

# **WEST VIRGINIA LEGISLATURE**

## **2018 REGULAR SESSION**

**Introduced**

### **Senate Bill 441**

BY SENATORS TAKUBO, MARONEY, STOLLINGS,

WOELFEL, AND PLYMALE

[Introduced January 31, 2018; Referred  
to the Committee on Health and Human Resources; and  
then to 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 health care provider taxes; extending the directed payment program tax on certain  
3 eligible acute care hospitals for three years; and providing an expiration date for the tax.

*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 seventy-five one-hundredths of one percent on the gross  
4 receipts received or receivable by eligible acute care hospitals that provide inpatient or outpatient  
5 hospital services in this state through a directed payment program, or its successor, in accordance  
6 with 42 C. F. R. 438.6.

7 (b) For purposes of this section, the term “eligible acute care hospital” means any inpatient  
8 or outpatient hospital conducting business in this state that is not:

9 (1) A state-owned or -designated facility;

10 (2) A critical access hospital, designated as a critical access hospital after meeting all  
11 federal eligibility criteria;

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

13 (4) A licensed long-term acute care hospital.

14 (c) There is continued a special revenue account in the State Treasury designated the  
15 Medicaid State Share Fund. The amount of taxes collected under this section, including any  
16 interest, additions to tax and penalties collected under §11-10-1 *et seq.* of this code, less the  
17 amount of allowable refunds, the amount of any interest payable with respect to such refunds,  
18 and costs of administration and collection, shall be deposited into the Special Revenue Fund and  
19 ~~may~~ do not revert to general revenue. The Tax Commissioner shall establish and maintain a  
20 separate account and accounting for the funds collected under this section in an account to be

21 designated as the Eligible Acute Care Provider Enhancement Account. The amounts collected  
22 shall be deposited, within 15 days after receipt by the Tax Commissioner, into the Eligible Acute  
23 Care Provider Enhancement Account. Disbursements from the Eligible Acute Care Provider  
24 Enhancement Account within the Medicaid State Share Fund may only be used to support West  
25 Virginia Medicaid and the directed payment program, or its successor, in accordance with  
26 42 C. F. R. 438.6 and as otherwise set forth in this section.

27 (d) The imposition and collection of taxes imposed by this section is suspended  
28 immediately upon the occurrence of any of the following:

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

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

38 (3) If the tax payments remitted by the eligible acute care hospitals are not used to  
39 effectuate the provisions of this article.

40 (e) Any funds remaining in the Eligible Acute Care Provider Enhancement Account as of  
41 June 30, ~~2017~~ 2018, and on June 30 each year thereafter shall be transferred to the West Virginia  
42 Medical Services Fund. This transfer shall occur no later than September 30 ~~2017~~ of each year  
43 until such time as the tax expires pursuant to §11-27-38(g) of this code. These funds shall be  
44 used during the then current state fiscal year ~~2018~~ at the discretion of the Bureau for Medical  
45 Services.

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46 (f) The changes to the tax rate in this section enacted in the 2017 regular session are  
47 effective July 1, 2017.

48 (g) The tax imposed by this section expires on and after June 30, ~~2018~~ 2021, unless  
49 otherwise extended by the Legislature.

NOTE: The purpose of this bill is to extend the directed payment program tax on certain eligible acute care hospitals for three years.

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