this code: *Provided*, That for the
7 fiscal year ending June 30, 2021, expenditures are authorized from collections rather than
8 pursuant to appropriation by the Legislature. Any balance, including accrued interest and other
9 returns, remaining in the fund at the end of each fiscal year shall not revert to the General
10 Revenue Fund but shall remain in the fund and be expended as provided by this section.

11 (b) Notwithstanding any provision of §11B-2-20 to the contrary, on or before July 30, 2020,
12 the thirtieth day of July thereafter, twenty-five percent of any interest and other return earned that
13 may accrue on the moneys in the Revenue Shortfall Reserve Fund – Part B during the next
14 preceding fiscal year shall be transferred to the Tobacco Cessation Initiative Program Special
15 Revenue Account and expended solely for the purposes set forth in this article.