

SENATE BILL NO. 451
INTRODUCED BY J. ESP

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE USE OF TOBACCO SETTLEMENT PROCEEDS BY INCLUDING MENTAL HEALTH SERVICES, ASSISTANCE FOR INDIVIDUALS WITH ILLNESSES RELATED TO TOBACCO USE, AND PUBLIC SCHOOL PREVENTION PROGRAMS; REVISING THE MEMBERSHIP OF THE TOBACCO PREVENTION ADVISORY BOARD; PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA; AMENDING SECTIONS 17-6-602, 17-6-606, AND 17-6-610, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 17-6-602, MCA, is amended to read:

"17-6-602. Definitions. As used in this part, the following definitions apply:

(1) "Benefits, services, or coverage of health care needs" means the provision of health care to persons by the state through any program of benefits, services, or coverage, including income tax incentives.

(2) "Health care" has the meaning provided in 50-16-504 and also includes community-based mental health services and health care for medicaid-eligible and medicare-eligible individuals with illnesses related to tobacco use.

(3) (a) "Programs for tobacco disease prevention" means programs of services administered by the state for the purposes of informing individuals of the health risks of tobacco use and exposure to secondhand tobacco smoke, assisting persons in the avoidance of tobacco products use, and assisting individuals in cessation of tobacco use.

(b) Programs for tobacco disease prevention include:

(i) community-based education programs, including public school health classes;

(ii) American Indian community tobacco education programs;

(iii) general public awareness and education programs;

(iv) tobacco cessation services;

~~(v) a tobacco use resource center;~~

~~(vi)~~(v) special education and cessation programs to reach youth and women of childbearing age;

~~(vii)~~(vi) smokeless tobacco ~~user~~ cessation programs; and

~~(viii)~~(vii) advertising ~~issue~~ programs that focus on the benefits of cessation, the detrimental effects of tobacco use, and the availability of programs. Advertising may not be used to influence the political process.

(4) "Tobacco products" means a substance intended for human use that contains tobacco and includes but is not limited to cigarettes, cigars, smoking tobacco, and tobacco intended for use in an oral or nasal cavity.

(5) "Trust fund" means the Montana tobacco settlement trust fund authorized by Article XII, section 4, of the Montana constitution and implemented through this part."

Section 2. Section 17-6-606, MCA, is amended to read:

"17-6-606. Tobacco settlement accounts -- purpose -- uses. (1) The purpose of this section is to dedicate a portion of the tobacco settlement proceeds to fund ~~a~~ statewide comprehensive tobacco disease prevention ~~program and mental health programs~~ designed to:

(a) discourage children from starting ~~use of~~ tobacco use;

(b) assist adults in quitting ~~use of~~ tobacco use;

(c) provide funds for the children's health insurance program; ~~and~~

(d) provide funds for the comprehensive health association programs;

(e) provide funds to assist medicaid-eligible and medicare-eligible individuals with illnesses related to tobacco use; and

(f) provide funds for the mental health services plan provided for in 53-21-702.

(2) ~~(a)~~ An amount equal to 32% of the total yearly tobacco settlement proceeds received after June 30, 2003, must be deposited in a state special revenue account. Subject to subsection (5), the funds referred to in this subsection may be used only for funding:

(i) a statewide tobacco prevention ~~program~~ programs designed to prevent children from starting tobacco use, including public school classes; and

(ii) programs to help adults who want to quit tobacco use; and

(iii) programs to help adults with a severe mental illness, as defined in 33-22-706, who want to quit tobacco use and to treat their illness.

(b) The department of public health and human services shall manage the tobacco prevention ~~program~~ and mental health programs and shall adopt rules to implement the ~~program~~ programs. In adopting rules, the department shall consider the health care needs of the people of Montana and the standards contained in Best Practices for Comprehensive Tobacco Control Programs--August 1999 or its successor document, published by the U.S. department of health and human services, centers for disease control and prevention as those standards

apply specifically to Montana.

(3) An amount equal to 17% of the total yearly tobacco settlement proceeds received after June 30, 2003, must be deposited in a state special revenue account. Subject to subsection (5), the funds referred to in this subsection may be used only for:

(a) matching funds to secure ~~the maximum amount of~~ federal funds for the Children's Health Insurance Program Act provided for in Title 53, chapter 4, part 10; and

(b) programs of the comprehensive health association provided for in Title 33, chapter 22, part 15, with funding use subject to 33-22-1513;

(c) matching funds to secure federal funds to assist individuals with illnesses related to tobacco use; and

(d) funding the mental health services plan provided for in 53-21-702.

(4) Funds deposited in a state special revenue account, as provided in subsection (2) or (3), that are not appropriated within 2 years after the date of deposit must be transferred to the trust fund.

(5) The legislature shall appropriate money from the state special revenue accounts provided for in this section for tobacco disease prevention, for the programs referred to in the subsection establishing the account, and for funding the tobacco prevention advisory board.

(6) Programs funded under this section that are private in nature may be funded through contracted services."

Section 3. Section 17-6-610, MCA, is amended to read:

"17-6-610. Tobacco prevention advisory board. (1) (a) There is a tobacco prevention advisory board. The board consists of 15 members appointed by the director of the department of public health and human services. Health care professionals and individuals are eligible to serve on the board. The members must include two county commissioners that also serve on the board of directors of a health care facility, one legislator from each house with legislative human services experience, one grade school or junior high school health teacher, one high school health teacher, one public health nurse, and one mental health professional who is not a licensed physician.

(b) Except for the initial appointments, each board member shall serve a 3-year term and is subject to reappointment for one succeeding term. The director shall appoint members to staggered terms, with five members serving an initial ~~term~~ terms of 1, 2, or 3 years. The initial members appointed shall draw lots to determine their ~~term~~ terms of office. The board shall terminate when tobacco settlement funds are no longer received by the state.

(c) The board shall meet at least one time each year, with the date and frequency of meetings to be determined by its presiding officer. ~~Health care professionals and individuals are eligible to serve on the board.~~ A board member may not have been paid by the tobacco products industry during the 10-year period preceding appointment.

(2) Members of the board are not entitled to compensation for their services, but are entitled to a mileage allowance, as provided in 2-18-503, and expenses as provided in 2-18-501 and 2-18-502.

(3) The board shall furnish advice, gather information, and perform other activities regarding the state special revenue accounts established pursuant to 17-6-606. The board may make recommendations for the use of appropriations from the state special revenue accounts.

(4) The board is attached to the department of public health and human services for administrative purposes, and the department shall provide staff support to the board."

NEW SECTION. Section 4. Submission to electorate. This act shall be submitted to the qualified electors of Montana at the general election to be held in November 2004 by printing on the ballot the full title of this act and the following:

- [] FOR using tobacco settlement proceeds for mental health services, illnesses related to tobacco use, and public school tobacco prevention programs and revising advisory board membership.
- [] AGAINST using tobacco settlement proceeds for mental health services, illnesses related to tobacco use, and public school tobacco prevention programs and revising advisory board membership.

NEW SECTION. Section 5. Effective date. This act is effective on approval by the electorate.

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