

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 5157

FISCAL
NOTE

By Delegates Rohrbach, Criss, Worrell, Akers,
Chiarelli, Summers, Tully, Dittman, Forsht, and
Fehrenbacher

[Introduced January 25, 2024; Referred to the
Committee on Finance]

1 A BILL to amend and reenact §11-27-38 of the Code of West Virginia, 1931, as amended, relating
 2 to increasing the tax rate imposed on certain hospitals up to the maximum amount allowed
 3 by the Centers for Medicare and Medicaid Services (CMS).

Be it enacted by the Legislature of West Virginia:

ARTICLE 27. HEALTH CARE PROVIDER TAXES.

§11-27-38. Contingent increase of tax rate on certain eligible acute care hospitals.

1 (a) In addition to the rate of the tax imposed by §11-27-9 and §11-27-15 of this code on
 2 providers of inpatient and outpatient hospital services, there is imposed on certain eligible acute
 3 care hospitals an additional tax of 75 one-hundredths of one percent on the gross receipts
 4 received or receivable by eligible acute care hospitals that provide inpatient or outpatient hospital
 5 services in this state through a directed payment program, or its successor, in accordance with 42
 6 C.F.R. 438.6.

7 (b) The tax rate shall be increased, as needed, to provide non-federal share funding for
 8 practitioner payments as described in subsection (d) of this section, up to the maximum amount
 9 allowed by the Centers for Medicare and Medicaid Services (CMS). The CMS allowable tax rate
 10 and maximum payment shall be calculated by the West Virginia Bureau for Medical Services
 11 (BMS) pursuant to CMS approved methodology. The Tax Commissioner, using the certified
 12 calculations from the West Virginia Bureau for Medical Services, shall publish the rates to be
 13 applicable by Administrative Notice, 30 days prior to implementation.

14 (b) (c) For purposes of this section, the term "eligible acute care hospital" means any
 15 inpatient or outpatient hospital conducting business in this state that is not: state-owned or
 16 designated facility.

17 ~~(1) A state-owned or designated facility;~~

18 ~~(2) A critical access hospital, designated as a critical access hospital after meeting all~~
 19 ~~federal eligibility criteria;~~

20 ~~(3) A licensed free-standing psychiatric or medical rehabilitation hospital;~~

21 ~~(4) A licensed long-term acute care hospital; or~~

22 ~~(5) A facility designated pursuant to §16-5B-14 of this code.~~

23 (e) ~~(d)~~ There is continued a special revenue account in the State Treasury designated the
24 Medicaid State Share Fund. The amount of taxes collected under this section, including any
25 interest, additions to tax and penalties collected under §11-10-1 *et seq.* of this code, less the
26 amount of allowable refunds, the amount of any interest payable with respect to such refunds, and
27 costs of administration and collection, shall be deposited into the special revenue fund and do not
28 revert to General Revenue. The Tax Commissioner shall establish and maintain a separate
29 account and accounting for the funds collected under this section in an account to be designated
30 as the Eligible Acute Care Provider Enhancement Account. The amounts collected shall be
31 deposited, within 15 days after receipt by the Tax Commissioner, into the Eligible Acute Care
32 Provider Enhancement Account. Disbursements from the Eligible Acute Care Provider
33 Enhancement Account within the Medicaid State Share Fund may only be used to support West
34 Virginia Medicaid and the directed payment program, or its successor, in accordance with
35 42 C.F.R. 438.6 and as otherwise set forth in this section.

36 ~~(d)~~ (e) The imposition and collection of taxes imposed by this section is suspended
37 immediately upon the occurrence of any of the following:

38 (1) The effective date of any action by Congress that would disqualify the taxes imposed by
39 this section from counting toward state Medicaid funds available to be used to determine the
40 federal financial participation;

41 (2) The effective date of any decision, enactment, or other determination by the Legislature
42 or by any court, officer, department, agency, or office of state or federal government that has the
43 effect of disqualifying the tax from counting toward state Medicaid funds available to be used to
44 determine federal financial participation for Medicaid matching funds or creating for any reason a
45 failure of the state to use the assessment of the Medicaid program as described in this section;
46 and

47 (3) If the tax payments remitted by the eligible ~~acute-care~~ hospitals are not used to
48 effectuate the provisions of this article.

49 ~~(e)~~ (f) Any funds remaining in the Eligible Acute Care Provider Enhancement Account as of
50 June 30, ~~2021~~ 2024, and on June 30 of each year thereafter, shall be transferred to the West
51 Virginia Medical Services Fund after that June 30 but no later than the next ensuing September
52 30. These funds shall be used during the state fiscal year in which they were transferred at the
53 discretion of the Bureau for Medical Services.

54 ~~(f)~~ (g) The changes ~~to the tax rate~~ in this section enacted in the regular session of the
55 Legislature, ~~2021~~ 2024, are effective ~~July 1, 2021~~ upon approval by CMS of the state plan
56 amendment.

NOTE: The purpose of this bill is to increase the tax rate imposed on certain hospitals up to the maximum amount allowed by the Centers for Medicare and Medicaid Services (CMS).

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